

PD-ABP-705

EVALUATION OF THE
DEMOCRATIC INITIATIVE PROJECTS
IN
URUGUAY AND ARGENTINA

Contract No. AEP-0085-I-00-3002-00

Delivery Order No. 29

Prepared for:

U.S. Agency for International Development



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May 1995

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EVALUATION OF THE DEMOCRATIC INITIATIVE PROJECTS IN URUGUAY AND ARGENTINA EXECUTIVE SUMMARY

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Study Background

This study constitutes a final evaluation of the democratic initiative projects undertaken by the United States Agency for International Development (USAID) in Argentina and Uruguay. The overall objective of the evaluation is to examine the programs in administration of justice, fighting corruption and encouraging civic participation undertaken in Argentina and the improvement of the efficiency and quality of judicial decision-making in Uruguay.

Scope of Work of the Evaluation

The scope of work of this evaluation called for a review of the programs and implementing institutions undertaking the democratic initiatives activities supported by USAID over the period of 1990-1995. The scope raised three sets of concerns:

- ▶ to measure the impact of the programs undertaken;
- ▶ to make recommendations for continued efforts by the host country grantees and cooperating donor agencies, and
- ▶ to identify lessons learned which USAID might apply in other countries.

Methodology

To provide the necessary data to respond to the questions raised by the scope of work, the evaluation team reviewed reports on all of the activities, examined products of those activities and interviewed key members of the grantee organizations. To examine the sustainability issue, the team reviewed financial data provided by the grantees as well as interviewing representatives of potential donor agencies. In addition, the team attended events such as a conference of judges, mediators and related project personnel engaged in a pilot mediation project in Buenos Aires as well as conducting a site visit to a mediation center. The team also undertook focus groups with different classes of beneficiaries of training provided by grantees.

Overall Conclusions Regarding: Impact/Benefits/Sustainability and the Role of USAID

Looking at the results by program areas for Argentina:

Building a more independent, efficient and accessible justice system:

▶ **Judicial administrative reform**

In this area USAID/Argentina's efforts have resulted in assisting the court system of the Province of Buenos Aires, the largest single provincial court system in Argentina, to modernize its administration. More significantly, USAID has fostered a change in attitudes within the court system of the Province of Buenos Aires that has resulted in an openness to change and to a broad range of ideas, an openness which assures the sustainability of the processes of change initiated through the USAID project.

This movement for reform in administrative areas has begun to move out to other provinces. USAID's support for the creation of the Center of Judicial Studies of the Republic of Argentina (CEJURA) which is serving as a provider of technical services to provincial court system can be the basis for continuing these efforts. To do so, CEJURA needs to become the technical support staff of the alliance of provincial courts presently in formation. If that becomes the case, this element of USAID's efforts is sustainable. Support for this endeavor from a future IDB loan could assure this possibility.

▶ **Judicial education**

USAID's support has sparked an interest in the creation of judicial schools in various provincial court system such as that of Santa Fe. Provinces that make a formal commitment will have to find resources to maintain their schools. Future IDB funding can easily build on the groundwork that the USAID project has established.

▶ **Legal education**

The future of the justice system in Argentina can be changed for the better in the medium and long run by reshaping the way lawyers are educated. USAID has been able to make a contribution to that process through a small investment and use of its programmatic skills in the case of the post graduate program in legal education of the University of Palermo in collaboration with the Center for Institutional Studies and Yale University.

▶ **Alternative Dispute Resolution**

USAID's investments in building a more independent, efficient and accessible justice system in Argentina have had a very important result which aside from all others would justify the value of the investments made—the establishment of an interest in alternative dispute resolution which in turn has become institutionalized within the justice system and within the broader society that supports that system.

That result at the national level has provincial and internal repercussions. Fundacion Libra, a key actor in pioneering mediation in Argentina, has become an emissary of the gospel of mediation at the provincial level in Argentina, in international conferences and in judicial training programs in other Latin American countries such as Chile, Uruguay and Bolivia.

Fundacion Libra has been a critical motor force in sparking this process of change. It is likely to develop a mode of maintaining its role as a pioneer and gadfly in the future.

▶ **Access to Justice**

USAID has made a small investment in promoting access to justice through strengthening the role of the public defender. Indirectly as a result of the support USAID provided in reaching out and raising the consciousness level of public defenders and providing them with a forum, the public defender role has become better institutionalized within the current constitution and is likely to be strengthened by forthcoming legislation. Responsibility for sustaining the momentum has now passed to the public defenders themselves.

Public Knowledge of the Judicial System

USAID has been able to use its resources in the form of program support, and provision of technical assistance (consultant services) and as importantly its good offices as a broker of resources and as a matchmaker of common interests to foster increased public knowledge of the justice sector.

Reduced Opportunities for Corruption

▶ *in the private sector*

Through support of Poder Ciudadano, USAID has been able to assist in the implementation of a highly effective program using communication techniques to inform and educate the public regarding corruption. The program's effectiveness can be noted among other things through the degree to which Poder Ciudadano has access to the media and has earned respect from those seeking public office. The sustainability of this effort rests with the ability of Poder Ciudadano to continue to draw out resources from both local and international sources.

▶ *in the public sector*

Through an agency of the office of the President of the Republic, the Sindicatura General de la Nacion (SIGEN), USAID has supported an experiment in promotion of accountability. This experiment provides a channel for the general public to register accusations, complaints and suggestions regarding corruption. It is too early to know if SIGEN will effectively follow through and therefore whether or not the experiment will work; however, the commitment to continue exists on the part of SIGEN.

Increased Civic Participation

USAID supported CONCIENCIA, an NGO, in undertaking programs aimed at generating citizen participation and community integration through municipalities and schools. USAID also supported CONCIENCIA's efforts at training women political leaders and in improving the international network for civic education that CONCIENCIA managed. The national programs at increasing participation and training political leaders have demonstrated their worth.

CONCIENCIA has not however been able to translate the demand that exists for its programs into either a saleable commodity or alternative funding although it is seeking other funding sources. This places in doubt CONCIENCIA's ability to maintain the same level of benefits in support of civic education.

Turning to Uruguay:

USAID/Uruguay has been able to use the limited funds available to it over the past half dozen years to make significant changes in several areas of the justice system:

- ▶ in the administration of the courts;
- ▶ in the quality of training for candidates to judgeships;
- ▶ in the quality of in-service training of judges and other judicial system personnel, and
- ▶ in the juvenile justice system.

USAID leaves to the Uruguayan Supreme Court a functioning judicial school and a modern administrative apparatus. That administrative apparatus has led to immediate benefits for the Court in the form of greater efficiency and greater time to do the job of judicial decision-making.

More importantly, the USAID supported project leaves a shift in the operational culture of the court system. The Court has acquired an approach to administration that institutionalizes this new way of doing business. The challenge to the Uruguayan state is providing the funding to assure that the fruits of this change in operational culture can be harvested.

The investment of \$66,000 by USAID/Uruguay in the juvenile justice project has resulted in a significant return which includes a strategic plan for the future, a new approach to management of offenders through a form of social work/probation arrangement, the development of the notion of the use of mediation as an option in juvenile justice proceedings, and the development of a project to create five juvenile centers which is likely to receive \$750,000 in support from the European Union.

Role of USAID

The approach taken by USAID/Argentina to support democratic initiatives and the development of democracy in Argentina and Uruguay has had the following characteristics:

- ▶ It has been experimental—looking for targets of opportunity and providing the necessary seed monies to take advantage of those opportunities.
- ▶ It has been guided by the initiatives, interests and concerns of the Argentines and Uruguayans, rather than being directive.
- ▶ It has been to the utmost the model of a democratic initiative—participatory in the generation of its agenda, offering the necessary technical assistance and suggestions as advice rather than as dictums.

The program's success in maximizing relatively small levels of resources in a multitude of programs is due to several factors evident in an analysis of the results of the specific programs:

- ▶ The program managers and their long term technical support had an in-depth understanding of the nature of the Argentine and Uruguayan justice systems which allowed them to evaluate the risks they were taking and to understand the options available.
- ▶ Program managers were able to maximize the resources available to them in the form of optimum use of technical assistance and training opportunities, leverage through other programs of USAID (as in the case of the University Development Linkages Program

[UDLP]) as well as a variety of mechanisms that assisted in project management (use of cooperative arrangements with UNDP, use of an NGO as a surrogate project manager as was the case of Fundacion La Ley in Argentina).

- ▶ Program managers used their technical assistance resources to provide long term technical assistance in the most economical fashion possible. They used a single long term advisor who was highly knowledgeable regarding the countries in question and the field of concern, who was available throughout the project to consult on short visits and through fax, phone etc., but not in place in country which would have made the cost prohibitive.

Recommendations

Given the close-out status of the USAID offices in Argentina and Uruguay, the focus of these recommendations are regarding the sustainability of the specific project components after the end of USAID support. In Argentina, certain project components such as work in the Province of Buenos Aires, mediation and work with legal education are already clearly viable and sustainable from the point of view of maintaining the benefits of the projects.

The main area of concern in Argentina rests with the efforts at promoting public awareness of the corruption issue and citizen participation through NGOs. These two sets of programs operated by Poder Ciudadano (anti-corruption) and CONCIENCIA (citizen participation) have demonstrated their value. They ought to continue and in fact expand. Thus, the thrust of the specific recommendations of this report go to assuring the continuity of these programs:

- ▶ The two NGOs should draw up, with the help of professionals, sustainability plans that take into account the required expenses to maintain their organizations and the range of possible income sources available **that do not compromise their purpose as civic watchdogs and civic educators**. Thus, they need to look at possible international and national donors and at possible sales of services. They also should examine the possibility of the generation of endowments—as the focus of a specific fund-raising effort.
- ▶ Using the good offices of the US Embassy, the NGOs and their national supporters should look to the creation of a private trust fund for democratic initiatives. One approach to such a trust fund would be to create a foundation drawing on support from US companies operating in Argentina whose purpose would be to further democratic initiatives.
- ▶ Finally, given that democratic development in the countries under evaluation still remains on shaky ground, that in fact democratic development has not advanced as far as has economic development in the case of Argentina, that USAID explore options for providing at a minimum additional technical support and hopefully small amounts of program support to achieve specific democratic initiative results—for example, promoting the sustainability of anti-corruption and civic participation efforts through technical assistance in fund-raising and generating endowments and maintaining a flow of communication with the justice and civic action sectors in both Argentina and Uruguay. (The appropriate venue for such activity would appear to be within the Democracy Center of the Global Bureau.) USAID has considerable experience in undertaking regional and worldwide technical support/training and seed program support efforts with a great deal of success, for example, in the field of health and population, which would serve as models.

In Uruguay, the sustainability of the justice sector reforms depend on the will of the national government to maintain them. The US Embassy can be supportive in this regard, encouraging other donors. It can also continue to assist in fostering communication between the justice sector and US jurists and court administrators. (This is also true for Argentina.)

Lessons Learned

There are a series of lessons learned of a general utility and of specific concern to USAID as it continues to work in Eastern Europe and the Newly Independent States of the former Soviet Union:

- ▶ It is essential for success in promoting democratic reform in any part of the polity (justice, electoral systems, fighting against corruption, expanding opportunities for citizen participation) to have the necessary political consensus and support of the relevant constituency.
- ▶ As a corollary of the above, consensus and constituency building constitutes an important element of a program to undertake democratic initiatives.
- ▶ As a further corollary, a USAID democratic initiatives program needs to work in accordance with the agenda of those promoting democracy within a host country, to be responsive to and foster a dialogue rather than to be directive. This permits USAID to assist in promoting initiatives and leveraging host country resources.
- ▶ Examples such as the community mediation programs, the court mediation programs and legal education in Argentina and the juvenile justice program in Uruguay demonstrate that **small investments may be efficacious in enhancing the quality of the justice system in more advanced developing countries.** This is particularly the case when a foundation has been laid through years of collaboration in a process of promoting reform, as has been the case with the USAID programs in Argentina and Uruguay.
- ▶ Effective democratic initiatives programs depend on the existence of project managers and technical advisors who understand a country's political system.
- ▶ A corollary of the above is that USAID needs to have access to the necessary technical expertise in the politics of a country to be able to maintain an effective democratic initiatives program (much as it has traditionally had access to expertise in agricultural, financial and economic development matters).
- ▶ Technical expertise need not be provided by resident technical assistance personnel, but it does need to be available for the length of a project. (The model of technical assistance delivery used by USAID in Argentina and Uruguay can be applied elsewhere, particularly in an age of rapid electronic communication.)
- ▶ USAID needs to develop a set of approaches to assure the sustainability of its host country NGO partners in democratic development that maximize their long term survivability while insulating them from the pressures to conform politically—to preserve their ability to be independent political actors in a still not wholly democratic polity.

As a final recommendation, it is clear that there is much to be gained by understanding the achievements of the democratic initiatives programs of USAID/Argentina and USAID/Uruguay. The Agency's democratic initiatives programs would benefit from a discussion of those achievements and a dissemination of the results of those discussions. This again might be a task to be undertaken through the Democracy Center.

CHAPTER I: INTRODUCTION

Development Associates, Inc.

This study constitutes a final evaluation of the democratic initiative projects undertaken by the United States Agency for International Development (USAID) in Argentina and Uruguay. The overall objective of the evaluation is to examine the programs in administration of justice, fighting corruption and encouraging civic participation undertaken in Argentina and the improvement of the efficiency and quality of judicial decision-making in Uruguay. The general objectives of this evaluation are to measure the impact of the programs in both countries, to make recommendations regarding continuing efforts of host country grantees and cooperating donors and to identify lessons learned that can be applied by USAID to other countries.

In this section, we will present the background of the projects examined, the scope of work of the evaluation, the methodology employed and a description of the evaluation team's qualifications.

Background of Projects

Over the past six years, USAID has undertaken efforts to promote democracy in Argentina and Uruguay through programs that focussed in the case of Argentina, on strengthening the administration of justice, on promoting a reduction in corruption and in developing civic participation; and in the case of Uruguay, on improving the administration of justice. This effort responds to one of the four broad objectives of the United States Agency for International Development. The essence of USAID's approach to promoting democracy is contained in **Strategies for Sustainable Development** which defines USAID's strategic objective regarding democracy as "the transition to and consolidation of democratic regimes throughout the world - as an end in itself and because it is a critical element in promoting sustainable development."¹

The strategy describes promotion of democracy as a long term process that can be achieved through establishment of democratic institutions, creation of an informed, educated public, and development of the necessary freedom from constraint and coercion by the state that promotes a pluralistic civil society and an institutional and valorative basis for peaceful conflict resolution. The strategy explicitly recognizes that there are a variety of paths to achieving democracy, paths that are based on the cultural realities and historical conditions of the countries in question. But, it defines certain basic characteristics of what it refers to as "sustainable democracies." These conditions are:

- ▶ Respect for human and civil rights;
- ▶ Peaceful competition for political power;
- ▶ Free and fair elections;
- ▶ Respect for the rule of law;
- ▶ Accountable government; and

¹ *U.S. Agency for International Development, Washington, March, 1994, p. 18.*

- ▶ An environment that encourages participation by all sectors of the population.²

Countries that possess these characteristics are able to maintain a democratic political order characterized by a respect for basic rights, a tolerance of opposition and a high degree of access to political participation. This is the overarching goal of a program of development aimed at promoting democratic politics.

As noted above, the focus of the programs in Argentina and Uruguay have emphasized development of the rule of law, and in the case of Argentina, increased government accountability and increased citizen participation. Given resources available to both USAID/Uruguay and USAID/Argentina, democratic initiatives activities have been undertaken with limited inputs of program funding, technical assistance and training. Making virtue of a necessity, the two sets of democratic initiatives activities undertaken in Argentina and Uruguay have experimented with a variety of approaches, leveraging the relatively small amounts of funding available³ to maximize the range of programs that could be supported through the activities of host country agencies, both governmental and non-governmental.

Inputs have included the provision of trainings and technical assistance through a series of short visits, seminars and workshops by a variety of US experts complemented by the use of a single long term, US-based advisor. These training and technical assistance opportunities have been complemented by observation visits. Grants have been provided to both host country governmental and non-governmental agencies to promote specific activities such as judicial training, administrative reform, experiments in mediation, research into various elements of the process of judicial reform, public opinion polling, publication of research findings and training manuals, and civic education and training of public defenders. Activities have taken place in the case of Argentina not only in the capital but in provinces and in the case of Uruguay in Montevideo and in the interior. (Details of each set of country activities are contained in the respective chapters with the discussion of each specific program component.)

In 1993, an assessment undertaken by the Center for Development Information and Education (CDIE) of USAID indicated that important lessons could be learned from USAID efforts in the two countries, lessons that were applicable to other countries approaching the stage of more advanced economic and social development achieved by Argentina and Uruguay.⁴ The conclusions reached included:

- ▶ USAID had been able to play a dynamic role in bolstering reform efforts in both countries by carefully using relatively small amounts of funding;
- ▶ both the successes and failures of the programs to date pointed to the importance of developing the necessary elite consensus and will to promote reform;
- ▶ given the existence of a will to reform, as in the case of Uruguay and the case of the Supreme Court of the Province of Buenos Aires, considerable advances could be made in generating sustainable reform, and
- ▶ USAID can serve effectively as a pioneer in the Rule of Law field, passing on longer term development responsibilities to other international donors.

² *Ibid.* p.18.

³ The total funding for the Uruguay democratic initiatives program over the length of project was \$1,430,699 and the total funding for Argentina democratic initiatives was \$3,289,000.

⁴ Harry Blair, Mary Staples Said, Joseph Thome, Richard Martin and Christopher Sabatini, *A Strategic Assessment of Legal Development in Uruguay and Argentina*, CDIE report, September, 1994.

The USAID offices in Montevideo and Buenos Aires will close on September 30, 1995, and bilateral assistance programs will end on June 30, 1995. The present evaluation builds on the findings of the earlier CDIE assessment to determine the impact of USAID's investments in democratic initiatives at the conclusion of the period of that investment.

Scope of Work of the Evaluation

The scope of work of this evaluation called for a review of the programs and implementing institutions undertaking the democratic initiatives activities supported by USAID over the period of 1990-1995. The scope raised three sets of concerns:

- ▶ Measuring the impact of the programs undertaken;
- ▶ Making recommendations for continued efforts by the host country grantees and cooperating donor agencies, and
- ▶ Identifying lessons learned which USAID might apply in other countries.

The scope called for a response to a series of specific considerations regarding each of these three concerns:

- ▶ **Regarding impacts:** Considerations expressed were in terms of whether planned objectives were achieved and whether there were any unexpected results or catalytic and collateral effects of the programs. There was also a concern to examine the achievement of institutional strengthening of the implementing institutions including such activities as networking with other host country agencies and other regional organizations as well as with organizations in the United States. The scope was also concerned with the extent to which grantee activities reached intended beneficiaries and contributed to an increase in the public's knowledge and concern for democratic reform. Finally, in the area of host country beneficiaries, the scope called for an examination of the sustainability of grantee activities.

The scope also contained a series of questions regarding the role of USAID in developing and implementing the programs. Concerns in this area included the selection of and appropriate institutional settings for activities, the degree of risk taking, the forms of providing training and technical assistance and the degree to which activities initiated by USAID will result in longer term efforts by other donor agencies.

- ▶ **Regarding recommendations:** Two areas were identified as important within the scope of work: recommendations to the grantees regarding project implementation and sustainability and recommendations to donors (e.g. multi-lateral development banks) regarding follow-on activities.
- ▶ **Regarding lessons learned:** Areas delineated in the scope regarding lessons learned included: a concern with the process of constituency and coalition-building; the use of US experts and the development of linkages with US institutions and the relationship between grantees in Argentina, Uruguay and Chile; and other democratic initiatives in Latin America. A particular concern with regard to outreach was the role that USAID might play in promoting such efforts.

Methodology

To provide the necessary data to respond to the questions raised by the scope of work, the evaluation team reviewed reports on all of the activities, examined products of those activities such as manuals, other publications and videos, and interviewed key members of the grantee organizations. To examine

the sustainability issue, the team reviewed financial data provided by the grantees as well as interviewing representatives of potential donor agencies. In addition, the team attended events such as a conference of judges, mediators and related project personnel engaged in a pilot mediation project in Buenos Aires, also conducted a site visit to a mediation center. The team undertook focus groups with different classes of beneficiaries of training provided by grantees. A complete listing of individuals interviewed and their institutional affiliations as well as of sites visited is contained in Appendix 1.

Evaluation Team

The evaluation was conducted by a two person-team provided by Development Associates, Inc. under Indefinite Quantity Contract AEP-0085-I-00-3002-00. The team leader was Dr. Joel M. Jutkowitz, Senior Associate of Development Associates, Inc., and a political scientist with thirty years of experience working in Latin American politics. Dr. Jutkowitz has directed the design of a conceptual framework for the USAID Administration of Justice Project in Ecuador and has undertaken the evaluation of a civic education project in Chile (PARTICIPA) as well as the design of a long term follow-on for the project. He has participated in the USAID Center for Development Information and Education (CDIE) assessments of the Rule of Law and of Civil Society, the latter as a team leader for the assessment in Chile and as a team member in Bangladesh. He has recently provided the East Asia Regional Support Mission of USAID with the background paper for developing a long term democratic development strategy for East Asia. Dr. Jutkowitz has also undertaken survey research on democratic development in Guatemala, Chile and Venezuela.

The second team member was Mary Staples Said, a lawyer with considerable experience in assessing rule of law programs. Ms. Said was a member of all of the field teams for the CDIE Rule of Law study, which included a review in 1993 of rule of law activities in Argentina and Uruguay. She was a team member of a recent evaluation of the USAID Judicial Sector Reform Project in Colombia. She provided support for the development of the CDIE civil society assessment.

Both Dr. Jutkowitz and Ms. Said are fluent in Spanish.

Subsequent Chapters

Chapter 2 details, the findings of the evaluation team regarding project results and impacts in Argentina by program. Chapter 3 describes findings regarding project results and impacts in Uruguay. Chapter 4 presents the overall conclusions of the evaluation, the team's recommendations and the lessons learned from democratic initiatives activities in Argentina and Uruguay.

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CHAPTER II: FINDINGS BY PROGRAM OUTCOMES--ARGENTINA

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Background

Over the course of the twentieth century, Argentina has had a political history marked by brief periods of weak democratic governments alternating with authoritarian military regimes established by coups that were often justified by the very weakness of elected governments in meeting basic economic, social and political concerns. Since 1983, Argentines have begun a process of democratic development which contains within it the possibility of breaking out of this cycle of weak formal democracy/military coup/authoritarian regime.

The military regime which had come to power in 1976 had conducted a "dirty war" against insurgent groups as well as against the range of those perceived to be in support of the insurgents, a range that included key elements of the current democratically elected government.⁵ The military's defeat in the war with Britain over the Falklands/Malvinas Islands forced the reigning military junta to cede power to a civilian government. For the first time in recent Argentine history, and effectively the first time since universal male suffrage was instituted at the beginning of the century by the Ley Saenz Peña⁶, Argentina in May of 1995 is electing a third successive democratically elected government. That process of election looks to be reasonably fair and free.⁷

Argentina's new found commitment to and maintenance of a democratic order, however, rests on a shaky foundation. The system's weaknesses include:

- ▶ the weakness of civil society, of the intermediate organizations that stand between the state and the individual as mechanisms for articulating interests and assuring government accountability;
- ▶ the lack of the experience and practice of civic participation, often most evident at the local level;
- ▶ the lack of an independent, effective judiciary – independent from political control and possessed of the necessary public respect to assure that independence; effective in terms of its professionalism and its efficiency in dealing with the problems of the administration of justice;
- ▶ the virtually universal corruption of public officials and public processes.

⁵ *The current President, Carlos Menem, was himself a prisoner of the military in the course of the "dirty war".*

⁶ *The Ley Saenz Peña, promulgated in 1912, provided for universal suffrage for males 18 and older. Females were accorded the vote under the first Peronist regime (1946-1955).*

⁷ *The current government has used to the maximum the advantages of its incumbency, but the process itself is likely to be as free and fair as has ever been the case in Argentine history.*

Throughout the twentieth century, political scholars have pointed to the corporatist nature of Argentine society. In such a corporatist society, interest groups are not organized as independent, alternative means of articulating interests, components of a civil society that represents an alternative to a state dominated power structure.⁸ Rather, they are organized from the top-down, hierarchically, to channel and control the power that they would otherwise generate as independent political actors. Since the rebirth of democracy in Argentina, there has been an increased pressure to break out of the corporatist nature of Argentine political life through the expansion of organizations seeking to generate a richer civil society. But, as Guillermo O'Donnell has commented, Argentina remains a weak democracy, characterized by excessive power located within the executive, without the effective counterbalance of a strong legislature or judiciary or of an effective civil society. O'Donnell calls this a delegative democracy.⁹

Weakness of Civil Society

The weakness of civil society organizations as mechanisms for articulating interests goes hand-in-hand with low levels of all but the most minimal citizen participation. Historically, Argentines have withdrawn to their private spheres of activity as their freedom has been limited in the public sphere. After the fall of Yrigoyen, the decade of the 1930s saw electoral politics frustrated by the so-called Patriotic Fraud when Conservative governments regularly manipulated voting procedures to assure their victory. That decade was followed by a period of military rule and that in turn by the rise to power of Juan Peron. Peron brought labor into the political arena as a force to balance more traditional political elements, but not as a means of developing a broader effective level of political participation. Successor regimes all the way through the end of the Videla junta did little to make political participation either at the national or local level a viable form of expressing preferences and concerns. As Marta Oyhanarte comments regarding the nature of political participation in Argentina, "Our long history of authoritarianism, paternalism, repression and anti-democracy has converted us into objects, civic objects."¹⁰

The Judiciary and the Justice System

The judiciary reflects the historical weaknesses of the Argentine democratic order. At the national level, the Supreme Court has often been subjected to the domination of the executive, resulting in limitations on its independence. There is a lack of public confidence in the integrity and efficiency of the justice system. This lack of confidence is reflected in public opinion polls where the justice system is seen as providing only minimum protection for individual rights, particularly the rights of the disadvantaged and where members of even the highest court, the National Supreme Court of Justice, inspire little or no confidence among the public at large.¹¹ As an institution, the justice system demonstrates high levels of inefficiency in its operations, slow rates of case-processing, and limited access to the economically

⁸ Larry Diamond defines civil society as "citizens acting collectively in the public sphere to express their interests and ideas, achieve mutual goals, make demands on the state and hold state officials accountable" in "Civil Society and the Development of Democracy: Some International Perspectives and Lessons," paper prepared for the Workshop on Civil Society and Democracy: International and African Perspectives, Dakar, Senegal, Goree Institute, 1993, p.5.

⁹ Guillermo O'Donnell, "Delegative Democracy," *Journal of Democracy*, January, 1994, pp. 55-69. O'Donnell had earlier characterized Argentina as having a "bureaucratic authoritarianism," in effect another way of referring to the corporatist character of the Argentine state.

¹⁰ Marta Oyhanarte, *Como Ejercer su Poder Ciudadano*, (Buenos Aires: Tesis-Grupo Editorial Norma, 1993, p. 22.)

¹¹ Instituto Gallup de la Argentina, *Estudio de Opinión Acerca de la Administración de Justicia*, (Buenos Aires: CEJURA, 1994, pp.42-43.)

disadvantaged. According to a recent study, the court system is not only inefficient, but extremely costly, with the cost in terms of caseload more than double that of the comparable cost in Spain, a system with similar legal roots.¹²

Corruption

Corruption in Argentina has been a constant and pervasive feature of Argentine public life. Whatever the regime and whatever the stated intent of the regime with respect to controlling corruption, the fact remains that throughout the twentieth century, Argentina has suffered a constant drain on public resources through corruption. In effect, the dominant public culture is one that accepts corruption as a permanent part of the system. This acceptance is reflected in the willingness of Argentines in national surveys to declare that most of their countrymen are likely to engage in a wide range of corrupt practices.¹³

USAID Objectives

Faced with this broad set of needs and limited resources, USAID Argentina has focused over the course of the past half dozen years on strengthening democracy in three areas that represent systemic concerns for the maintenance of a democratic order. These areas are described in the program outcomes contained within USAID/Argentina's current Strategic Objective Tree (SOT). These program objectives derive from Strategic Objective 1, "Building Democracy," which calls for support to generate "more responsible governmental institutions and a more engaged citizenry." The specific program outcomes to be reached under this Strategic Objective are:

- ▶ **A more independent, effective and accessible justice system** which has various components: implementation of court administration reforms; establishment and strengthening of judicial education centers and legislation and regulation, and implementation of mediation programs. Support has also been provided for programs to strengthen the operations of provincial courts outside the Province of Buenos Aires through provision of research, training and technical assistance as well as providing training to strengthen the role of public defenders. Support has been provided to strengthen public knowledge of the judicial system through research and educational efforts. An effort to assist in altering the nature of legal education also has been facilitated by USAID support. In addition, USAID has provided technical assistance and training which has indirectly supported or stimulated reform efforts related to the justice system. This component works through several implementing organizations in both the public and private sector.

- ▶ **Reduced opportunities for corruption** which focuses essentially on a non-government organization (NGO), Poder Ciudadano, working to promote a change in public attitudes toward corruption with a very small investment in public sector activities.

¹² *La Reforma del Poder Judicial en la Argentina*, research conducted by the Fundacion de Investigaciones Economicas Latinoamericanas, FIEL, (Buenos Aires: Asociacion de Bancos Argentinos(ADEBA), August 29-31, 1994, pp. 12-13.)

¹³ Among such practices that directly influence the capacity the responsibilities of the individual with respect to the state are: bribe a public official (71% saying that Argentines are likely to engage in such behavior), receive part of their salary under the table (78%) and offer a bribe to a policeman to avoid paying a fine (84%). As quoted in Luis Moreno Ocampo, *En Defensa Propia: Como Salir de la Corrupción*, (Buenos Aires: Editorial Sudamericana, 1993, pp.134-135.) Ocampo further comments that almost half of those interviewed recognize that bribing state officials is a normal practice of the majority of businesses in Argentina. (*Ibid.*, p. 136.)

- ▶ **Increased civic participation** using a single NGO, *Conciencia*, to direct civic education activities designed to involve municipal and school groups in community based civic action, to provide training to political activists (largely female) and to develop a civic education network.

The approach that USAID/Argentina has taken is to identify needs within the justice sector and in the other areas of its concern and to provide support, within the limits of the resources available to it, to meet those needs. This has translated into a series of small investments in a variety of program activities, rather than into a large investment in a single activity or agency. The total investment of USAID/Argentina under Strategic Objective 1 over the period covered by the evaluation was \$3,289,000, which breaks down by program activities as follows: \$2,098,000 for the justice sector, \$1,100,000 for anti-corruption activities (\$600,000 for private sector activities and \$500,000 for public sector activities) and \$591,000 for civic education.

In identifying needs, USAID/Argentina always made sure that it followed the agenda of its host country counterparts. In fact, at all times, the agenda for action in the field of strengthening and reforming the justice system, fighting corruption and promoting civic participation was that set by the host country counterparts, not one imposed by USAID/Argentina or its technical advisors. Therefore, the support that USAID/Argentina provided to Argentine organizations for a program in democratic initiatives was provided within the context of a dialogue among equals, as part of a participatory process.

In the course of the investments undertaken by USAID, there were several activities that did not produce the expected results. In particular, efforts were made to promote administrative reforms in the National Supreme Court as well as to institute a judicial school for the national judiciary. As a federal system, Argentina has a national court system with nationwide jurisdiction as well as jurisdiction over the national capital and provincial court systems in each province. The national and provincial courts are administered separately and have different jurisprudence, the national based on the national constitution and legislation and the latter on provincial legislation.

National Supreme Court

Due to the complex nature of internal politics within the Supreme Court, the efforts at reforming the Supreme Court and instituting a National Judicial School failed. USAID/Argentina therefore redirected the resources it had assigned to these efforts to other areas of activities. The lesson that can be drawn from this failure is the importance of the existence of an elite consensus for change in order to be successful in undertaking reform efforts. Within the Argentine Supreme Court and the national courts it governed, that consensus was lacking. As a result, the proposed reforms foundered.

It is important to note in connection with this discussion of the Supreme Court that working with the Court, whatever the difficulties, did open the door to working in other areas of the justice system. In a sense, working with the Court constituted what in Argentina is called "derecho de llave," the necessary entrance fee in order to be part of the process of working to reform the justice system.

Beyond drawing such lessons with broad programmatic implications, the focus of this evaluation will be on the programs actually being undertaken at the time of the evaluation, rather on those programs or activities that have not born fruit or were eliminated by USAID/Argentina in the course of the its activities in Argentina. USAID/Argentina in its process of re-programming over the past years has taken into account the problems that have arisen with elements of its project and has made the necessary adjustments, cutting off those components not likely to produce results. Except to draw broader lessons for future reference, it makes no sense to second guess what appear to be quite reasonable and effective efforts by USAID/Argentina to adjust its programs to the realities of Argentine judicial politics and to the broader

limitations of the Argentine political system. We shall return to this theme in Chapter 4 when we further examine the role of USAID.

Turning to the specific program outcomes and areas of activities, we will examine the activities undertaken, the implementing agency or agencies and the program outcomes. For each program, we shall present the impacts that can be registered including those impacts related to strengthening the institutional bases for action in the future as well the longer term sustainability of the benefits of each activity. We will begin with an examination of those activities that fall under the rubric of developing a more independent, efficient and accessible justice system.

A More Independent, Efficient and Accessible Justice System

Within the broad rubric of developing a more independent, efficient and accessible justice system, USAID/Argentina has provided support for activities that deal with judicial administrative reform, judicial and legal education and alternative dispute resolution. It also has provided a very small amount of support to strengthening access to justice. In all of these programs it has worked at various levels within the overall Argentine judicial system (national courts, provincial courts, community justice, public defenders, policy-makers).

The dialogue with key sectors of the justice system that USAID has maintained over the course of the project has been as important as the specifics of the programs it supported. That dialogue, conducted at various levels through USAID personnel and through the technical assistance personnel provided by USAID, opened doors, sparked interest in new ideas and influenced the possibility of undertaking program activities. In certain instances, this dialogue itself became an important element in directly promoting changes. For example, Alberto Manuel Garcia Lema, Procurator of the National Treasury and an author of the portions of the new Constitutional reforms in judicial matters, points to the role that USAID technical assistance and observation visits played in providing access to ideas, bibliography and conceptualizations that helped shape the debate regarding reforms considered by those involved in amending the Constitution.

Judicial Administration Reform

An important thrust of USAID/Argentina's programming in the justice field has been its support of efforts to undertake reforms in the administration of the courts. USAID/Argentina funded a variety of studies that dealt with concerns regarding the operation of the justice system, originally as a basis for activities to be undertaken under this project. As is noted elsewhere in this evaluation¹⁴, these studies were the foundation for other international donors' proposed programs for support of judicial reform. Specifically, the foundations of a proposed World Bank project for support of reform of the national courts and a proposed Inter-American Development Bank (IDB) project along the same lines for provincial courts are built on the studies undertaken by USAID/Argentina sponsored technical experts. As one of the individuals interviewed by the evaluation team noted, the role of USAID was to open the eyes of people in Argentine justice to the possibility that they could both change and conserve. USAID, this person commented, seduced the Argentine jurists into accepting the importance of reform. The two banks work at the behest of the Argentine government, therefore, this process of "seduction" was a critical element in starting the process of bank funding for the justice sector.¹⁵

¹⁴ See the section on page 34, *Public Knowledge of the Judicial System*.

¹⁵ Currently both the World Bank and IDB projects are on hold for political reasons. It is likely that this will change after the election results "settle in".

In terms of specific areas of direct action in the area of administrative reform, USAID/Argentina has supported efforts to undertake administrative reforms as well as to supporting work in judicial education, public access and alternative dispute resolution in provincial courts. The most significant project in terms of its duration and impact on the Argentine people has been the support provided to the Supreme Court of Justice of the Province of Buenos Aires. This was one of the earliest activities undertaken by USAID/Argentina, dating from 1990. Through another project component, the Center of Judicial Studies of the Republic of Argentina (CEJURA), an effort has been undertaken to extend the process of support for various aspects of reform to other provinces.

In this section, we shall examine the activities undertaken in the province of Buenos Aires as well as those activities undertaken by CEJURA. (Certain CEJURA activities related to other program outcomes will be discussed in later sections.)

Supreme Court of Justice of the Province of Buenos Aires

The Province of Buenos Aires is the largest province in Argentina. It contains almost a third of the country's population (around 13 million inhabitants). It has a tremendous diversity of social settings ranging from cities such as La Plata, its capital, to small rural villages. It is closely linked geographically and economically to the capital, but stands apart as a separate political entity with a certain pride its distinctness. Because of its size and diversity, its judicial system is the largest single provincial judicial system. It is also diverse with sections of the province (remote rural areas, for example) often out of contact with other parts of the province. Parts of the province form the suburbs of the capital and are effectively linked to it within the metropolitan complex of greater Buenos Aires which like similar metropolitan complexes jumps beyond the limits of what were once far neater entities within a federal structure.

The judiciary of the Province of Buenos Aires is considerably independent of the national judiciary as well as of other provincial judiciaries. Jurisprudence in the province, according to lawyers interviewed by the evaluation team, is likely to be not only distinct but often at odds with jurisprudence in the Capital and the national courts.¹⁶ While working the Province of in Buenos Aires is unlikely to have a direct impact on working at the national level, it certainly makes an important difference in the conduct of the administration of justice in an area with a population larger than most of the other countries of Latin America.

As noted above, USAID/Argentina supported activities in the area of administrative reform and related improvements to the justice system from 1990 through the end of project date of June, 1995. Total funding for the project over the course of the project was \$247,500. The project's general objective was to reorganize and modernize the administration of justice within the court system of the Province of Buenos Aires. The project included a series of activities such as:

- ▶ A pilot project to test the feasibility of **Decentralization of Administrative Functions**. This project was completed successfully in one department of the province (there are 18) and is now being extended to another department.
- ▶ **Development of a Management Information System** which was based on the system for receiving cases (expedientes). Computerization of the case reception system provided the opportunity for standardization of the codes assigned to case, data on the outcomes of cases and other elements which allowed the courts to be able to use the database

¹⁶ According to one lawyer interviewed, if you cite national jurisprudence in the courts in the Province, you might as well give up in advance. In Buenos Aires, you cite Buenos Aires, not what national judges say.

created for a variety of functions (case tracking, management control, etc.). The system has been installed at the central level and at 70% of the local level and is functioning.

- ▶ **Conduct of Judicial Conferences.** With support from USAID, the Supreme Court organized judicial conferences that brought judges from all levels of the system together. These conferences were the first instances that judges met on a face-to-face basis to engage in open discussion of their common concerns. The result has been an increased dialogue within the court system, loosening the tradition of top-down control of the Court's administrative processes. As the ministers indicated in discussions with the evaluation team, these conferences, which would have not taken place without the USAID supported initiative, have expanded the understanding of judges throughout the system of the need for reform, and of options in judicial procedure.
- ▶ **Development of a Fax Network for the Judicial Branch.** The objective was to facilitate communications between the courts in the province. This activity has been completed.
- ▶ **Establishment of a Registry of Expert Witnesses.** To increase the quality of expert witnesses and to better assure transparency in their selection, the Court is completing the establishment of a registry of expert witnesses. This has been an extremely complex task, involving negotiations between the Court's Department of Planning and the various professional associations in the province to establish criteria for "expertise" in each relevant profession.
- ▶ **Documentation System for Agreements and Normative Resolutions of the Supreme Court of the Province.** This project sought to systematize the aforementioned materials from 1875 to the present and develop a data bank of norms using a state of the art documentary database program¹⁷ that could be accessed through different types of searches (type of norm, year, number given to the resolution, key words and word from text). The system has been completed.
- ▶ **Development of Training Materials and Programs for Judges and Judicial Staffs.** Over the course of the project, the Court conducted a variety of seminars and workshops. Court staff developed training materials, including materials (manuals, audio-visual aids) that can be used in distance learning.
- ▶ **Access to Justice Project.** Under this rubric, the Court created an interactive computer system, located in the Information and Orientation Center in the main court building in La Plata, which provides information on the functioning of the judicial system to the public at large. (Another center has been opened and others planned.) The Court is in the process of adding a database that provides a cataloguing of agencies related to the judicial function and the roles they play.

Judges of the Supreme Court interviewed by the evaluation team pointed out the importance that the relatively small sums (an average of around \$40,000 per year) provided by USAID had in permitting the Court the flexibility to be able to initiate various activities that would not have been possible otherwise. As one pointed out, court budgets are generally conservative. It is difficult to secure resources for innovation. USAID provided the necessary difference to permit that innovation. Once an activity began, the Court could generally find the resources to maintain it.

¹⁷ *The program being used is Microisis.*

Of equal importance to the funding provided, according to the judges interviewed, were the opportunities in the form of technical assistance and observation visits offered by the USAID project.

The project has been able to meet bulk of the targets it has set for itself. It is in the process of completing those remaining. The Court is committed to maintaining the momentum of administrative reform. (Symbolic of that commitment is the transfer of the Planning Department, implementing arm of the project, to offices within the Court's headquarters building.) The role of USAID/Argentina's investment of funding technical assistance and training opportunities was critical in initiating the process and maintaining the momentum during throughout the project.

CENTRO DE ESTUDIOS JUDICIALES DE LA REPUBLICA ARGENTINA (CEJURA)

The Center of Judicial Studies of the Republic of Argentina (CEJURA) provides technical support to the Courts and Superior Tribunals of the Provinces to assist in improving their administration and operations. To accomplish this objective, CEJURA works in four areas: information, research, training and consulting. The beneficiaries of CEJURA are the Judicial Branch of the individual provinces, judges' associations, the staff of the justice system in the provinces, professional associations, universities, research institutes, and anyone interested in the administration of justice.

CEJURA responds to a board of directors consisting of Ministers of the Superior Tribunals of five provinces (Chaco, Cordoba, Chubut, Mendoza, Salta and Santa Fe) who were elected as representatives of the geographic regions of Argentina. It was created in 1992 through an agreement between the Fundación La Ley and USAID/Argentina. All funding for CEJURA has come from the USAID project with the exception of office space provided by Fundación

La Ley. CEJURA came under new management in 1994. The new director believes that judges are reactive, not proactive, and tend to maintain silence as a way of guarding the status quo. He has shifted direction, marketing CEJURA's services rather than waiting for requests from the courts.

CEJURA has been undertaking the following types of activities:

- ▶ **Development of a Data Bank:** This contains bibliographies, systems and administrative applications, model projects for administrative reform, research completed, congresses and other meetings of interest, and a "Who's Who" in provincial justice.
- ▶ **Case Processing Delay:** Research into the causes of delay in case processing, the actual state of statistics and their application to management, and the application of systems to management and case tracking. This resulted in a report being issued by CEJURA.
- ▶ **Judicial Administration:** Research into the current administrative structure and the jurisdictional and administrative work of the magistrates of the Superior Tribunals and looked at the rules for delegating administrative functions. As a result, CEJURA designed and implemented a pilot project.
- ▶ **Training:** Research into existing training for administrative personnel training within the country and in other countries and defined needs.
- ▶ **Technical Assistance:** In the implementation of administrative reforms for various provincial courts including the set of courts in the southern most portion of the country which have planted the seed for future reforms.

- ▶ **Publications:** Including a journal dedicated to promoting court reform by presenting analyses of key issues.

CEJURA also put together a number of conferences and workshops. This included organizing groups of judges from the provinces to attend conferences conducted by the National Center for State Courts (NESC) in 1995 and 1994¹⁸. CEJURA has held courses, conferences and workshops for 80 judges and court staff. CEJURA uses participatory teaching techniques and also encourages that time be used for networking.

In interviews with the evaluation team, the staff of CEJURA indicated that it is easier to instill change in the provinces than in the capital. The provinces are smaller, less political and less bureaucratic. The staff of CEJURA states that change seldom passes from the provinces to the capital, but that it may begin to happen.

CEJURA's best bet for life after the end of the USAID project is to join forces with the Junta Federal De Cortes Y Tribunales Superiores De Justicia De Las Provincias Argentinas (The Union of Federal Courts and Superior Tribunals of Justice of the Argentine Provinces).¹⁹ In effect, the Junta is the appropriate parent body for CEJURA. The Junta has the institutional structure that CEJURA lacks, and CEJURA has the staff, technical skills and operational agility that the Junta lacks. This teaming of resources will give CEJURA the structure and security it needs to continue growing.

In September of 1994, the Junta and CEJURA agreed that CEJURA would serve to meet the demands for technical assistance that the provinces may have. In December of 1994 CEJURA attended a special meeting of the Junta where this arrangement was ratified. An interview by the evaluation team with one of the junta members indicated that the Junta is satisfied with the relationship and does not anticipate any problems in going forward. However, not much progress towards this end has been made to date.

CEJURA's director is also getting advice from the NCSC. He has shown NCSC his proposed budget and is making contacts with others who may provide funding for CEJURA. In addition, CEJURA is remaining in contact with the IDB, which is likely to provide support for the provincial courts at some time in the future. (The IDB considers the group working in CEJURA to be highly competent professionals.) The director states that USAID has been extremely helpful in facilitating this relationship. There are political issues which must be resolved before the IDB can finalize its loan to Argentina, but the Ministry of Justice (MoJ) has already stated that CEJURA will receive assistance from this money.

The staff of CEJURA are highly competent professionals who have demonstrated their ability to provide quality technical assistance.²⁰ The products they have produced are of equally high quality. They have shown considerable imagination in maximizing the resources available to them. The critical question is not the survival of the CEJURA group as a set of consultants, but the survival of CEJURA as a technical support for the organization of provincial courts which would represent a significant advance in the development of the provincial courts. At present this seems to be possible, but it is clear that both the courts and CEJURA have to work toward that end. This requires continuing to develop the necessary

¹⁸ *The visit of judges from 18 provinces in 1993 to the NCSC stimulated interest in the reform process.*

¹⁹ *The Junta does not include the most important court, that of the Province of Buenos Aires. The Province of Buenos Aires has generally remained independent of initiatives of the national government, in part because of a desire to protect its prerogatives. Buenos Aires has cooperated informally with the other provinces.*

²⁰ *CEJURA's coordinator has served as a USAID consultant for Uruguay, where her role has been critical in assuring the development of a complex judicial administrative reform project. CEJURA's director has provided technical assistance in Bolivia, Chile, Honduras and Paraguay for the IDB and USAID.*

sense of joint purpose and it means, particularly in the short term, locating the funding required to maintain CEJURA as an ongoing entity.

Judicial/Legal Education

Judicial training is one component of the activities currently being supported through Fundación La Ley. As with all other project components, it will conclude on June 30, 1995. A judicial school can provide both formative training for those entering into a career in the judiciary and in-service training. Formative training can move the law student out of the theory of the law into a more practical understanding of the role of the judiciary and of the skills required to perform that role. In-service judicial training serves as a means to communicate new concepts such as the use of oral procedures or the role of mediation, as a means to review the state of jurisprudence, and as a means of promoting changes in the administration of the courts for participants caught up in the day-to-day operations of their courts.

The original USAID effort focused on establishing a national judicial school through the National Supreme Court. That effort foundered as a result of internal court politics. The project over the past year (since March, 1994) has begun an effort to establish judicial training schools at the provincial level. The effort is being conducted under the rubric of CEJURA as part of an effort to establish the institutional presence and role of CEJURA.²¹

The effort began with a needs assessment conducted by CEJURA of the interests of the provincial Superior Tribunals of Justice. The majority of respondents chose training as their primary interest. Many cited participation in the First International Symposium of Judicial Schools, held in October 1991 under USAID auspices, as the basis for their interest in judicial training.

Seminars and technical assistance have been provided to about three quarters of the provinces. The methodology employed has been interactive, using the concerns of the participants to help focus the content of each training activity. A good deal of the content of the seminars has focus on issues related to court administration. Seminars have also been provided in areas such as the role of mediation.

An important focus of the training effort has been to promote the establishment of judicial schools. Thus, seminars have been conducted to provide the participants with the tools needed to develop a strategy to implement a judicial school in their province. The judges work on developing a needs assessment, forming a planning committee and designing their project.

The next step in creating the schools is the formation of Executive Boards and the creation of statutes to govern the schools. The first province to approve a school statute was Santa Fe. The provinces of Entre Rios, Santa Cruz and Rio Negro have also completed such statutes, and others are in the process of developing them.

No province has a functional school to date. Two provinces interviewed by the team felt that they would have no trouble making their schools operational. However, both provinces were somewhat vague as to funding sources for the initiative. Although both provinces are counting on continued technical advice from CEJURA, they indicated that they are ready to begin work regardless of such support.

Looking at the question of sustainability, an interview with the President of the Superior Tribunal of the Province of Santa Fe indicates that this development of the school will be no easy feat. Given the current economic crisis, the provinces are strapped for funds. Thus, expanding the court's budget to pay for a judicial school appears to be problematic in the short term. But the seed remains planted in the form

²¹ This follows a suggestion of USAID/Argentina's consultant, Dr. William Davis.

of the Sante Fe Court's commitment to a judicial school. The plans for paying for the school are less concrete.

In the area of legal education, USAID/Argentina has served as a broker between USAID/Washington's University Development Linkages Program (UDLP) and the University of Palermo, the Centro de Estudios Institucionales (CFI) and Yale University to establish a post-graduate program in law, the first of its kind in Argentina and in Latin America. USAID/Argentina took a USAID program, UDLP, that had not been used in the field of law and that was not open to Argentina and arranged expansion of UDLP's scope of action, thematically and geographically. The result was that a group from the Centro de Estudios Institucionales was able to sell to the University of Palermo, a private university in Buenos Aires, and to Yale University the idea of a developing a Center for Post-graduate Studies. The center was recently established, and the first set of students have begun their course of study.

The Masters of Law degree is offered in collaboration with Yale University and the Centro de Estudios Institucionales, and with the participation of other academic establishments in Argentina (such as the University of Buenos Aires) and in the United States (Harvard). The Post-graduate program seeks to change the manner in which law is taught in Argentina. Traditionally, Argentine students memorize the legislative codes that govern their country. The focus here will be to move away from rote learning to analytical thought.

Elements drawn from the US experience include editing and publishing a student law journal and working in a law clinic specifically designed to develop an approach to public interest law. The focus on public interest law represents another innovative element in the program. To implement this approach, the clinic will take cases which have an impact on society at large because the cases can influence specific public policy issues. Areas to be covered include the rights of the handicapped, the environment, human rights and women's rights. The University wants to make the practice of public interest law prestigious.

The program calls for support from Yale in the form of exchanges of professors, exchanges of students and technical assistance in the design and development of the Center's journal and library. Student exchanges will facilitate transfer of experience from students in Yale to students in Palermo in areas such as the operation of the journal and the management of a public interest law clinic.

Students are chosen on a series of criteria, one of which is the likelihood that the student will eventually take a leadership position in his or her community. Bilingual skills in Spanish and English are also required.

The University feels certain that the Masters Program will continue even in the absence of USAID. The University of Palermo has incorporated the program into its teaching program within its growing Faculty of Law. Yale and the University of Palermo have established a relationship, and Yale has already demonstrated its commitment to the program by donating more money than it had originally been called upon to provide.

This represents an instance where USAID/Argentina's skill in program management made possible the development of an institutional arrangement that is both sustainable and likely to have long term consequences for the nature of legal practice in Argentina.

Alternative Dispute Resolution (ADR)

The single most important contribution that USAID/Argentina has made to strengthening the justice sector in Argentina is the support it has provided to the development of mediation as a form of alternative dispute resolution, both within the court system and through the community. Less than five years ago,

mediation or other forms of alternative dispute resolution were unknown in Argentina as well as in most of Latin America. Today in Argentina, two separate pilot efforts and a series of related educational efforts have demonstrated to the Argentines in the legal profession, in the judiciary and in the government that mediation represents an important tool for the administration of justice.

As confirmation it is possible to note various pieces of evidence. The Congress is presently debating a national law that would make certain forms of mediation mandatory in civil judicial processes within the national court system.²² There is an increasing demand for training by lawyers as mediators in anticipation of the possibility of expanding their practices to include mediation. The Ministry of Justice, which helped to promote neighborhood mediation centers at the outset of the decade, recently opened up what might be considered a competing form of community mediation, on its own initiative and using funds available to it from its own sources.

An examination of three mediation efforts that USAID has supported in differing degrees points to the growth of this activity over the past several years.

The Court Mediation Pilot Project/Fundación Libra: The Court Mediation Pilot Project is the result of a collaborative agreement between the Ministry of Justice(Moj) and the Fundación Libra.

The Court Mediation Pilot Project consists of twenty civil courts selected by the Moj through a lottery. These twenty courts are required to send civil cases to mediation prior to litigation. There are currently ten mediators assigned to the Mediation Center associated with the project. Eight are attorneys and two are psychologists. As of 1994, the Moj entered into an agreement with Fundación Libra and the Law Faculty of the University of Buenos Aires(UBA) to provide training for the mediators the Moj requires for its pilot project. The Moj is working to add more courts to the pilot project sometime in June. By the end of the year the intention is to have all civil courts integrated into this project. To date, Libra and other institutions have trained 250 mediators, and another 250 are in the final stages of training. By the end of the year there should be more than 500 mediators ready to work with the courts.

The Moj adds on courts a few at a time and sends in its own staff and Libra to train everyone in the court regarding the purpose of the project, the benefits of mediation and what the parties will be going through. The training includes security, clerks, judges, and everyone else working inside the court house. In this manner, parties can ask literally anyone they see what they are supposed to do, why, and how they are supposed to do it. Pamphlets are left with the judges and clerks to be handed out to parties who do not understand the new procedures.

The judges are made a part of the project from the minute their court is selected for the project. There are monthly meetings between the judges, the mediators, Libra and the Moj. These meetings are open and frank, where the judges feel free to question practices, complain about procedures, and discuss cases that have been particularly difficult to handle (no specifics as to names or key facts, are mentioned, so confidentiality is maintained). At one such meeting attended by the team, several of the new judges were frustrated by problems they had not anticipated, but they seemed quite willing to continue with the project. The discussion centered on understanding the approaches taken by mediators in different types of cases and the problems resolving certain cases. The concerns of the judges focused more understanding the process than on the mere statistics of what was happening. The presiding judge of the Civil Court made an appearance at the meeting to indicate his support for the process. The sense of the

²² *There is considerable debate over the bill in process which has currently passed the Senate and is awaiting passage in the Chamber of Deputies. Proponents of mediation in the Argentine court system and in the private sector are concerned about various elements of the bill which they consider to be in appropriate for an effective and efficient system of mediation. However, as one individual concerned with the problem pointed out, it is better to have a law and then try to assure that the regulations are workable.*

meeting was that both the judges and the mediators saw this as an opportunity to learn from each other in the interest of improving the functioning of the pilot project.

The project began in 1991 with the design of a strategy by the USAID advisor to promote mediation. Next, the MoJ conducted a study to determine whether or not mediation would be feasible in Argentina. The Ministry of Justice then devised a National Plan of Mediation which allowed mediation and other ADR techniques to be developed. The approval of the government paved the way for what is now becoming an extensive network of mediation services.

The project went on to study mediation in other countries and how to best train mediators within Argentina. Based on a training plan developed by the USAID advisor, USIS helped the Ministry of Justice to bring substantial numbers of US experts in mediation to Argentina, maximizing the cost effectiveness of the training offered. One result was the establishment of the School of Mediators, which is the Federal institution responsible for training mediators certified by the Ministry of Justice to mediate for the courts.

The first introductory course was offered in 1991 by Dr. Sharon Press, Director of the Center for Dispute Resolution in Florida²³. The course was sponsored by USAID and USIS. The attendees were court personnel, judges and magistrates, and interested professionals.

Throughout 1992, courses continued to be offered. The school focused on lengthening the training process and more carefully selecting the participants. Tests were designed to pull in participants that fit a "mediator profile."

Also in 1992, the school began to focus on family disputes and property disputes. To begin courses in family disputes, the school called upon the expertise of Patricia Roback, an expert from Los Angeles. USAID and USIS continued to provide support, to pay the travel expenses of experts and to pay their honoraria.

In 1992 the National Mediation Plan was issued and the MoJ Mediation Corps was created. In 1993 the resolution mandating that the original ten civil courts of first instance participate in the Mediation Pilot Project was issued. The corps of mediators is supervised by a committee of three: Dr. Haydee Barletta of the MoJ; Dr. Gladys Alvarez, an appellate judge and founder of Fundación Libra; and Dr. Elena Highton de Nolasco, an appellate judge and Vice President of Fundación Libra. In 1994 the Supreme Court of the Nation issued a resolution that declared its interest in the pilot project.

The Mediation Law currently before Congress will greatly expand the use of the mediators, so the School is training people as rapidly as possible and is developing a registry for those trained for such mediation. To get on the registry, a mediator must have received 40 hours of training which meets the MoJ's criteria. The Pilot project is currently lobbying Congress to modify the law so that more professions than lawyers can qualify for conducting mediation.

The Pilot Project exists within the national judicial system. However, the provinces have demonstrated a keen interest and have entered into agreements with the MoJ to start similar projects. The Pilot Project has no relationship to the two mediation projects under the Legislative Matters Secretariat of the MoJ which are discussed below, not even in terms of communication.

Fundación Libra

Libra received USAID funding as of 1993 for this project, shortly after it was founded. Libra is a non-profit NGO which promotes the use of mediation as an alternative to litigation. In addition, Libra is the

²³ *Other significant technical assistance providers included David Jenkins on commercial mediation and Barbara Hulburt on concepts of alternative dispute resolution (ADR).*

primary trainer, although not the sole trainer, of mediators in Buenos Aires and for the Court Mediation Pilot Project. The members of Libra constitute an interdisciplinary group of judges, lawyers, business community members, psychologists, notary publics, researchers, university professors, mediators and negotiators.

Mediation and Libra started together. The founders of Libra used their own funds to receive mediation training at Harvard. Shortly after their return then Minister of Justice Arslanian in collaboration with USAID and USIS helped organize a visit by Sharon Press who gave a seminar on ADR. The soon-to-be founders of Libra were then asked by the Minister of Justice to be part of a commission to design a new law to reform the judiciary. USAID consultant William Davis was also involved in this project. In fact, Davis has provided technical assistance to Libra throughout the course of USAID support.

In addition to providing funding for the Mediation Center, USAID has supported Libra to publish a quarterly magazine and produce manuals, videos, and work guides for official and Fundación uses.

Libra has a permanent staff of 22 lawyers, psychologists and sociologists. All are professors in the universities and all are trained mediators. Libra is largely self sufficient. It has permanent offices that are made available by the President of Libra. Through income it receives for its services, Libra is able to operate in the capital with little need for outside resources. However, in order to provide services in the provinces and other countries, Libra needs additional funds. The staff of Libra have been involved in fundraising since the time of the Fundación's inception. There is very little concern that the organization will have difficulty continuing its work in the absence of USAID.

Libra has provided Mediation courses to, among others, the MoJ, the Law Faculty of the University of Buenos Aires, the Association of Notary Publics, Chambers of Commerce, the Industrial Union, various foundations, the Professional Council of Sociologists, the Professional Council of Architects, and several Bar Associations. In addition, Libra has provided training in at least ten provinces.

Libra has been perhaps the most successful of "AID's NGOs" at networking. In addition to the cooperative agreement it has with the MoJ, Libra also has collaborative agreements with the College of Notary Publics of the Federal Capital, the Faculty of Law of the National University of Buenos Aires, the Association of Magistrates and Clerks of the National Justice and MoJ. Libra has also used the assistance of USAID and USIS to bring in experts in mediation from the United States to train Libra staff and to offer seminars to others. Libra also signed an agreement with the National Center for State Courts to co-sponsor the first two international conferences on ADR in Latin America.

Libra has also been active in the international arena. It collaborated with the United Nations' Program for Development and provided courses in Uruguay. Libra worked with the Inter-American Bar Association to provide courses in Bolivia. Libra has also worked in Chile, El Salvador, Costa Rica and Colombia. It has responded to requests from the Latin American Association for Integration and the Chamber of Commerce of Mercosur.

In addition, Libra has helped the Province of Jujuy open its own Court Mediation Pilot Project. Libra trained the founder and helped with moral support. It has worked as well in several other provinces.

Libra can sustain itself, minimally, with its income from its courses. It can continue to work in Buenos Aires on its own, but it needs help to work out in the provinces and in other countries. Many of the provinces cannot afford to pay even 50% of Libra's cost. Libra plans to engage in some fundraising activities to further its capabilities. It appears to be a very strong and well-managed organization. Libra is a little concerned about the Pilot Project because it has so few resources.

Ministry of Justice: Secretariat for Legislative Affairs

Centers for Community Judicial Attention (Centros de Atención Jurídica Comunitaria) (CAJC)

The Centers for Community Judicial Attention were created five years ago as part of a possible solution to the tremendous backlog of cases in the courts. Most of the space used by the centers is either lent to them by community organizations such as churches and schools, or is owned by the MoJ. The centers have handled close to 10,000 cases to date. They are only located in Buenos Aires. Presently there are a total of seven centers.

The types of disputes handled range from neighbors fighting over barking dogs to spousal abuse to labor disputes. One of the centers is even handling the mediation of a dispute between a major bank and one of its clients. When mediation takes place, any resulting written agreement is given the effect of a contract, and thus can be enforced in court. The center's purpose is to help keep people out of the courts, so they follow up on cases and try to resolve any new disputes which may arise and ensure smooth execution of the agreement.

The proposed new mediation (judicial reform) law will not affect the centers, since the centers are not involved directly with the courts. UBA and some private universities provide mediation training to the potential mediators. However, at this point, the experience they gain with the centers and the training they receive is not accepted by the MoJ as a basis for qualifying as mediators under the proposed judicial reform law. The MoJ is seeking to resolve this issue before the law is enacted.

USAID funding for this project ended in 1993 when it was taken over by the Ministry of Justice. The MoJ uses funds it receives from fines, notary fees and license fees to maintain the centers. (The national director is paid out of the MoJ regular budget.)

As part of this evaluation, the evaluation team visited a CAJC mediation center and was able to talk with clients. Most of the clients interviewed stated that they would either have to go into debt to get a lawyer, or just forget the entire dispute, if not for the existence of the neighborhood centers. Without the centers, it is a case of the courts or nothing. Most of the clients learned of the centers by word of mouth, but some also learned of the centers through the newspapers. All made it clear that not only did they feel they were getting great help, but that they also had a place to go for other problems. The MoJ has only recently started to invest in advertising the centers' activities. It also has engaged in promoting the centers through use of radio and television news and discussion programs.

An internal evaluation conducted by the MoJ suggested that the centers should become interdisciplinary. Currently only lawyers and law students work at the centers. The evaluation stated that since so many social problems are also brought to the centers that psychologists, social workers and communication specialists should be included on the staff. To date, this recommendation has not been implemented. It was also recommended that the hours be lengthened from 3:00 - 6:00 to 1:00 - 7:00; this too has not yet been implemented.

The CAJCs have no ongoing relationship with anyone other than the Ministry of Justice. Even within the MoJ there is no networking or sharing of information. The two MoJ mediation programs that fall under the Secretariat of Legislative Matters control, the CAJCs and the Community Mediation Centers that are discussed below, view each other as competing for funds which indeed they are. The CAJCs have existed for five years and operate with a shoe string budget. They can show proven results and continue to expand. The new Community Centers have just opened in the middle of May. They will assist the same types of individuals as the CAJCs. They too will operate on an inadequate budget. The CAJCs sought to collaborate with the Community Centers but their participation was refused. The only mandated participation between the two is that the Community Centers must refer the cases they cannot resolve to the CAJCs.

An MoJ official has stated that the MoJ intends the Community Centers to be an expansion of the CAJCs, and will begin holding a series of meetings to help foster that idea. The MoJ hopes to improve communication between its projects.

The CAJCs do try to collaborate with Libra. Libra invites them to many of their seminars, but to date there has not been anything more concrete. (Until recently Libra had little interest in community-based mediation.)

The primary difficulties with collaboration is a lack of communication between the involved agencies and a tendency to view each other as competition for the same niche in Argentine society.

It should be noted that the CAJCs do not only serve as mediators and guides to problem solving. They are also social workers, guides through the complex justice system and friends. One client stated that her business could have been completed over the phone, but she wanted to see the staff and see how they are doing.

The CAJCs have demonstrated their worth within the communities they serve. The MoJ has indicated that they plan to continue funding the program. In fact, over the past year they have expanded the number of centers in operation from four to seven. A demand exists to expand the concept outside Buenos Aires, a demand evident in inquiries received by the MoJ from the provinces. There is a likelihood that once the government is reconstituted after the election, the MoJ will incorporate more of the administrative personnel of the centers into the regular budget of the MoJ. Thus, the centers have secured their continuity as far as it is safe to predict. They form a part of the response to opening up the system of justice to those of limited resources as well as part of an effort to establish a greater sense of community within the metropolis of Buenos Aires.

Community Mediation Centers

The Community Mediation Project of the MoJ seeks to promote voluntary mediation as an alternative dispute resolution mechanism in the neighborhoods of Buenos Aires, and to develop, through the actions of trained volunteers in their own neighborhoods, an informal forum is easily understood by the community and which is free of cost.

The project will train volunteer-community-mediators in effective communication, active listening, how to understand the heart of the conflict, how to collaborate with the disputants in selecting the best proposal that will lead to an agreement, how to help prevent disputes, and similar skills.

Every mediation office will have at a minimum two community volunteers and one assistant volunteer, reaching a total of six mediators per center as the training program is completed. These volunteers will be selected based on their ability to fit a "mediator profile." "The candidates must successfully complete the mandatory training. It is hoped that each center will have at least one mediator that is recognized as a leader of the neighborhood. The project currently has 31 volunteer community mediators and eight alternates. The volunteers represent sixteen neighborhoods and come from diverse backgrounds and socioeconomic levels. The first two centers opened in mid-May.

Since the MoJ has a very limited budget for this activity, drawn from the same source as that used for the CAJCs, it is relying on neighborhood associations, labor unions and other organizations with community centers to provide the locales for the centers. The first two centers were opened in a labor union and a neighborhood center. The centers are being dispersed at various points in the city. (The first to open was in San Telmo and the second in La Paternal.)

It is planned that one disputant contact the Office, that the Office contact the other disputant to establish a date for mediation, that the mediation and dialogue take place within the community center, that the mediator provide follow up services to ensure fulfillment of the agreement, and that when mediation is not successful—to serve as a referral to the CAJCs.

The centers will be advertised through television, community radio, bulletin boards and community publications.

USAID's contribution to date has been to provide a liaison to U.S. experts and to conduct a formative evaluation of the project, using personnel from its long term technical assistance team.²⁴ The model that inspired the centers is the Community Board of San Francisco conflict resolution program.

The Community Centers are too new to be evaluated. Concerns that need to be taken into account for future development include:

- ▶ the need to coordinate their activities with the already existing MoJ CAJCs;
- ▶ the need to assure that the centers are used as neutral community agencies and not as instruments for partisan political activity;
- ▶ the need to develop a firm financial base for this new endeavor (although as the Secretary of Legislative Matters indicated his two sets of community mediation efforts, given the use of volunteers and donated space are relatively inexpensive), and
- ▶ the need to assure quality control in the mediation process and optimum use of the volunteers (for example, to insure their neutrality over time and to protect against burn-out).

Again, however, from the point of view of the impact that the USAID program has had on reshaping options within the justice system, this new initiative of the MoJ demonstrates that small investments (in this case of technical assistance and the exposure to models) may be efficacious in enhancing the quality of the justice system in more advanced developing countries. This is particularly the case when a foundation has been laid through years of collaboration in a process of promoting reform, as has been the case with the USAID program in Argentina.

Summary

In sum, it is clear that USAID's investments in building a more independent, efficient and accessible justice system in Argentina can be deemed successful because it is possible to point to an important result—the establishment of an interest in alternative dispute resolution which in turn has become institutionalized within the justice system and within the broader society that supports that system. That result it should be noted is not only influencing the quality of justice in Argentina at the national level, but at the provincial level and even internationally. Fundacion Libra, a key actor as noted above in pioneering mediation in Argentina, has become an emissary of the gospel of mediation in international conferences, in judicial training programs in other Latin American countries such as Chile, Uruguay and Bolivia and in various provinces of Argentina.

Access to Justice

²⁴ See Hilda Gutierrez Baldoquin, *Final Report to USAID re Technical Advisory Services for the Judicial Sector in Argentina*, (San Francisco: DPK Consulting, April, 1995).

An important component of an effort to reform a justice system is an effort to broaden the possibilities of access for marginalized sectors of society. From the outset of USAID efforts in Argentina, resources have been devoted to increasing access to justice through two mechanisms. One was through the Centers for Community Judicial Attention discussed above and the other was through a project entitled "Justice for All" (Justicia para Todos) which focused on providing training and support to public defenders. USAID support for this component began in 1990. Support was provided until 1994 through FORES, an NGO which had been working in this field. After that point the project was transferred to Fundacion La Ley. The program undertaken focused on providing training to law students, young lawyers and public defenders. Project personnel also contacted opinion leaders in the legal profession to secure their assistance in promoting a national organization of public defenders.

One outcome of the project was establishment of a Committee to study the Public Defense system. The Committee contributed to a reform in the public defender system, included within the revision of the Constitution, which separates the public defenders from their administrative dependence on the Fiscalia (the prosecution). The Ministry of Justice is now in the process of creating a law which will implement the constitutional mandate. This will only affect public defense at the national level, but many provinces are now trying to create similar laws.

The last activity to be undertaken under USAID auspices is the First Congress of "Official Defense"²⁵ scheduled to be held in June which will provide an opportunity for public defenders from throughout the country to meet and discuss regarding the practice of public defense as well as its organization in Argentina. This project component as all other project components ends on June 30, 1995.

Responsibility for continuity of organizational efforts and related training of public defenders will rest with the public defenders after the close of the project. Knowledgeable individuals contacted by the evaluation team indicated that the reform in the status of the public defenders is likely to contribute to their greater efficacy in performance of their functions. This constitutes the major benefit, albeit an indirect one of the investment made in this area of activity.

Reduced Opportunities for Corruption

Corruption is endemic in Argentina, pervading all forms of public/private relationships. Corruption distorts the ability of the state to act in a fair and equitable manner. Corruption serves to distort the marketplace, introducing criteria in the acquisition of goods and services that fall outside the criteria of standard market calculations regarding quality and market price. In fact, in the area of the acquisition of goods and services, distortions may be so great that the state can not afford to meet its needs—a situation that may, for example, be the case with the courts in Argentina which are overburdened with employees whose positions are due to political influence rather than good administration. USAID/Argentina has provided support to an NGO, Poder Ciudadano, and to first one and then another government agency to develop programs to reduce corruption and expand transparency and accountability in government action. The approaches taken by each organization are distinct. The implications of those distinctions will be part of the discussion contained in this section.

Poder Ciudadano

In the private sector, USAID/Argentina has provided funding to Poder Ciudadano (Citizen Power), an NGO²⁶ created in 1989. Poder Ciudadano was established by a small group of individuals, with

²⁵ *Defensor Oficial (Official Defender) is the term currently in use for the role of public defender.*

²⁶ *Poder Ciudadano is chartered as a foundation (official title: Fundación Poder Ciudadano).*

considerable reputation in their respective fields²⁷ who sought "to create a wave of opinion supporting respect for civic rights in Argentina and to generate and disseminate the basic values of democracy." Poder Ciudadano is not affiliated with any political party, specifically declaring in its literature its non-partisan character. A particular focus of the founders was a concern for the extent of corruption in Argentine society, particularly in the public sphere. In that regard, the emphasis placed by the organization is on generating citizen consciousness which serves to overcome the prevailing "culture of corruption" that the organization sees as characterizing Argentine public life.

Poder Ciudadano is located in Buenos Aires, but operates at a national level through a network of organizations sympathetic with its aims and supportive of specific programs it undertakes. Poder Ciudadano is a relatively small organization, with a total budget in 1993 of \$333,389.²⁸ The bulk of that budget was provided by grants and donations from US government agencies and private foundations (USAID [40.6%], Ford Foundation [19.8%], the National Endowment for Democracy [18.7%]) with the balance (20.9%) funded by local donations. Additional support is received from a variety of local sources in the form of in-kind donations of equipment, materials and services. A part of the effective cost of operation is covered by the voluntary work of the organization's directors, a small number of members and individuals and groups associated with it through its network.

USAID/Argentina provided Poder Ciudadano with a grant on June 17, 1991. The total Life of Project funding was \$600,000 with an end of project date of June 30, 1995. The project purpose was to involve Argentine society in the design and execution of systems of control of corruption through the private sector.

The approach taken by Poder Ciudadano in the course of the project was to develop a variety of activities dedicated to placing the issue of corruption before the public in general and before selected target populations. The proposed strategy is based on educating citizens of all ages, beginning with youth in schools. It is, therefore, by definition a long term strategy. The approach uses social marketing techniques that emphasize a combination of interpersonal contacts and the use of targeted mass media.

Components of the project include: the use of survey research and focus groups to define the problem, the development of an anti-corruption network, development of materials in both printed and audio-visual formats, television advertising campaigns, support of seminars and development of degree programs, development of a data bank on candidates for political offices and the undertaking of educational contests.

Poder Ciudadano has used surveys both as a diagnostic tool and as a programmatic tool. Early on in the project, Poder Ciudadano undertook a focus group study of public perceptions of corruption. That study defined a series of attitudes regarding the origin of corruption, the effect of corruption on Argentine society and the best approaches to fighting corruption. It defined a set of responses that were characterized by the analysts as ranging from alienation to a search for alternative (uncorrupted) leadership.²⁹ The focus group study, in turn, formed the basis for a household survey of the adult

²⁷ *The founders of Poder Ciudadano are: Marta Oyhanarte, a lawyer concerned with human rights and the role of women in Argentine society, Luis Moreno Ocampo, former chief federal prosecutor, Manuel Mora y Araujo, a sociologist, and head of a leading survey research firm, Mona Moncalvillo, a journalist, Teresa Anchorena, an anthropologist who served as National Secretary of Culture under Alfonsín and Victor García Laredo, a director of a large holding company.*

²⁸ *These figures are drawn from the annual financial audit of Poder Ciudadano, dated April 12, 1994.*

²⁹ *The study was conducted by Mora y Araujo, Noguera Associates with Manuel Mora y Araujo, a board member of Poder Ciudadano as principal investigator. The results are reported in Oyhanarte, *op.cit.*, pp. 231-246.*

population of greater Buenos Aires (Federal Capital and 19 districts of the province of Buenos Aires) that also focussed on public perceptions of corruption.³⁰

Among the findings was the perception by the overwhelming majority of residents of greater Buenos Aires that major sectors of the society were corrupt. That perception extended to politicians, labor leaders, public officials, the police, businessmen and judges. Around two-thirds of those surveyed believed that the way to end corruption was through strengthening the judicial system—assuring that the laws were applied and that sentences were carried out (66% choosing this set of responses as their first or second response). Far smaller numbers indicated that a solution could be found in inculcating different values (12%) or increasing citizen participation in controlling corruption (12%), the options contained in Poder Ciudadano's approach.³¹ From the outset, the task that Poder Ciudadano had assigned to itself was clearly a difficult one, one again likely to require a long term effort.

To generate interest in its anti-corruption activities, one of Poder Ciudadano's directors, Luis Moreno Ocampo, authored a book in 1993 on corruption, **En Defensa Propia: Como Salir de la Corrupcion**. The book became an immediate success, going through multiple editions, and topping the best seller list for several months. The book was complimented by a video which both echoed the principal themes and provided materials that serve as the basis for discussion groups on the theme. As a further element in documenting the issue of corruption, Poder Ciudadano maintains an archive of relevant print and video clippings which permits tracking available information in the media.

Poder Ciudadano has extended its use of the media to undertake calls for citizen action through television appearances. For example, in one campaign, representatives of Poder Ciudadano called on citizens to contact their Senators regarding the approach taken in choosing candidates for judgeships. To make this effort more dynamic, Poder Ciudadano arranged for callers to report on what had happened when they called—the way they had been treated, the way the Senator in question had responded. The leadership of Poder Ciudadano sees this methodology as one more tool in the effort to maintain citizen pressure on their political representatives.

In the area of relationships with scholarly institutions, Poder Ciudadano has been active in securing the inclusion of the theme of corruption in academic curricula and courses. A specific accomplishment in this area was Poder Ciudadano's contribution to the establishment of a Masters in the Control of Public Policies program, a program established jointly with the Instituto Nacional de Administracion Publica (National Institute of Public Administration) and the Facultad Latinoamericana de Ciencias Sociales (FLACSO) (Latin American Faculty of Social Sciences).

Poder Ciudadano has set up networks of cooperating organizations within Argentina, but has also been able to extend its networks outside the country. It cooperates with other civic education organization concerned with the broad question of effective expansion of civic participation such as PARTICIPA in Chile. It also is a member of the Transparency International (TI) network, a group of organizations in forty countries around the world concerned with the corruption issue. Poder Ciudadano has been recognized by the TI network for its skills in using a variety of techniques to foster public concern with the problem of corruption. As evidence of that recognition, TI has asked Poder Ciudadano to organize training courses for other national affiliates.

As both part of its academic efforts and its international networking, Poder Ciudadano hosted in April of this year the International Seminar for the Control of Corruption together with the University of Buenos

³⁰ The survey had a sample size of 950, a confidence interval of +/-3.2%. It was conducted by Gallup of Argentina in August, 1992. See Oyhanarte, *op.cit.*, pp. 247-256.

³¹ *Ibid.*, p. 254.

Aires. Key presenters in the seminar were a group of Italian prosecutors engaged in fighting public corruption in Italy.³² The seminar and the presence of the Italian corruption fighters generated significant news coverage of the corruption issue.

Two other activities undertaken by Poder Ciudadano indicate the inventiveness of the approaches taken to get the issue of control of corruption on the Argentine agenda. The first is the creation of a data bank of political candidates. This effort centers on having candidates for public office fill out, on a voluntary basis, extensive questionnaires regarding their financial assets as well as other information that might be of relevance to a voter's evaluation of a candidate (e.g. professional activities, educational background). The assembled disclosure statements along with the comments (if any) of those who refuse to participate in the process are published by Poder Ciudadano as booklet³³. More importantly, this data which was gathered for both the 1993 and 1995 elections was published in newspapers with national circulation (**Página 12** in 1993, **La Nación** and **Clarín** in 1995).

The second activity involves the conduct of a national contest denominated "The Copy and the Bribe: How to Change a Style" in 1994. This contest targeted school children, youth, teachers and parents, focussing on making them aware of the mindsets associated with corruption in their daily lives. It specifically drew attention to practices of cheating in school as an analog to bribery and other forms of corruption in national life. The contest involved as well a variety of complimentary activities including forums, workshops, debates, mock jury trials. The contest directly involved more than 2000 students, and more than 300 teachers and parents who in turn interviewed a total of almost 3000 opinion leaders and public officials. This year, Poder Ciudadano intends to expand this type of activity to reach a larger body of students, teachers and parents, focussing this year on the theme of values and tolerance.

It is possible to measure the effect of these programs in terms of quantitative indicators of the number of individuals reached through television, the mass media etc., but a more significant measure is the direct and visible impact that the organization can demonstrate in its role in public discourse on issues concerned with the problem of corruption. In the period of the evaluation, it was possible to observe several examples of this capacity to focus public attention on an issue. Specifically, as noted above, Poder Ciudadano was able to attract considerable press coverage regarding both the event and the content of the International Seminar For the Control of Corruption, including coverage (in the midst of an national presidential campaign) of the significance of corruption in public life. Equally, in the last week before the election, Poder Ciudadano was able to secure front page coverage of the contents of its data bank of political candidates as well as discussions in the press of the fact that the President declined to participate in the exercise. Again, the issue of the citizen's right to know clearly was put on the political agenda by Poder Ciudadano in the course of this political campaign.

Within the scope of the project, using a variety of inventive techniques of social marketing, Poder Ciudadano has been able to accomplish the general aim of that project "to involve Argentine society in the design and execution of systems of control of corruption through the private sector". It has done so through the use of the mass media to stimulate citizen participation, the use of contests, the publication of relevant materials, the organization of seminars, all of which have an action component—to interest Argentine citizens in making the public sector more responsive and to develop at the same time an individual understanding of the valuative underpinnings of the fight against corruption.

³² *The group form a part of the "Mani Pulite"(clean hands) operation to eliminate political corruption which has revolutionized Italian politics.*

³³ *President Menem did not chose to make a disclosure, a fact noted by a variety of newspapers in the days before the election.*

However, the concern remains regarding the sustainability of this effort, which by its very nature is a long term, cumulative process of reshaping beliefs as well as developing appropriate patterns of action. Poder Ciudadano has demonstrated an ability to draw resources from Argentine society, but only to a limited extent. For example, it has been able to get a certain number of individuals to pledge support for its activities. It has been able to attract several international donors. It does have skills and services that it can sell. But, the end of support from USAID leaves a significant gap in the resources available to the organization, a gap that it will need to address to maintain the activities that it has been able to undertake successfully to date.

SIGEN

The emphasis in the Poder Ciudadano project is generating citizen awareness of the problem of corruption leading to a change in the public's attitudes toward corruption. This in turn would lead to a program of action directed at making citizens effective participants in a process of fighting corruption. The emphasis in the public sector component of USAID/Argentina's support of anti-corruption activities is to improve the enforcement capabilities of an agency responsible for controlling corruption from within the government. Specifically, the public component supports the Sindicatura General de la Nacion (SIGEN) (the General Controller of the Nation), an agency within the Office of the President of the Republic, in its efforts to improve its internal systems and to undertake a program of "social control" (Sindicatura Social) of corruption.

USAID/Argentina had originally provided a total of \$500,000 to the Tribunal de Cuentas de la Nacion (the National Tribunal of Accounts), to the Ministry of Justice and to the Secretaria de la Funcion Publica (Civil Service Secretariat) through the United Nations Development Program (UNDP) to strengthen accountability in the public sector. This grant had not achieved its purpose due to a lack of political will and was closed out by USAID/Argentina. Funds remaining (around \$100,000) were transferred in September of 1994 to SIGEN, an agency recently established (1993) to serve as an internal control agency within the executive. (SIGEN is a part of the Office of the President of The Republic.)

An innovative aspect of this grant has been the development of a system of public participation in identifying cases of public malfeasance. Through this "social control" program, individuals can inform SIGEN of specific instances of corruption or provide suggestions on fighting corruption. Each individual's report is assigned a case number and the individual is supposed to be able to track the progress of SIGEN's action regarding the instance reported. Three offices have been opened in Buenos Aires. To date those offices have received a total of 163 complaints, 57 accusations and 14 suggestions.

While the system has begun to function to receive complaints and accusations, the real measure of its effectiveness and impact on the problem will be the results produced over time by SIGEN.

Looking at the question of sustainability, SIGEN's leadership has indicated a commitment, building on the support received from USAID, of continuing this program of social control once funding ends on June 30, 1995. In that regard, the investment has produced a long term consequence—the establishment of a new channel of communication between the public and the state regarding instances of public corruption.

Increased Civic Participation

Argentina, as noted above, has had a political experience over the past century that has inhibited citizen participation, particularly citizen participation at the grassroots level. USAID/Argentina sought to address the need to expand grassroots political participation as well as the broader participation of women in Argentine politics through support of CONCIENCIA, an NGO dedicated to furthering civic education and civic participation. CONCIENCIA, established in 1982, is a membership organization made up of women

volunteers. It has a total of around 4300 members, in chapters throughout the country. CONCIENCIA has a small paid staff operating out of its headquarters in Buenos Aires. It has an international network of 17 affiliate organizations and connections with related civic education organizations throughout Latin America (including CONCIENCIA Cubana, located in Miami). CONCIENCIA serves as the headquarters for an association of civic education organizations, the Organizacion Civica Panamericana (OCP–Pan American Civic Organization). That organizations is working with Partners of The Americas.

The initial USAID funding was provided effective August 6, 1992 and funding ends on June 30, 1995. Total funding was \$591,000 over the three year period. CONCIENCIA operates on a very small budget (in part reflecting a reduction in expenditures as USAID funding ends). Total operating expenses are currently (for 1994/95) \$214,647. Forty-four and half percent of the income for the same period (\$102,000 out of a total of \$228,100) came from USAID, 6% from Partners of the Americas, 21% for operating Argentina's Model United Nations and the balance (28.2% [\$64,000]) from its own fund-raising activities.³⁴

Project Purpose

The project purpose is "to promote the active participation of citizens in community life" through the use of participatory methods. Specific areas in which CONCIENCIA worked under the project were:

- ▶ citizen involvement with municipal government;
- ▶ community involvement with public schools;
- ▶ non-partisan training for female candidates for political office, and
- ▶ cooperation with NGOs promoting civic participation in other countries.

The essence of CONCIENCIA's activities under the project in Argentina was to provide the necessary civic skills to foster citizen participation. The philosophy followed by CONCIENCIA in this endeavor was "participation is learned by participating." In each part of the project, the emphasis was on imparting the necessary skills so that citizens in their communities, students and women political leaders could more effectively engage in the political process. The municipality was an important setting for these activities because the municipality was the point where citizens could directly deal with their most immediate problems, and where there was the best likelihood of access to decision-makers. The school was an important arena because of the concern with generating democratic values as well as the concern for a need to link school and community in the solution of common concerns. Finally, the training of women political leaders responds to the demand generated by legal norms that favor female participation (Ley 24012/91 which mandated that 30% of the party lists for legislators had to be women). It responds as well to the reality that the internal workings of the political parties and of the political process in general, and the limited political skill levels of women who had never had much opportunity to participate in politics constrained the ability of those women interested in becoming effective participants in the political process.

International cooperation represented a possibility to transfer the skills acquired by CONCIENCIA as well as the opportunity to learn from the experiences of other civic education organizations.

Outcomes of the Components

³⁴ *It has an annual dinner, La Noche Ciudadana, which raises the bulk of those funds.*

The **municipal component** is comprised of a series of three seminars (theoretically 1 to 2 days each over a three month period), involving distinct components: seminar 1, the public, business, community organizations and local NGOs; seminar 2, municipal officials; and seminar 3, an intersectional seminar representing all of the groups in the process. Training is designed to promote collaboration and build consensus in resolving municipal problems through group interaction and the development of strategic planning skills. Participants are supposed to identify and implement projects at the community level. A local CONCIENCIA coordinator supports this process.

The specific objectives of the program included strengthening the capacity of the municipality to interact with the community, increase the democratization of the decision-making process at the municipal level through an increase in participation by citizens in local decision-making, problem solving and management of municipal problems. The component has been able to meet or to come fairly close to meeting quantitative objectives in terms of number of individuals trained. In that respect, it has been less successful training municipal officials than the general public. The original methodology has been modified in various municipalities, in part through the realization that the overall goals can often be achieved without the full set of seminars. This experience pointed to two important considerations in undertaking future programs, the need for flexibility in the design of the seminars and the need to assure that local chapter coordinators are adequately prepared to undertake the required organizational tasks.³⁵

To understand the impact of the component on the promotion of democracy, the evaluation team conducted a focus group of participants in a municipal training activity in the Buenos Aires suburb of Vicente Lopez. In a group which brought together CONCIENCIA volunteers (including municipal component coordinators from Vicente Lopez and from the province of San Juan), municipal officials and community leaders, it was clear from the discussion that the seminars had achieved the underlying objective of the effort—generation of the change in attitudes that promote greater possibilities of community participation, both on the part of members of the community and on the part of municipal officials.

One municipal official, for example, reported that the inter-sectoral seminar had opened up a dialogue with the NGOs in the community which would in the future permit far greater cooperation. The seminars, another participant noted, allowed the development of a consensus that would be the basis for future cooperation among all sectors. In this regard, the act of coming together and participating was as or more important than the formal methodology of the seminar. It was the opportunity to think together, to participate together, that provided the opportunity to establish the basis for future collaboration.

It should be noted that in both Vicente Lopez and San Juan, there had been practical results from the projects (specific community projects that were being developed), but that specifics of the projects were less important than the process of working together. The participatory part of the process, the building of a consensus, was, most of the focus group members felt, the significant component that assured that the projects developed were likely to go forward.

In summary, the component appears to have achieved its purpose of enhancing citizen participation and communication at the municipal level, most importantly because the act of participation built a consensual framework for action.

The **political leaders component** provides training and follow-up activities primarily to women participating in or interested in participating in politics. The great majority of those trained have been women, although, there is an increased demand by men to participate as the courses have acquired a

³⁵ A previous evaluation commissioned by USAID/Argentina, sets forth the experience that CONCIENCIA has had with specific municipalities in the management and undertaking of the seminars. See Patricia A. Martin, *Evaluation Report: CONCIENCIA and Participation Project*, September 16, 1994, pp. 6-9.

reputation. (The sort of training provided is not usually available through other sources in Argentina, not even through the political parties.)³⁶ Follow-up has included annual meetings of graduates of the program where, at the request of the participants, additional training has been provided by CONCIENCIA. The specific objectives of the training are to provide women with the skills, knowledge and values that facilitate participation in a democratic political order. The courses also serve as a means of networking among participants, across political party lines, in areas of common interest.

The component has significantly exceeded the quantitative targets originally set. As important, a considerable number of those trained are active in politics as party leaders, candidates for national and local offices or as community leaders (roughly half). The annual national conventions of participants demonstrate the continuing interests of those who have graduated to develop their skills as well as a vote of confidence in the capacity of the trainers provided by CONCIENCIA to further their understanding of the political process.

A focus group undertaken by the evaluation team reinforced the positive image of the impact of CONCIENCIA's leadership training. Graduates of the course from several different political parties, different class backgrounds and life experiences all praised the courses in terms of the training received, the opportunities to acquire critical skills such as the capacity to speak in public and to negotiate. They also considered that the opportunities to meet with and learn from other participants and to continue to meet through the national conventions were important in their development as political activists.

The **school/community component** operates through a one or two day seminars that bring together secondary school students, teachers, administrators, parents and community members to discuss school and community interests as well as to develop planning and problem-solving skills. The encounters generate action groups who receive additional skills training to implement projects. A local CONCIENCIA coordinator provides support. The aim of this effort is to develop the necessary communication, skills and resolve to undertake joint community/school activities.

This program did not achieve its numerical targets due to factors beyond the control of CONCIENCIA's organizers (for example strikes and other unforeseen circumstances). The methodology has been modified during the course of the activity to take into account some of the realities of working with schools, particularly in greater Buenos Aires where the sense of community is far less present than it is in provinces (a function of a large metropolis). Where constraints have been overcome, the action groups have been able to undertake specific projects. As in the case of the municipal programs, the most important product of these training efforts have been the greater sense of community that has resulted in many cases—product of the opportunity provided by the coming together of groups that normally do not relate to each other. As one school administrator from a technical school in a lower class neighborhood of Buenos Aires commented in an interview with the evaluation team, the coming together of different schools from different backgrounds (public, private) was an important benefit of the effort—the ability to talk to others in the community with whom one normally does not communicate. Again, the act of participating together was more significant in building a sense of community than the content of the specific projects.

The **international component** consists of the effort by CONCIENCIA to strengthen its international ties to similar organization (including those following its model) throughout Latin America. The specifics of this effort include the operation of the Pan American Civic Organization which is headquartered at CONCIENCIA. CONCIENCIA has been able to fulfil the numerical objectives of this component in terms of the number of NGOs affiliated with OCP (17) and the number of newsletters to be published (6).

³⁶ *Historically the UCR (Union Civica Radical) undertook training for party leaders, but generally this was limited to a limited number of male leaders.*

While these goals have been met, the OCP faces a difficult future as the member organizations struggle to maintain themselves as operating entities. This is particularly the case with the organizations in the Southern Cone. Both CONCIENCIA and PARTICIPA in Chile, for example, have to be concerned with their own institutional survival as a major portion of their funding (from USAID) comes to an end. This focuses their efforts at networking on promoting institutional as well as international concerns. A significant effort will be required to find the necessary support to maintain interest in and resources dedicated to promoting this international network. Maintaining the network is clearly secondary to maintaining CONCIENCIA within Argentina.

Sustainability

CONCIENCIA is approaching the impending end of USAID funding (representing roughly half of its total funding) by reducing its operating expenses at the same time as it seeks alternative sources of funds. One short term possibility that remains undefined is the possible funding by USAID/Washington of a regional civic education project that would include CONCIENCIA through Partners of the Americas. This would extend the ability of CONCIENCIA to engage in international cooperative activities in support of civic education. But, this project has an uncertain future.

CONCIENCIA is seeking alternative sources of funding, although to date its efforts have not resulted in replacing funding from USAID. The programs it operates have demonstrated their worth. They have generated a demand from participants in communities, schools and from political leaders. It has not, however, been able to translate that demand into either a marketable commodity or funding from alternative sources. (The leadership of CONCIENCIA believes that it cannot effectively sell its programs, even the program directed at political leaders, in the current economic conditions in Argentina). This places in doubt its ability to maintain the same level of benefits in support of civic education.

Public Knowledge of the Judicial System

Over the course of the project, USAID/Argentina has supported various activities to promote a better public understanding of the nature of the justice system in Argentina and the requirements for its reform. Support has ranged from funding of conferences, seminars and workshops, through support of publication of research findings, conduct of a public opinion poll, provision of the services of technical assistance personnel as part of public fora on the justice system through the facilitation of research. The full range of these activities has increased the visibility of the issue of the reform of the justice system. In supporting this range of activities, USAID/Argentina has worked through various implementing agencies which include the NGOs affiliated with its project (Fundación La Ley and CEJURA, Poder Ciudadano, CONCIENCIA, Fundacion Libra) as well as through other NGOs such as Fundacion Nuestros Hijos and Adelco (consumer rights NGO).³⁷

Several examples of the types of activities supported illustrate the role that USAID/Argentina has played in increasing public knowledge of and promoting a public dialogue regarding the justice system.

USAID/Argentina's justice project has directly supported a series of research studies that have served as part of the background for reform efforts. For example, in the World Bank Sector needs assessment of the justice sector, Robert W. Page cites several such studies as important background for the design of the World Bank's project: a diagnostic study undertaken in 1991, Leonardo Schvarstein, Estela Cammarota, Alicia Carr and Nestor Trabucco, **Proyecto Diagnostico de Estructura: Etapa I: Informe de Relevamiento**,

³⁷ *Fundacion Nuestros Hijos is a private foundation run by a former Minister of Justice in the Menem government, Dr. Leon Carlos Arslanian, who provided the impulse for reforms in the justice system including the development of the current experiments in judicial mediation.*

Etapa II: Informe de Diagnostico, Etapa III: Propuesta de Solucion, William E. Davis, Informe Sobre los Problemas del Sector Judicial de la Argentina, December, 1992 and Silvana Stanga, Una escuela Judicial para la Argentina, August, 1992.³⁸

In other instances, USAID/Argentina supported public activities that promoted debate over specific aspects of judicial reform. One such instance was with regard to the role of the Consejo de Magistratura (Judicial Council), a body mandated in the constitutional reform to administer the court system, supervise the judiciary and to be the channel for appointment of lower court judges. Organizations such as Poder Ciudadano, Conciencia, and Fundacion Nuestros Hijos have implemented these activities, using USAID funds.

In an effort to foster better collaboration among USAID recipients, a seminar was designed by USAID/Argentina, using the CDIE conceptual framework for strategies in Rule of Law programs. The result of that seminar was both a greater awareness on the part of the collaborating institutions of the conceptual basis of their activities and the generation of an initiative for collaborative activities. Specifically, the seminar resulted in the design and conduct of a public opinion survey which addressed issues relevant to each recipient organization's area of concern, with the expectation that the result would be used by each organization to advance its program. That expectation was fulfilled when upon completion of the survey, the various NGOs were able to disseminate survey results relevant to their respective areas of concern (e.g. administrative reform, mediation, the public image of the justice system) through seminars, videos, publications and workshops, often in conjunction with other USAID supported NGOs.

The most dramatic use of the data was the effort undertaken by Poder Ciudadano which transformed the poll into an animated video presentation for projection on television and for use as an audio-visual aid with support from Fundación por Nuestros Hijos.

Even in cases where no investment of funds was made, USAID/Argentina was able to use its good offices to promote research that, in turn had an impact on public knowledge of the problems of the justice sector and the need for reform. For example, when ADEBA, the Argentine Association of Banks, commissioned a study on reform of the justice sector, USAID facilitated the completion of the study by providing access to experts in the United States. The resultant study, undertaken by FIEL (Latin American Foundation of Economic Research) became the centerpiece of the 1994 annual meeting of private banks in Argentina, a meeting whose lead theme was the need to debate the importance of the independence of the judiciary and the level of public confidence in the judicial system.

As with most efforts directed at contributing to the shaping of public opinion and understanding, it is hard to directly measure the impact of these activities. However, in interviews undertaken by the evaluation team, it was clear that both within the government, in the judicial sector and within the community of organizations concerned with reforming the justice system, USAID/Argentina public knowledge and information activities have made their presence felt.

Summary

As the programs and activities reported in this chapter demonstrate, the approach taken by USAID/Argentina to support democratic initiatives and the development of democracy in Argentina has been experimental—looking for targets of opportunity and providing the necessary seed monies to take advantage of those opportunities. It has been guided by the initiatives, interests and concerns of the Argentines, rather than being directive. It has been to the utmost the model of a democratic initiative—

³⁸ as cited in World Bank, *Encuentro Sobre Reforma de la Administracion de Justicia, Volume III, December, 1994, p.5 of report by Robert W. Page.*

participatory in the generation its agenda, offering the necessary technical advice and suggestions as advice rather than as dictums. By preserving its experimental nature, USAID has been able to develop an innovative approach to programming its limited resources, maximizing the impact of those resources within the justice system and within the areas of public accountability and civic participation. By acting in a cooperative rather than a directive fashion, it has maximized its impact by assisting Argentines to best take advantage of their own interests and concerns in the fields of judicial reform, citizen participation and promotion of transparency and accountability of the public sector.

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CHAPTER III: FINDINGS BY PROGRAM

OUTCOMES — URUGUAY

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Background

Uruguay has had a distinct political history from that of Argentina, one where there has been a greater respect for democratic procedures and a maintenance of a democratic order that incorporated significant portions of the population. The interregnum from 1976 to 1985 of an authoritarian military regime was an aberration in that political history, one that has left scars in the Uruguayan body politic. However, in terms of the underlying political culture, despite the experience of the military regime, Uruguayans display a far higher level of civic responsibility than do their neighbors in Argentina. Another important difference between Uruguay and Argentina is the difference in the role that the state plays in the economy. While in recent years Argentina has undergone a process of privatization and has to some extent reduced the size of the state bureaucracy, Uruguay remains dominated by a large state bureaucracy and extended welfare system.

Uruguayans are firmly committed to maintenance of their state-based economy despite the fact that increasing budget deficits threaten the ability of the state to fulfil the burden placed upon it.³⁹ These deficits are propelled by declines in real growth, the increased burden of supporting an aging population, massive emigration of the highly skilled, highly motivated and highly productive labor base within the population; a pattern of tax evasion; and a lack of private investment and of an expansion of alternative sources of state revenue that might result from such private investment to name some of the critical factors.

The weakness of the state in terms of ability to capture the resources necessary to meet its obligation constitutes the most important concern regarding the future of democracy in Uruguay. Uruguayans have displayed a high level of respect for the formal rules of the game, having restored their democratic system of government. (In fact, there may be all too much respect for the rules of the game, making Uruguay one of the most bureaucratic societies in Latin America.) However, as the state's deficit grows, it makes it far more difficult for the political system to maintain the levels of benefits required of it. Many Uruguayans, as noted above, "vote with their feet" by emigrating in search of better economic opportunities. For those that remain, the preservation of a democratic order requires that the state become more effective in the delivery of promised services to fulfil the state's role in the democratic order of the country as it is currently constituted. USAID/Uruguay's program in democratic initiatives has worked with one important branch of the state to improve the quality of the services it provides and through that assurance to enhance the quality of democratic life in Uruguay.

³⁹ They have resisted recent attempts to move toward privatization of even a portion of the economy. For example, in December of 1992, Uruguayans resoundingly defeated the then President Lacalle's plan to create a mixed-capital telephone company, a defeat that cut the heart out of the president's efforts at reforming the economy.

The Judicial System

Uruguay's judicial system differs in important ways from the from the Argentina judicial system. It is highly professionalized and its personnel are considered honest and above any suspicions of systematized corruption.⁴⁰ The majority of Uruguayans demonstrate a respect for their judiciary, a condition only present in one other Latin American country, Costa Rica. The military regime affected the independence of the judiciary, reducing it to a branch of the Executive.⁴¹ After the restoration of democracy, the judicial system was re-established in accordance with the Uruguayan Constitution as an independent branch of government. Uruguay's judiciary began a process of reform after the restoration of democracy, installing an oral process for civil cases in 1989. This process of reform which was linked to the establishment of 100 new judgeships permitted the acceleration of case processing.⁴²

The Supreme Court also began to consider reforms in other aspects of its system. Concerns centered on such areas as the need to develop the professional skills of its staff and to decrease the excessive administrative burden on its judges, above all those of the Supreme Court who were at the start of the 1990s not only the highest judicial authorities but the managers and day-to-day administrators of the country's entire judicial system.⁴³

The Role of USAID

Over the period between 1990 and 1991, USAID/Uruguay has provided support to the Supreme Court of Justice in undertaking its reform agenda, providing technical assistance, promoting exchanges and training opportunities outside Uruguay and providing funding for specific projects in administrative reform, judicial training and the re-conceptualization of functions of the judicial system. The specific strategic objective guiding these activities has been that of building democracy through "improved efficiency and quality in judicial decision-making." Under this objective, USAID/Uruguay has supported two major activities: judicial administrative reform of the Supreme Court of Justice of Uruguay and judicial education through the Centro de Estudios Judiciales del Uruguay (CEJU) (Center of Judicial Studies of Uruguay). The judicial administrative project has received a total of \$624,799 in USAID funding implemented through the UNDP, while the CEJU has received a total of \$740,900, also through UNDP.

As has been the case in Argentina, USAID/Uruguay has looked for opportunities to assist in promoting reform where those opportunities exist. Although the focus of the current evaluation was on the two projects just mentioned, the evaluation team also examined the investment made by USAID/Uruguay to promote reform in the juvenile justice system. This relatively small investment (\$66,000) was channeled through Partners of The Americas with the specific relationship between Partners of Minnesota and the corresponding Partners Committee in Uruguay. Foro Juvenil, an Uruguayan NGO, is implementing the activity.

Judicial Administration Reform

⁴⁰ The fact that corruption does not appear to be a systemic problem, is most likely related to the values of the judiciary and not their remuneration. The salaries of judges range from around \$2,000 a month for a juez letrado (lower court judge) to around \$2,800 for the justices of the Supreme Court.

⁴¹ The courts were incorporated into a Ministry of Justice. Supreme Court justices were appointed indirectly by the Executive. Many judges were removed from office or transferred to insignificant positions. The justice budget was cut.

⁴² The time for processing cases was reduced from an average of five years to one year. See William E. Davis, *Report to the Inter-American Development Bank, Administration of Justice in Uruguay: Current Status and Areas for Improvement*, March, 1992, p.1.

⁴³ This tremendous burden was shared by a Supreme Court made up of only five members.

The purpose of the judicial administration reform project is to improve judicial administration and procedures in areas such as management of judicial statistics, reduction of the Supreme Court's administrative burden and support for improving access the judicial system. The grant period runs from September 20, 1991 through June 30, 1995.

The project has involved a variety of activities over the course of its life. It has involved a complex set of relationships between judicial authorities (the Supreme Court), judicial administrators (the Dirección General de Servicios Administrativos del Poder Judicial/ The General Directorate of Administrative Services of the Judiciary) and project personnel and project consultants. The judicial authorities had to decide on the initiative undertaken under the project and agree to the final results of the systems designed. The judicial administrators as the end users of many of the administrative systems had to participate in the design of the systems as well as having to learn how to operate the systems.

The project staff and their consultants faced the complex task of managing the relationships between the decision-makers (the five members of the Supreme Court) and their immediate counterparts, the judicial administrators. Project personnel also faced a difficult task of managing and implementing a set of activities that was interdependent in many of its aspects. For example, given that much of the activity centered on the design of appropriate computer-based systems, there was an obvious need to assure the appropriate fit between the requirements of the users, the appropriate software and hardware and the available resources. This in some cases meant processes of repeated redesign, or of the adjustments of "optimum" systems designs to the limitations of either available hardware or the "office politics" of hardware distribution.

Within the context of this complex decision-making and management process, the project has undertaken the following set of activities:

- ▶ **Reduction of the Administrative Burden of the Supreme Court** which has included rationalization of the decision-making function of the Supreme Court which has resulted in a significant reduction in the percentage of time that the Court has to devote to administrative matters (from roughly 70% of the time to 10% of the time), development of a unified center for receiving court proceedings (an activity still in process of being finalized), and rationalization of the system for supervision of notaries.
- ▶ **Consolidation of the Office of Planning and Budget** through institutionalization of a system of planning which has included development of proposals for staffing, development of a control and operations manual for budgeting, development of budgetary norms.
- ▶ **Design and Implementation of a system of judicial statistics** which has included a variety of activities directed at facilitating the administration of the courts and providing a better understanding of the results of judicial activities. Specific activities have included the creation of a database of penal case-processing, analysis of judicial statistics over the period 1989-93 and development of new formats for monthly statistics.
- ▶ **Creation of a computerized system for the judiciary** which has included provision of software and hardware for the operation of approximately half the courts of Montevideo, creation of a system of administrative statistics and creation of a system for storing and searching jurisprudence of the Supreme Court.

Project Accomplishments

As the project reaches its close, the project has been able to accomplish several important objectives:

- ▶ A significant reduction of the administrative burden of the ministers of the Supreme Court;
- ▶ Strengthening of the infrastructure and systems for information management within the court, both with respect to the operation of the courts and the administration of the judiciary;
- ▶ Strengthening the possibility of effective long term planning and budgeting for the judiciary;
- ▶ Establishing the requisites for analysis of the results of the judicial process through the creation of the necessary statistical databases, and
- ▶ Providing better access to the results of the Supreme Court's activities through computerization of the documentation of jurisprudence.

The project has faced significant difficulties over the course of its operation. Those difficulties read like a catalogue of the standard difficulties that face any project involving the complex set of relationships between decision-makers, users and implementors noted above. All of the specific aims of the project have not been accomplished. In some cases, key decisions have not been made in a timely fashion. On occasion, end users have shifted their conception of their needs. In some instances, project staff have not coordinated their activity. The necessary basis for action (quality or quantity of resources available for a given task) has not been in place or not been available when needed. All of these complications are predictable given the relationships that exist within a judicial system between management and staff as well as the normal problems of implementing any multi-task development activity. Notwithstanding these difficulties, the project has clearly made a significant difference in the quality of the administration of justice in Uruguay.

Ministers of the Supreme Court are no longer the slaves of the administrative process, but are free to be as their role was originally intended—the highest judicial authorities in the country, with the time to develop the quality as well as the quantity of their decisions. The Court has an administrative structure that has become part of the modern world in terms of its ability to access systems that provide the necessary management tools that it requires. The courts are in a position to use modern techniques to manage their day-to-day operations. The judicial system can examine its operations in a manner which permits a more in-depth understanding of its functioning through a new approach to judicial statistics. For these reasons, it is clear that the project has fulfilled its overall purpose. It has contributed in the short term to greatly improving the administration of the court system and has served as well to change the culture of the courts with respect to their mode of operation, a formidable task indeed.

The major concern for the future is the availability of the necessary human and financial resources to maintain the advances made to date. That concern includes such areas as assuring that the personnel are available who in fact can use the resources that the project has provided, in terms of administrative personnel and in terms of researchers/analysts who can assist the Supreme Court in understanding the data that can now be generated. In principle, the resources are available in a country with the high level of education and skills such as Uruguay. The problem is the willingness of the Uruguayan government to secure and commit the necessary budget to support those resources. In effect, the long term sustainability of the process of reform depends on the ability of the state to deal with the country's continuing economic crisis.

Living Comparative Law

CHAPTER IV: OVERALL CONCLUSIONS, RECOMMENDATIONS AND LESSONS LEARNED

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As we noted at the outset, the scope of work of this evaluation raised three sets of concerns regarding the set of democratic initiatives activities undertaken by USAID in Argentina and Uruguay over the past five years:

- ▶ to measure the impact of the programs undertaken;
- ▶ to make recommendations for continued efforts by the host country grantees and cooperating donor agencies, and
- ▶ to identify lessons learned which USAID might apply in other countries.

In this section, we will respond to these concerns. In the course of that response, we shall take into account the role that USAID/Argentina/Uruguay has played in achieving the outcomes discussed. The programs in Argentina and Uruguay have been presented separately. We shall maintain that separation in the presentation of conclusions, but we will provide a combined discussion, taking into account the experience in both countries, when we examine the role of USAID and present recommendations and lessons learned.

Overall Conclusions Regarding: Impact/Benefits/Sustainability and the Role of USAID

Argentina

In presenting results of USAID/Argentina's investment in Argentina, it is best to begin by examining each of the different areas where investments were made—a more independent, efficient and accessible justice system covering judicial administrative reform, judicial education, alternative dispute resolution and increased access to justice; reduced opportunities for corruption, increased public knowledge of the judicial system and increased civic participation.

Building a more independent, efficient and accessible justice system:

- ▶ ***Judicial administrative reform***

In this area USAID/Argentina's efforts have resulted in assisting the court system of the Province of Buenos Aires, the largest single provincial court system in Argentina, to modernize its administration. More significantly, USAID has fostered a change in attitudes within the court system of the Province of Buenos Aires that has resulted in an openness to change and to a broad range of ideas, an openness which assures the sustainability of the processes of change initiated through the USAID project. Traditionally, innovations in the justice system in the Province of Buenos Aires influence changes in other provinces and at times at the national level.

This movement for reform in administrative areas has begun to move out to other provinces. USAID's support for the creation of the Center of Judicial Studies of the Republic of Argentina (CEJURA) which is serving as a provider of technical services to provincial court system can be the basis for continuing these efforts. To do so, CEJURA needs to become the technical arm, the staff, of the alliance of provincial courts presently in formation. If that becomes the case, and the provincial courts, together with CEJURA maintain a relationship which permits CEJURA to secure the limited resources it requires, this element of USAID's efforts is sustainable. Support for this endeavor from a future IDB loan could assure this possibility.

▶ ***Judicial education***

USAID's support has sparked an interest in the creation of judicial schools in various provincial court system such as that of Santa Fe. In that one case, a formal commitment has been made and a similar commitment can be expected in other provinces such as Rio Negro to create judicial schools. Each province that takes this step will have to find resources to maintain its school. The model of CEJU (see below) which began as a voluntary operation and has grown to be a full-fledged functioning school would be a good model to follow. Again, future IDB funding can easily build on the groundwork that the USAID project has laid out and the model (CEJU) that USAID funding has supported.

▶ ***Legal education***

The future of the justice system in Argentina can be changed for the better in the medium and long run by reshaping the way lawyers are educated. USAID has been able to make a contribution to that process through a small investment and use of its programmatic skills in the case of the post graduate program in legal education of the University of Palermo in collaboration with the Center for Institutional Studies and Yale University.

▶ ***Alternative Dispute Resolution***

USAID's investments in building a more independent, efficient and accessible justice system in Argentina have had a very important result which aside from all others would justify the value of the investments made—the establishment of an interest in alternative dispute resolution which in turn has become institutionalized within the justice system and within the broader society that supports that system.

That result not only influences the quality of justice in Argentina at the national level, but at the provincial level and internationally. Fundacion Libra, a key actor in pioneering mediation in Argentina, has become an emissary of the gospel of mediation at the provincial level in Argentina, in international conferences and in judicial training programs in other Latin American countries such as Chile, Uruguay and Bolivia.

Fundacion Libra has been a critical motor fore in sparking this process of change. It is likely that it can shape its activities to meet the formalization of the court mediation system and develop a mode of maintaining its role as a pioneer and gadfly.

▶ ***Access to Justice***

USAID has made a small investment in promoting access to justice through strengthening the role of the public defender. Indirectly as a result of the support USAID provided in reaching out and raising the consciousness level of public defenders and providing them

with a forum, the public defender role has become better institutionalized within the current constitution and is likely to be strengthened by forthcoming legislation. Sustaining the momentum for strengthening the public defender function has now passed to the initiatives and efforts of the public defenders themselves.

▶ ***Public Knowledge of the Judicial System***

USAID has been able to use its resources in the form of program support, and provision of technical assistance (consultant services) and as importantly its good offices as a broker of resources and as a matchmaker of common interests to foster increased public knowledge of the justice sector. These services and resources will not be available, but as the debate about the shape of justice continues at a national level, for example, around such issues as the reform bill presently in the Chamber of Deputies, public education is likely to continue.

Reduced Opportunities for Corruption

▶ ***In the Private Sector***

Through support of Poder Ciudadano, USAID has been able to assist in the implementation of a highly effective program using communication techniques to inform and educate the public regarding corruption. The program's effectiveness can be noted among other things through the degree to which Poder Ciudadano has access to the media and has earned respect from those seeking public office. The sustainability of this effort rests with the ability of Poder Ciudadano to continue to draw out resources from both local and international sources.

▶ ***In the Public Sector***

Through an agency of the office of the President of the Republic, the Sindicatura General de la y Nacion (SIGEN), USAID has supported an experiment in promotion of accountability. This experiment provides a channel for the general public to register accusations, complaints and suggestions regarding corruption. The system has begun to function; however, it is too early to know if SIGEN will effectively follow through and therefore whether or not the experiment will work. The commitment exists on the part of SIGEN to maintain the system in place.

Increased Civic Participation

USAID supported CONCIENCIA, an NGO, in undertaking programs aimed at generating citizen participation and community integration through municipalities and schools. USAID also supported CONCIENCIA's efforts at training women political leaders and in improving the international network for civic education that CONCIENCIA managed. The national programs at increasing participation and training political leaders have demonstrated their worth.

However, their sustainability remains in doubt. CONCIENCIA is actively seeking alternative sources of funding, although to date its efforts have not resulted in replacing funding from USAID. CONCIENCIA has not however been able to translate the demand that exists for its programs into either a saleable commodity or alternative funding. This places in doubt CONCIENCIA's ability to maintain the same level of benefits in support of civic education.

Uruguay

USAID/Uruguay has been able to use the limited funds available to it over the past half dozen years to make significant changes in several areas of the justice system:

- ▶ in the administration of the courts;
- ▶ in the quality of training for candidates to judgeships;
- ▶ in the quality of in-service training of judges and other judicial system personnel, and
- ▶ in the juvenile justice system.

It leaves to the Uruguayan Supreme Court a functioning judicial school and a modern administrative apparatus. That administrative apparatus has led to immediate benefits for the Court in the form of greater efficiency and greater time to do the job of judicial decision-making.

More importantly, the USAID supported project leaves a shift in the operational culture of the court system. The Court has acquired an approach to administration that institutionalizes this new way of doing business. The challenge to the Uruguayan state is providing the funding to assure that the fruits of this change in operational culture can be harvested.

The investment of \$66,000 by USAID/Uruguay in the juvenile justice project has resulted in a significant return which includes a strategic plan for the future, a new approach to management of offenders through a form of social work/probation arrangement, the development of the notion of the use of mediation as an option in juvenile justice proceedings, and the development of a project to create five juvenile centers which is likely to receive \$750,000 in support from the European Union.

Role of USAID

The approach taken by USAID/Argentina to support democratic initiatives and the development of democracy in Argentina and Uruguay has had the following characteristics:

- ▶ It has been experimental—looking for targets of opportunity and providing the necessary seed monies to take advantage of those opportunities.
- ▶ It has been guided by the initiatives, interests and concerns of the Argentines and Uruguayans, rather than being directive.
- ▶ It has been to the utmost the model of a democratic initiative—participatory in the generation of its agenda, offering the necessary technical assistance and suggestions as advice rather than as dictums.

By preserving its experimental nature, USAID has been able to develop an innovative approach to programming its limited resources, maximizing the impact of those resources within the justice system and within the areas of public accountability and civic participation. By acting in a cooperative rather than a directive fashion, it has maximized its impact by assisting Argentines and Uruguayans to best take advantage of their own interests and concerns in the fields of judicial reform, citizen participation and promotion of transparency and accountability of the public sector.

The program's success in maximizing relatively small levels of resources in a multitude of programs is due to several factors evident in an analysis of the results of the specific programs:

- ▶ The program managers (the USAID Representative and the USAID Program Officer) and their long term technical support had an in-depth understanding of the nature of the Argentine and Uruguayan justice systems which allowed them to evaluate the risks they were taking and to understand the options available. This permitted them to cut their losses when necessary as well as to maximize the opportunities available.
- ▶ Program managers were able to maximize the resources available to them in the form of optimum use of technical assistance and training opportunities, leverage through other programs of USAID (as in the case of the University Development Linkages Program [UDLP]) as well as a variety of mechanisms that assisted in project management (use of cooperative arrangements with UNDP, use of an NGO as a surrogate project manager as was the case of Fundacion La Ley in Argentina).
- ▶ Program managers used their technical assistance resources to provide long term technical assistance in the most economical fashion possible. They used a single long term advisor who was highly knowledgeable regarding the countries in question and the field of concern, who was available throughout the project to consult on short visits and through fax, phone etc., but not in place in country which would have made the cost prohibitive. (This arrangement developed on an *ad hoc* basis, but offers an interesting model for the future as will be discussed below under lessons learned.)

Recommendations

USAID is closing out its activities in Argentina and Uruguay within the next several months. All project support ends June 30, 1995. Normally, an evaluation of this nature would include a set of recommendations regarding possible future USAID activities to follow upon the completion of a given project. In this case, the recommendations are limited by the end of USAID activities in Argentina and Uruguay. Thus, the focus of these recommendations are regarding the sustainability of the specific project components after the end of USAID support. In Argentina, certain project components are already clearly viable and sustainable from the point of view of maintaining the benefits of the projects.

Specifically, the Province of Buenos Aires has made a commitment to maintaining the advances already secured in the administration of its court system and in providing access in terms of information regarding that system to the public through its information centers. The judicial education and legal education components also have begun to achieve momentum. The responsibility for the former rests with each individual province, for the latter with the alliance between the University of Palermo and Yale. If the IDB begins its work of supporting provincial courts, the judicial schools are likely to grow rapidly. If not, they are likely to grow slowly in certain provinces that have made a commitment to them.

Mediation has clearly taken off in Argentina. New legislation is likely to make court-based mediation an integral part of the national civil justice system. Community based mediation has been accepted in principle and its growth is a function of the decision to allocate resources for its expansion on the part of the Ministry of Justice. (That allocation could include seeking additional funding for the new experiment in community mediation, but that funding is not a requirement in the short run for the program to operate—the small amount of resources needed are being provided by the MoJ and community organizations.)

The public defender system remains a responsibility of the national government of Argentina, but an increased consciousness of the role of the public defender and a better organizational presence may help to secure the required financing to provide better representation for those in need.

Finally, the public program of the SIGEN initiated through USAID support to help fight corruption by increasing public participation in its control appears likely to continue. Whether or not it will be successful depends on the degree to which it produces visible results.

In Uruguay, the sustainability of the justice sector reforms depends on the will of the national government to maintain them. The US Embassy can be supportive in this regard, encouraging other donors. It can also continue to assist in fostering communication between the justice sector and US jurists and court administrators. (This is also true for Argentina.)

The main area of concern in Argentina rests with the efforts at promoting public awareness of the corruption issue and citizen participation through NGOs. These two sets of programs operated by Poder Ciudadano (anti-corruption) and CONCIENCIA (citizen participation) have demonstrated their value. They ought to continue and in fact expand. Thus, the thrust of the specific recommendations of this report go to assuring the continuity of these programs:

- ▶ The two NGOs should draw up and examine carefully, with the help of professionals, sustainability plans that take into account the required expenses to maintain their organizations and the range of possible income sources available **that do not compromise their purpose as civic watchdogs and civic educators**. Thus, they need to look at possible international and national donors and at possible sales of services. They also should examine the possibility of the generation of endowments—as the focus of a specific fund-raising effort.
- ▶ Using the good offices of the US Embassy, the NGOs and their national supporters should look to the creation of a private trust fund for democratic initiatives. One approach to such a trust fund would be to create a foundation drawing on support from US companies operating in Argentina whose purpose would be to further democratic initiatives. Such a foundation would serve as a buffer between the donors and the recipients which would provide a certain independence for the recipients to be the public conscience that makes them effective and for the donors to insulate themselves from the actions of any particular recipient. (Such an approach has been taken by the Asia Foundation in another end of USAID program situation in Thailand.)
- ▶ Finally, given that democratic development in the countries under evaluation still remains on shaky ground, that in fact democratic development has not advanced as far as has economic development in the case of Argentina, that USAID explore options for providing at a minimum additional technical support and hopefully small amounts of program support to achieve specific democratic initiative results—for example, promoting the sustainability of anti-corruption and civic participation efforts through technical assistance in fund-raising and generating endowments and maintaining a flow of communication with the justice and civic action sectors in both Argentina and Uruguay. (The appropriate venue for such activity would appear to be within the Democracy Center of the Global Bureau.) USAID has considerable experience in undertaking regional and worldwide technical support/training and seed program support efforts with a great deal of success, for example, in the field of health and population, which would serve as models.

Lessons Learned

There are a series of lessons learned from what has been an extremely productive experience in the management of democratic initiatives programs in more advanced developed countries, and which are of a general utility and of specific concern to USAID as it continues to work in Eastern Europe and the

Newly Independent States of the former Soviet Union. Several of these lessons, it need be noted reflect the earlier assessment made by CDIE.⁴⁷ Those lessons are:

- ▶ It is essential for success in promoting democratic reform in any part of the polity (justice, electoral systems, fighting against corruption, expanding opportunities for citizen participation) to have the political consensus and support of the relevant constituency. This is true both at the initiation of an activity and as that activity develops.
- ▶ As a corollary of the above, consensus and constituency building constitutes an important element of a program to undertake democratic initiatives. As a further corollary, a USAID democratic initiatives program needs to work in accordance with the agenda of those promoting democracy within a host country, to be responsive to and foster a dialogue rather than to be directive. This permits USAID to assist in promoting initiatives and leveraging host country resources.
- ▶ Examples such as the community mediation programs, the court mediation programs and legal education in Argentina and the juvenile justice program in Uruguay demonstrate that **small investments may be efficacious in enhancing the quality of the justice system in more advanced developing countries.** This is particularly the case when a foundation has been laid through years of collaboration in a process of promoting reform, as has been the case with the USAID programs in Argentina and Uruguay.
- ▶ Effective democratic initiatives programs depend on the existence of project managers and technical advisors who understand a country's political system.
- ▶ A corollary of the above is that USAID needs to have access to the necessary technical expertise in the politics of a country to be able to maintain an effective democratic initiatives program (much as it has traditionally had access to expertise in agricultural, financial and economic development matters).
- ▶ Technical expertise need not be provided by resident technical assistance personnel, but it does need to be available for the length of a project. (The model of technical assistance delivery used by USAID in Argentina and Uruguay can be applied elsewhere, particularly in an age of rapid electronic communication.)
- ▶ USAID needs to develop a set of approaches to assure the sustainability of its host country NGO partners in democratic development that maximizes their long term survivability while insulating them from the pressures to conform politically—to preserve their ability to be independent political actors in a still not wholly democratic polity.

As a final recommendation, it is clear that there is much to be gained by understanding the achievements of the democratic initiatives programs of USAID/Argentina and USAID/Uruguay. The Agency's democratic initiatives programs would benefit from a discussion of those achievements and a dissemination of the results of those discussions. This again might be a task to be undertaken through the Democracy Center.

⁴⁷ *Blair et.al., op.cit.*

Appendix 1—Persons Contacted

ARGENTINA

CEJURA:

Leonard Schvarstein, Director
Estela Cammarota, Coordinator
Alicia Carr, Judicial Advisor

Centro de Estudios Institucionales (Universidad de Palermo):

Martin Bohmer, Director

Conciencia:

Maria Rosa S. de Martini, President
Blanca Lorenzo, Secretary
Gloria Martin de Manolizi, Treasurer
Marie Louise Martin de Gorleri, USAID Project Director
Raquel Bresky, Educational Program Director
Adriana de la Torre, Judicial Program Director

Participants in Conciencia Political Leadership Training Course:

Thelma Piñeyro, retired school teacher, Buenos Aires Province
Rosa Cavalcanti, party leader, Capital
Maria de Jesus della Loggia, candidate, National House of Deputies, Capital
Susana Villar, candidate, National House of Deputies, Buenos Aires Province
Susana Ledesma, local party leader, Buenos Aires Province

Participants in Conciencia Municipal Community Participation training:

Beatriz Victory, Neighborhood Association, Vicente Lopez, Buenos Aires Province
Sonia Herrscher, Conciencia Secretary, Vicente Lopez, Buenos Aires Province
Alicia Córdoba, Conciencia, San Juan, San Juan Province
Lucio De Otto, Director of Epidemiology, Vicente Lopez, Buenos Aires Province
Susana de la Torre, Association of Business and Professional Women, Vicente Lopez, Buenos Aires Province
Adriana Abarca, Conciencia, Vicente Lopez, Buenos Aires Province
Silvia Beucireuga, Conciencia, Vicente Lopez, Buenos Aires Province
Leandro Ballone, Deputy Director of Public Relations, Municipality of Vicente Lopez, Vicente Lopez, Buenos Aires Province

Eduardo Ramos, Vice Director, Municipal Technical Education School, Caballitos, a school that participated in the Conciencia school program.

FIEL (Fundacion de Investigaciones Economicas Latinoamericanas)

Daniel A. Artana, Director

FORES

Horacio Lynch, President

Fundacion La Ley:

Norberto C. Pasuni, Deputy Director, La Ley
Manuel O. Milberg, Director, USAID Project
Enrique Luis Rodriguez Quiroga, Director, LEXCO
Silvana Stanga, Judicial Education Project Director
Maria Ficco, Assistant to Judicial Education Project Director

Fundacion La Libra:

Gladys Stella Alvarez, President of the Advisory Council
Elena Highton de Nolasco, First Vice President of the Advisory Council
Jose Maria Cier, President
Sara E. Grimaldi, Executive Director

Fundacion Nuestros Hijos

Leon Carlos Arslanian, President (former Minister of Justice)

Inter-American Development Bank

Rafael Millan, Sector Specialist, Administration of Justice

Ministry of Justice, Secretariat of Legislative Matters:

Oscar Fappiano, Secretary of Legislative Matters
Monica Cambiasso, Sociologist, Mediation Program
Gabriela Rodriguez, Attorney, Mediation Program
Alejandro Marcelo Nato, Advisor to the Cabinet

Neighborhood Mediation Service:

Graciela Benin, National Coordinator
Susana Campana, National Director

Ministry of Justice, Secretariat of Justice:

Haydee Barletta, National Director of Judicial Extension

National Court of Appeals:

Jose Perez Delgado, President, Chamber of the Federal Court of Appeals in Civil Matters

National Treasury:

Alberto Manuel Garcia Lema, Procurator of the National Treasury
Alejandra Rodriguez Galan, Attorney, Procurator's office

Poder Ciudadano

Marta Oyhanarte, President
Luis Moreno Ocampo, Founding Board Member
Beatriz Kohen, Director, Justice Project
Nestor Baragli, USAID project staff member

Province of Buenos Aires, Supreme Court of Justice

Miguel Amilcar Mercader, Minister and President
Obdulio Alberto Pisano, Minister
Guillermo David San Martín, Minister
Elías Homero Laborde, Minister

Nelson Trabucco, Deputy Director, Office of Planning
Information Systems Specialists of the Office of Planning

Sindicatura General de la Nación

Héctor Agustini, Director

USAID/Argentina and Uruguay:

Robert Asselin Jr., USAID Representative to Argentina and Uruguay
Juliana Abella, Program Officer, Democratic Initiatives
William Davis, Consultant, Administration of Justice Program

US Embassy:

James Cheek, Ambassador
William Brencick, Political Counselor
Alexander Almasov, PAO, USIS

Events Attended and Site Visits:

Meeting of participants in Ministry of Justice Mediation Pilot Project (judges, trainers, mediators, Fundacion Libra advisors)

Inauguration of a community mediation center of the Ministry of Justice, Secretariat of Legislative Matters

Neighborhood mediation center, Villa Crespo

URUGUAY

Foro Juvenil

Sergio Migliorata, Director, Partners/Foro Juvenil Juvenile Justice Project

Supreme Court

Jorge Marabotto, Minister
Jorge A. Roji, Director, Department of Dissemination and Public Relations
Horacio Callabet, Director, General Directorate of Administrative Services
Rosa Chamachourdjian, Deputy Director, General Directorate of Administrative Services

UNDP/USAID Judicial Modernization Project

Estela Perez Montero, Director
Pablo Balarini, consultant
Estela Cammarota, consultant
Carlo Gregorio, consultant
Wilson Kuan, consultant
Jorge Marabotto Hijo, consultant
Juan Enrique Otero, consultant
Pedro Queijo, consultant
Gustavo Reich, consultant

CEJU

Laura Jardi, Deputy Director
Sergio Migliorata, Educational Consultant

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