

PD-ABR-585

REPORT OF REVIEW OF OPERATIONS AND PROSPECTS
OF REGIONAL ADMINISTRATION OF JUSTICE PROJECT

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I. BACKGROUND AND METHODOLOGY

The Regional Administration of Justice Project Agreement between the Latin American Institute for the Prevention of Crime and Treatment of the Offender (ILANUD) and the Agency for International Development (AID) was signed in March, 1985. It is part of an AID Latin America/Caribbean regional program for the Administration of Justice and Democratic Development.

The project covers support for: the operation of ILANUD; technical assistance to ILANUD from Florida International University (FIU) pursuant to a Cooperative Agreement between FIU and AID; technical assistance, training and financial assistance from ILANUD to justice sector institutions in Costa Rica, Honduras, Guatemala, El Salvador and Panama and training assistance to Bolivia, Colombia, Ecuador, Peru, Uruguay and Venezuela, and the cost of maintaining the Regional Administration of Justice Office (RAJO) in Costa Rica and the National Coordinators in the USAID Missions in participating Central American countries. The Project also supports activities of the Interamerican Institute for Human Rights and of various US based organizations active in legal work in Latin America. However, those activities are not addressed in this report. The original amount of AID grant funding of \$10 million has been increased with two subsequent agreements to a total of \$11.791 million. The life of the project runs through the first quarter of 1990.

General policy guidance and oversight for the project is provided by the Office for Administration of Justice and

Democratic Development (LAC/AJDD) in AID/W. USAID/CR provides administrative and financial services support to the project and advice on programming and other AID-related concerns to the RAJO. Technical and project management responsibilities are with the RAJO.

The Conditions Precedent to disbursements were met in May, 1985. The key advisors from FIU arrived in Costa Rica to take up their duties in July, 1985. Most of the rest of 1985 was spent in organizing the operations of FIU in Costa Rica and in augmenting and organizing the staff of ILANUD to meet the very large increase in the scope and size of its operations under the project. The initial, detailed project budget was prepared by ILANUD and approved by AID/CR in November. By early 1986 implementation of activities under the project began on a substantial scale. At the same time efforts continued to be put into making ILANUD's administrative and financial procedures responsive to the needs of AID.

The Project Paper called on ILANUD to produce annual evaluations of the operation of the project beginning one year after the start of the project. Because of the pressure of meeting the administrative, financial and program implementation demands of the first year, ILANUD was not able to set up an evaluation system or to produce the initial evaluation. It was decided that FIU, through its Cooperative Agreement with AID, would contract for the first internal evaluation. Because FIU and USAID/CR had spent so much time working with ILANUD on its

financial controls, it was concluded that it would not be necessary to include a further review of that effort. It also was concluded that it would not be necessary to review the technical content of the project activities since the participants in the project thought that they were well based. Thus the evaluation did not seek to "fine-tune" the substance of the programs nor did it have time to review the implementation of each activity in detail in order to identify particular problems which might be facing it. Rather the focus of the evaluation was on the overall administrative and organizational performance of ILANUD and on identifying any important conditions or problems which might impede the accomplishment of the outputs and purposes of the project and especially of the institutional strengthening of ILANUD.

The author of this report was contracted by FIU to conduct the evaluation in Costa Rica during a four week period in March, 1987. The evaluation is based on a reading of the pertinent project documents (Project Paper and Amendments, Cooperative Agreement, Implementation Letters, Project Implementation Plan, and Budget, 1987 detailed budget, all reports, summaries of the sector assessments produced for Costa Rica and Honduras, basic programming documents of the divisions of ILANUD, administrative studies produced by and for ILANUD since the project began) and interviews with the key personnel of ILANUD, FIU/CR, USAID/CR, RAJO and with the Dean of the Law Faculty of the National University and the Minister of Justice of Costa Rica. Because of the limit of time work was limited to Costa Rica, and no

interviews or observations were made in any other participating country.

The evaluation did not use questionnaires or seek to form cost/benefit judgments concerning the program elements because of the relatively short time that the project has been in operation and the lack of data on actual impact of the activities so far. The evaluation relied on the judgment of the author who has had 20 years experience with AID as a lawyer and director of programs and extensive experience in evaluating the performance of projects and public organizations both as an AID employee and as a private contractor. A draft of this report was provided to ILANUD, FIU and RAJO for their comments and suggestions.

II. MAJOR ACCOMPLISHMENTS

The main project implementors --ILANUD and FIU-- have made major progress on both the organizational and program aspects of the project. In general, the implementation of the project is about six months behind the tentative schedule included in the Project Paper; and there have been major setbacks (such as the withdrawal of Panama from the program) and important administrative and relationship problems which delayed and continue to delay implementation. However, these problems do not seem to be out-of-scale with the magnitude and complexity of the project being attempted and with the considerable haste with which the project was designed and approved. As is often the case, the project design was quite optimistic about the rate at which institutions can adapt and implementation be achieved.

Both FIU and RAJO are exceptionally well prepared and active in carrying out their responsibilities, and USAID/CR now devotes considerable interest and resources to what is, after all, a regional project. The weak links in the implementation of the project appear to be the relationship between LAC/AJDD and the field offices involved in the project and between ILANUD and the participating USAIDs. (These and other issues are discussed further in part III below).

A. ADMINISTRATIVE ACCOMPLISHMENTS

Much of the first year of the project was devoted to administrative arrangements.

FIU established an office in Costa Rica of some eight professional and six support people, it identified and brought to Costa Rica three long term external advisors; and several person-months of short term external advisors; and it organized the local and external staffs necessary to carry out the sector assessments in Panama, Costa Rica and Honduras. There is no doubt that FIU has established a solid and useful presence in the project. The rapidity with which it has done this is unusual in AID programs.

ILANUD has undergone mammoth changes since the project began. It has doubled the size of its staff-locating the people and obtaining AID approval of them and their conditions of work. It has conducted studies of its organization, replaced its Controller, established a new office to oversee the operations of activities under the project, and confronted the daunting task of meeting AID demands for accountability. (On the last it is not

yet in compliance, but there is now a close working relationship with USAID/CR and a clear desire to do what is necessary.) For the first time it has produced a long term implementation plan. Its budgeting is substantially more detailed than before. It has introduced widely the use of computers in its offices. There are still serious issues facing the organization and performance of ILANUD; but, on balance, one should say that progress has been encouraging.

RAJO and USAID/CR have expanded the amount of personnel time devoted to this project as it became clear that ILANUD would need more assistance than was anticipated to improve its administrative performance enough to meet the demands of the project and of AID's regulations. Both are busy offices--RAJO with programs in all the Central American countries and USAID/CR with its ambitious economic support and agriculture programs, their attention to ILANUD is at some cost to them. Ideally the increase in the amount of time devoted to the administrative operations of ILANUD would have occurred sooner and faster, but it is now likely to be adequate to meet the needs. It also will be important that USAID/CR provide guidance and support to the RAJO concerning all phases of the implementation of the project.

B. PROGRAM ACCOMPLISHMENTS

The April-September, 1986 Semi-Annual Report of the RAJO sets forth in detail the accomplishments of the project. There is no need to repeat them here. However, it might be useful to highlight the more significant ones.

1. Sector Assessments: FIU working with panels of national experts has completed comprehensive sector assessments in Panama and Costa Rica, and has nearly finished the assessment for Honduras. The Costa Rican assessment has been the subject of review and analysis by representatives of the sector institutions involved, and tentative recommendations for action were made at the meeting of those representatives. In Honduras the USAID Mission has begun the process of preparing bilateral activities even before the assessment has been completed formally. Furthermore, preparations for the assessment in the Dominican Republic are well underway.

2. Training: The number of training courses held has been impressive. The rhythm achieved would indicate that this activity will be able to exceed the outputs projected for it in the Project Paper. In addition, changes were introduced to make the courses more effective (e.g. holding some of the regional seminars away from Costa Rica), and work has begun on the use of mobile training teams and the incorporation of manuals into the training program.

3. Major Technical Assistance Activities: Preparations for undertaking a pilot program for Criminal Justice Statistics is well advanced and the Legislative and Jurisprudence Compilation System is underway with a criminal law thesaurus already produced and introduced for use.

4. Basic Libraries: Procurement for the basic law libraries has been completed.

5. National Commissions: National Commissions were established in Costa Rica and Honduras and are underway in the Dominican Republic and Guatemala; and the Commissions have submitted requests for assistance to ILANUD. (The nature and prospects for these commissions is a project issue discussed below, but their establishment was called for by the Project Paper, and is a major step in the implementation of the project.)

III. MAJOR ISSUES OR PROBLEMS FACING THE PROJECT

A. Purposes of the Project

1. Long Term Role of ILANUD

The Project Paper defines the purpose of the project to be "to strengthen regional and national institutions to provide services necessary for improvement of administrative, technical and legal performance of justice systems in the region". One of the indicators of progress for the accomplishment of that purpose is the upgrading of ILANUD's "capability to serve as a regional resource of training and technical assistance". The Project Paper does not indicate what will be the measures of progress toward that upgrading. However, in describing the outputs expected the Project Paper lists: the reorganization of ILANUD to execute the project; the development of a formal, long-term strategic plan; and obtaining commitments of continuing financial or other material support to continue the project activities after the completion of the project. Since the activities under the project are wider than providing training and technical assistance it is not clear what are the expectations for ILANUD over the long run.

Is ILANUD to be an organization with experience in providing training in subject matter related to criminal justice and thus able to offer that experience to potential users as would a university or a commercial consulting firm or is it to be an instrument for stimulating and guiding the efforts of national governments to carry out plans for improvement in the criminal justice system either working through the national commissions established under the project or directly with the existing key institution in the sector? Should it focus its attention on a limited number of activities or hold itself out as willing to be responsive to any type of assistance that may be related to improvements in the criminal justice system? Should it be emphasizing its relationships with the United Nations for fund raising and other purposes?

It would be expected that these and other questions concerning ILANUD would be addressed in the strategic plan which is to be developed as an output of the project. However, the demands of getting project activities underway prevented ILANUD and the long term advisor from preparing such a plan within the first year of the project as was originally projected, and the most recent implementation plan for the remaining life of the project does not include the preparation of such a plan.

Serious consideration is being given to reorienting the attention of the Senior Advisor to place more emphasis on the institutional development of ILANUD including planning, but this is not likely to take place until 1988 by which time the national sector assessments will have been completed and the current

Senior Advisor will have returned to the U.S. and have been replaced by someone else for the remaining two and a half years of the project. This would mean that it would likely be mid to late 1988 before a strategic plan would be developed. That timing may be compatible with the need to have a plan in place before the end of the project, but it would seem to be too long to wait to decide some of the questions about the expectations of ILANUD since the decisions taken imply differing approaches to on-going assistance and relations with A.I.D. Thus, it would seem to be important that there be agreement among the parties to the project (ILANUD, AID/W, the RAJO and perhaps the USAID Missions) as to what are the expectations as to ILANUD's long term role, and that this agreement be sought without waiting for the strategic plan to be completed. It would seem to be important to reach this agreement fairly quickly, and certainly before the end of the current year. FIU might be used as a channel for preparing options for consideration or for providing short term assistance to ILANUD in its own effort to clarify its expectations.

In considering what is to be the long term role of ILANUD it would be useful to identify what are the quantified indicators or specific actions which would measure progress toward achieving that role. Refinements and final expressions of those indicators of progress could be left to the strategic plan. However, in the meantime the parties could reach tentative conclusions on such things as: the level and purposes of non-AID funding to be

sought; the nature and number of any non-Costa Rican staff to be recruited, the level of staff to be devoted to planning, programming and evaluation, the role and authority of any international Board of Directors or Advisors which may be created, the types of ways in which ILANUD's usefulness to national institutions is to be measured. (See part IV below).

2. Role of National Sector Programs and Plans

The project Paper calls for the outputs of five sector assessments and of bilateral project papers to be completed for each participating country within six weeks after completion of the respective sector assessment. ILANUD was to "coordinate sector assessments after developing format". In fact, FIU working with nationals of the participating countries has had nearly complete responsibility for the preparation of the sector assessments done to date. Furthermore, to the extent that there has been work done on preparing USAID bilateral project papers ILANUD has not been involved.

The Project Paper is not clear as to whether there is to be a national program or plan for the criminal justice sector which provides a bridge the analysis and conclusions of the sector assessments to any specific project activities which may follow with funding from AID or others. Since the Project Paper calls for sector assessments and bilateral project papers to be outputs of the project, it would seem that a sector program or plan also should have been included as an output. Whether or not its omission was due to oversight, the utility of having such plans would seem to be clear, since they would force more coherence on

the activity proposed by the National Commissions and provide a more attractive setting for approaching donor agencies for assistance. However, at present no one seems to be responsible for seeing that such programs or plans are prepared. FIU sees its formal responsibility ending with the workshops that consider the sector assessments, their analysis and findings. The National Commissions to date have addressed only immediate requests for assistance in training or technical assistance, and are not likely to be able to produce sector plans without great amounts of assistance. ILANUD does not have the capacity at present to produce or coordinate the production of such plans.

It does not seem that RAJO or the USAID Missions see themselves as being responsible for such plans.

Given the experience under the project to date, it would seem likely that a sector program or plan will be attempted only if a USAID Mission takes the initiative in fostering (if not in fact conducting) it. As with the undertaking of bilateral activities themselves, whether that happens or not seems to be outside the scope of this Project, despite the importance of such plans and activities for achieving the goal of the Project. Thus, the importance of the intermediate step would seem to call for reconsideration of the project's methodology to determine whether the achievement of such programs and plans should be considered a purpose of the project.

It would seem that the institutional purposes of ILANUD would be well served were it able to work with the national

institutions in preparing sector programs and plans. Of course, such an undertaking implies significant changes in the approach and staffing of ILANUD. Indeed, even with major changes in ILANUD's capacity, it would not be clear that it could meet the responsibilities of such an effort. Certainly ILANUD would need major assistance in trying to do so. However, the alternatives at present seem to be either that the effort is not undertaken--thereby putting at risk the loss of the potential, practical utility of the assessments--or that the burden be placed entirely and openly on the USAID Missions. The latter alternative probably would be seen as involving the Missions in even more controversial areas than was the case with the preparation and implementation of activities (which in themselves appear to cause the missions concern) and would require strong encouragement from AID/W to the Missions to devote the time and manpower and negotiating leverage necessary to perform the task. On balance, it would seem to be worth the effort to have ILANUD become involved as a major catalyst for such an effort.

3. Role of Policy Dialogue

The nature of the policy dialogue to be undertaken and the way in which it is to be conducted in support of the project's goal and purposes do not seem to be clear. The Project Paper states assumptions concerning the willingness of the governments to support ILANUD's role and to provide the policy framework and resources necessary to permit the national judiciary systems to become more independent and efficient. The sector assessments describe in considerable detail the deficiencies which exist both

in the policy and material settings of the criminal justice systems. The FY 1987-88 Action Plan for the Project asserts under each major project element that policy dialogue will be carried out in support of the effort. However, nowhere is it stated with particularity as to which office will do what with whom to achieve which interim policy dialogue goals. The project's implementation plan does not address the questions.

In fact, the assessment process has provided and continues to provide multiple opportunities for discussion of policy issues at both the technical and political levels, and the liaison work of the RAJO includes contacts with national leaders and the personnel of the various US Embassies and USAID Missions during which the policy issues facing the project can be discussed. Should ILANUD become more active in its contact with national governments, it too would be a natural channel for the discussion of policy issues. ILANUD can not be spokesman for the political agenda of the US, but it could articulate the need for political support for actions in support of the project.

The resolution of policy questions to date has not been imperative, since there seemed to be agreement on the general issues and since during the assessment work governments did not have to do much. However, now that the project is entering the phase either of producing or setting the stage for the production of sector programs, it would seem to be necessary to give more focus to the policy dialogue. (The experience with the Government of Panama indicates that the difficulties of the

transition from assessing to the planning of activities is not to be underestimated). Thus concomitantly with the production of a national sector program or plan, it would seem useful for AID and the interested US Embassies to prepare national policy dialogue plans to support any participation in the funding of future activities in the sector. Of course the basic responsibility for any such policy dialogue plan would reside with the individual USAID Missions and Embassies, but this project and its participants should be able to assist in the adoption of sensible policy dialogue strategies. The role of LAC/AJDD and the RAJO are key to any such efforts.

B. Need To Reconsider Major Project Approaches

1. Use of National Commissions

The project adopts as one of its major methodologies the use of National Commissions which are to be permanent bodies of representatives of the governmental and private institutions involved in the criminal justice sector. The members are persons of accomplishment and prestige in their respective countries. They serve without compensation and while performing the duties of their permanent positions. The National Commissions are to be recognized and supported by the national governments. They are to provide guidance to ILANUD and AID in the conduct of the project in activities in their respective countries and to be the channel through which national plans and requests for assistance are made to ILANUD and AID. Of most importance, they were to be the institutions which would see that the sector assessments were used in order to achieve a program for improving the performance

of the sector. The project is to provide a small amount of financial support for the operation of the commissions ----- basically for some international travel, office equipment and the services of a salaried technical coordinator for each commission.

So far, the performance of the National Commissions has not lived up to the project's expectations, and many of the key persons involved in the project doubt that they will be able to meet those expectations. In Panama, the commission which was formed did not play an active role and then was abandoned because of political problems. In the Dominican Republic the commission exists in only a formal sense. In Honduras and Costa Rica, National Commissions do exist, and have presented requests for assistance to ILANUD. However, those requests were not presented in the context of an operating plan or on the basis of an analysis which had been expected. Furthermore, the Costa Rican National Commission has not been able yet to take action to prepare a plan based on the sector assessment which was reviewed at the workshop held in January, 1987.

Perhaps the National Commissions could provide a way of vetting plans or assuring that there is wide understanding and support for activities to be undertaken. However, it is hard to think that as they are constituted they will be able to prepare programs or follow their implementation to assure their success. Even with more resources to enable the National Commissions to have more technical and administrative staff capability, it seems unlikely that they could meet such responsibilities.

There does not seem to be an obvious alternative to the use of the National Commissions. Viewing the situation people in ILANUD seem to prefer to work directly with the major institutions in the sector rather than try to have all activity go through the National Commissions in one way or another. However, that approach would put even greater reliance on ILANUD's ability to become actively involved with national institutions and to plan with them. ILANUD might be able to do so during the course of the project to achieve training and technical assistance activities which are at least as coherent as the activities being requested by the National Commissions. However, as in the case of the preparation of national sector programs and plans, if ILANUD were to take on responsibility for preparing with national institutions proposals for review by the National Commissions, major changes would have to be adopted in the structure and staffing of ILANUD. The use of project funds for that purpose could be wiser than to increase the support for each of the National Commissions to expand its own staff.

If ILANUD is not to be seen as an alternative to the programming and supervisory role originally envisaged for the National Commissions, it would seem that that role would have to be filled by USAID Missions. The approach to this aspect of work in the sector will be one of the issues facing each bilateral action plan, but unless the regional project works to create a capacity in ILANUD to respond to this problem, it is unlikely that even Missions who think it advisable to do so will be able to turn to ILANUD to supplement the actions of the National

COMMISSIONS.

2. Role of Annual Operating Plans

The designers of the project did not want to hold up undertaking activities at the national level even for the time originally estimated to be necessary to complete the sector assessments (18 months). Thus, the project provides that before the completion of the sector assessment in a country and the preparation of a program of activities to improve the performance of the sector institutions, ILANUD would provide training and technical assistance in the context of annual operation plans to be prepared by the respective National Commissions. In fact these operation plans have not been important to the conduct of the project. Activities have been undertaken in the Dominican Republic and are being undertaken in Guatemala without there being such plans, and the plans presented by Costa Rica and Honduras were basically just lists of activities seeking funding. (Panama has dropped out of the program at least temporarily for political reasons).

The problems in obtaining useful operational plans are the same as the problems, discussed above, which face the use of the National Commissions for any programming purpose. The alternatives for meeting the problems seem to be the same as well. Furthermore, it would seem to be more effective to cease investing time and effort in trying to get more coherent international operating plans and put all the attention concerning planning and programming on the use of the assessments now

available (Panama, Costa Rica and Honduras) and to be available during the next year (the Dominican Republic and Guatemala). This would be particularly the case if the resources devoted to miscellaneous technical assistance were reduced.

3. Role of National Coordinators

The project includes funding so that each USAID Mission participating in the project could hire a local person to be the liaison between the Mission and the other entities involved in the project--including national organizations, the RAJO and ILANUD. The decision to hire a particular person is made by the USAID Mission although ILANUD was to participate in the choice. Supervision of the work of the national coordinator was to be with the USAID Mission, although the Project Paper indicates that the coordinators were to serve ILANUD's needs as well. To date only three national coordinators have been named. The one for Panama separated from the position after the program in Panama came to a halt because of political difficulties. The national coordinators for Honduras and the Dominican Republic are functioning. A coordinator for Guatemala should be named soon. No coordinator is planned for Costa Rica because of the presence of the RAJO in that Mission and the presence of ILANUD in Costa Rica.

ILANUD does not appear to be satisfied with the arrangement. Although it does participate in interviewing candidates for the position, it sees itself as having little or no say in the selection of the persons to be the Coordinators. ILANUD does use the coordinators to help identify and process trainees for the

regional courses and to make arrangements for training to be given within the country. However, ILANUD does not think that it can expect the coordinators to be its local representatives for purposes of discussions either with the Missions or the national institutions on programming matters. Whether or not ILANUD's perception of the potential of the National Coordinators is correct, it does not seem to have a plan for making more extensive use of them.

Because of the limits of time it was not possible to discuss the views of the USAID Missions and the National Coordinators themselves. However, the RAJO points out that the National Coordinators in serving the needs of the AID Missions, also serve the activities being conducted by ILANUD. Since it would appear that the project would be strengthened were ILANUD to become more active in its contacts with national institutions, it would seem worthwhile to consider modifying or expanding the current role of the National Coordinators to make them more responsive to ILANUD. The more emphasis that the project places on achieving a long term institutional role for ILANUD the more important it would seem to be to introduce this change. In any event, should a Mission become involved in funding activities bilaterally it probably would not be able to rely on these local coordinators as the sole focus for its planning and implementation, but would use bilateral funding to augment its own staff.

4. Responsiveness to Requests for Technical Assistance and Training

The project's approach to providing technical assistance has been twofold--(1) a limited number of major reforms of region-wide application were to be tested through model programs in selected countries and in ILANUD's own operations so that the results then could be used by the other countries in making their plans and seeking financing for similar efforts; and (11) simultaneously ILANUD would seek to meet requests for technical assistance based on the annual Operation Plans to be prepared by the National Commissions.

We previously have discussed the problems of relying on the National Commissions and the annual Operation Plans. In the case of technical assistance for the major reforms, the problem has been that the desire to have activities and impact take place soon at the national level led ILANUD to go forward with activities connected with those major reforms before the results of the pilot efforts were available. For instance, the latest Implementation Plan calls for work in all countries on their judicial statistics systems during 1987, although the pilot program in the Dominican Republic will not give results until mid-1988. A similar situation is presented in the case of the pilot effort in Costa Rica on Legislation and Jurisprudence Compilation Systems. Moving forward without waiting for the results of these pilot efforts is not necessarily the wrong approach. It may be necessary for overall political reasons and

there may be early experience which is worth utilizing broadly. However, to go forward broadly early on could well mean that ILANUD will spend less time and effort on the proper conduct and evaluation of the pilot efforts and on getting the other major reform efforts (such as the Judicial and Court Administration pa

Reform) underway in a timely enough way to give results before the end of the project.

A similar problem may be at least potentially present in the training program. ILANUD gives regional courses and seminars on a limited number of major topics aimed either at raising the consciousness of the persons working in the criminal justice sector or at complementing the ILANUD - sponsored technical assistance program. In addition ILANUD gives national level courses connected with its major technical assistance activities and on various subjects which would be requested by the National Commissions and based on a training needs assessment to be conducted for each country. While recognizing that ILANUD has an institutional interest in being able to respond to training requests and that it would be unwise to decide in advance that the project would not support any training outside of a limited number of subjects, it does seem that using the time and effort to respond to miscellaneous training requests (even if supported by a training needs assessment) is not wise when much remains to be done in achieving training support for ILANUD's technical assistance effort and in getting underway the testing of a program of instruction through manuals, the use of mobile training teams and the training of national trainers.

5. Assumption That All Post-Project AID Activity in the Sector will be Funded Bilaterally

The Project Paper recognizes that to achieve significant reform in the criminal justice sector will take at least 10 years

of "consistent regionwide effort" by providing the analyses and experience with selected reforms which can provide the basis for wider action programs and by strengthening ILANUD as an institution so that it can continue to participate in that effort. The Project Paper assumes that funding for the post-project effort will come from the participating national governments and other assistance agencies which will support ILANUD or the national organizations involved. The Project Paper anticipates that AID will continue to support the effort in Central America --but only through the bilateral programs of the USAID Missions to the participating countries. To foster that support the Project Paper adopts as an output the preparation of Bilateral Project Papers. In some contrast, the FY 1987-88 Action Plan for the Administration of Justice and Democratic Development Program proposes regional funding of a series of projects including the strengthening of Central American law schools, the institutionalization of compatible data bases in the various legal reference centers in Central America, the strengthening of South America Legal Centers and the introduction of programs in Colombia, Peru, Ecuador, and Bolivia similar to those being introduced in Central America under the present project.

There appear to be at least three problems with this approach. One is that the current project has not made clear either the process by which project papers (and supporting sector programs) are to be prepared or what is to be done in a situation in which the national institution may want further

assistance, but for budget or other reasons a USAID Mission is unwilling to undertake a bilateral activity. Another problem with the approach is that it appears to mean that ILANUD will not need and can not expect to receive further institutional support from AID since it will be hard for it to convince Missions to provide such support in return for specific services to a bilaterally funded, operating program. Given the problems still facing ILANUD as discussed in part C below, it seems unlikely that ILANUD will not need support beyond the end of the current project; and, thus if it were decided that AID intends to foster ILANUD as permanent, key institution in the criminal justice sector, AID will face a dilemma arising from the underlying assumption of this project.

A third problem is that as the program's scope is expanded geographically to include activities in South America it becomes less likely that all the preparatory work for continuing the activity on the much wider scale can be completed by the end of the current project. Such work can be continued under the separate projects described in the Action Plan, but that would simply be doing the same thing under a different name.

It may not be necessary to decide immediately whether or not to change the assumption of no additional funding for an overall project with ILANUD covering the furtherance of the reform of the criminal justice system throughout the region, and in any event, any decision to continue regional funding would need to be taken and implemented in a way that makes clear that ILANUD would still be

expected to take the institutional steps important to its long term, self-sustaining existence. However, the longer the present assumption is not changed, the less likely it is that the further changes required of ILANUD will be taken.

C. Aspects of ILANUD's Operation Needing Greater Attention

ILANUD has made substantial changes in its operations and programs since the current project was undertaken. The major accomplishments are mentioned in part II above. The following discusses those aspects of the program of ILANUD which seem to be most in need of greater attention or reform.

1. Planning, Programming and Evaluation

ILANUD devotes little attention to, and has little capacity for planning, programming and evaluation. There are no staff members assigned to these functions as such (either full time or part time). None of the staff members has been given training in these topics apart from the recent raining of the Director of Operations and the head of the Administration Division at the school for international, Training program in Brattlebord, Vermont. ILANUD has not developed a long range plan as contemplated in the Project Paper. Guidelines or standards are not provided to the project managers to help them prepare their programs and budget proposals. There is no system for comparing the relative merits of proposals for future activities or for collecting data on the results of the activities being supported or even of identifying the problems facing the the conduct of those activities.

The project seems to have underestimated the importance of

this aspect of ILANUD's institutional development. Focus has been placed on improvements in ILANUD's fiscal and administrative systems since they are indispensable to managing the current project and A.I.D resources. No technical assistance was identified as being necessary for planning, programming or evaluation (although FIU is to assist ILANUD in creating an evaluation system for the project), and no outputs were called for in this area.

This weakness in planning, programming and evaluation not only prevents ILANUD from obtaining the most from the resources being provided to it, but also undermines its ability to assist in the creation of national plans by the participating countries. It is a fundamental barrier to ILANUD's being able to assume a role larger than one of providing training and limited technical assistance on request.

If an institutional development advisor is provided under the FIU contract, as is now being discussed, one of his main tasks should be to correct this weakness. Furthermore, it would seem to be necessary for ILANUD (and the project) to devote the time of senior people to this task. Ideally a separate unit, perhaps at the same level as the Director of Operations, would be created for that purpose under the direction of a person with the academic preparation or experience which would enable him to provide the intellectual guidance necessary for the effort. If a separate unit were not to be created, the task should be assigned to a unit within ILANUD which could accommodate the

presence of such a senior person.

2. Focusing and Interaction of Program Elements

It is not easy to see how all the activities with which ILANUD is involved reinforce each other or that they are all of such importance that they should have a place on ILANUD's agenda. Of course, it should be noted that all the activities being carried out were contemplated in the Project Paper, and that both the Project Paper and ILANUD respond to expectations going beyond the long term institutional benefit of ILANUD. Moreover this project can be seen basically as one laying the groundwork for more focused activities to follow. However, the lack of a capacity to plan on ILANUD's part also contributes to the tendency to equate the performance of activities to the conduct of a program. Certainly if it intends to remain active in these programs in the post-project era, ILANUD will have to decide what kind of package of expertise or programs it will be able to offer and then assure that all the elements of its program serve that package. Both FIU and AID should actively help ILANUD make those choices.

In the meantime, in the conduct of the present project ILANUD and AID might well let lesser priority activities fall by the wayside. In fact, this seems to be occurring in any event as in the case of the Honduran Graduate Law Program and the various requests for miscellaneous technical assistance which were not well presented and thus not supported. Other candidates for benign neglect might be the Civic Legal Education program, the full computer networking of regional institutions on a common

data base and training not directly related to other ILANUD activities. The key to any such pruning would be the willingness to give more attention to a planning and programming effort and weight to the results of that effort.

3. Outreach to AID Missions and other Potential clients

ILANUD does not have a program for presenting its potential utility to USAID Missions participating in the project or to other institutions which might be interested in supporting the activities being undertaken through the project. The Director General and the Director of Operations have made one round of calls on each of the participating AID Missions. However, the contacts were not always at the level of the Mission Director or some other official with executive responsibility; they were more in the nature of courtesy calls; and they have not been followed by further contacts.

This relative lack of initiative probably is the result of several factors. ILANUD has been absorbed in modifying its organization and systems to permit it to meet the implementation responsibilities under the project. The RAJO takes a very active role in coordinating the activities of ILANUD and the participating AID Missions, and thus may be seen as a substitute for direct contacts by ILANUD. The National Coordinators have not been seen as representatives of ILANUD. Perhaps most importantly, ILANUD is not clear whether it is expected to seek direct and active contacts with the Missions, and thus can easily continue the more passive approach of its pre-project existence

as a small, unfocused agency which responded to expressions of interest by others. Then too, for ILANUD to become more active in its relationship with the Missions would require changes in its personnel, since at present there are only two or three people who would be likely to be effective in carrying out such an effort. Whatever the reasons, the situation would seem to be undesirable to ILANUD's and the project's best interests. On the assumption that post-project activities will be funded mainly (if not exclusively) through the bilateral Mission programs, it would seem clear that ILANUD has an interest in the Missions knowing its personnel, its intentions and its abilities. Like any other salesman, it needs to establish personal contacts.

Even if it were to be decided that ILANUD is to have continued, institutional support from a regional AID project to assure its continued involvement in the sector, the nature of that involvement and support will depend in part on the opinions formed of ILANUD by the Missions. Certainly should ILANUD seek to become an institution useful to planning activities as well as offering services in their implementation, it will have to convince the Missions that it is up to that task. It is doubtful that it will be able to achieve that through intermediaries. Then too, such direct contacts would enable the management of ILANUD to obtain feedback on how ILANUD efforts in this project are being seen by the national institutions it is seeking to influence, and should help in any effort to get the National Coordinators to be more responsive to ILANUD's needs.

4. Fund Raising

ILANUD does not have a strategy or program for raising funds to continue the activities beyond the life of the current project. Present ILANUD fund raising efforts seem to be limited to visits by the Director General to potential supporters (such as the Ford Foundation, the EEC and the Mexican Government) of activities not being supported by the project. The Project Paper, while not stating what level of activity is to be carried out beyond the life of the current project, does call for "contribution of continuing financial or other material support committed to by the start of the last year of Project". That is still two years away. However, given the overwhelming dependence on the project for the funding of ILANUD's current activities, the task facing ILANUD in the next two years is enormous unless one assumes that somehow or other AID funds will continue to provide substantial support in the post-project era.

Since ILANUD has had little experience in seeking funds and has never conducted a fund raising campaign, AID is considering providing it with some advisory services on this topic through the contract with FIU. This would be an important addition to the assistance package being provided. However, it should not be overlooked that for any fund raising campaign to be successful there needs to be a clearly articulated "package" offered for support. It would seem unlikely that merely continuing the various activities undertaken with AID financing would be appealing enough. It will be necessary for ILANUD to show that it has an institutional strategy and at least a medium-term plan

for accomplishing it. (The assumption here is that ILANUD is seeking funding for its own operations as well as for carrying out activities, and that it is trying to be more than the organizer of training programs and technical assistance in response to requests from others). Thus the definition of ILANUD's role and the achieving of greater focus in its programs here too seems to be an early order of business.

Furthermore, it seems unlikely that, as it is now organized and staffed, ILANUD will be able to carry out a strenuous fund raising effort. As in the case of outreach to the USAID Missions, there seem to be very few people on ILANUD staff who would be able to meet the responsibilities involved. (See part D below).

5. Reporting System

The reporting system being followed under the project does not seem to be useful. The periodic reports from ILANUD to AID, from FIU to AID, and from RAJO to AID/W are often late in preparation and seem to be basically a list of events which have occurred. They do not offer much discussion of problems, do not compare projected actions with accomplished actions, and do not explain how the project may be adjusted to take into account the experience of the reporting period. Perhaps most important, there does not seem to be any discussion of the reports or any feedback on them. In the case of reports to the RAJO, this may not be too troublesome since the relationships are so close among RAJO, FIU and ILANUD. However, the lack of feedback from AID/W

and from USAID/CR would seem to be a serious shortcoming for the conduct of the project.

The reports do provide a record of what has happened in the project, and thus are of use. However, they would be far more useful if they were revamped to become centered on a discussion of problems and possible solutions. It also could be useful to have the reports circulated to all the participating USAID Missions so that they would have a better picture of what was happening.

In addition, it might be helpful to have the National Coordinators prepare periodic reports to ILANUD giving it feedback on the national situation and alerting it to any problems of implementation or perception which may exist. This might encourage the National Coordinators to see themselves as representatives of ILANUD as well as of the USAID.

6. Training of Trainers

Traditionally the most active of ILANUD's divisions has been that concerned with training. Under this project, too, that division has led the way in the number and magnitude of activities. It will likely exceed the level outputs of originally projected. Some aspects of the training program that might be rethought have been mentioned previously. However, there seems to be one gap in the training program of outstanding importance-namely, that no effort has been made to train national trainers. The Project Paper identifies as an issue the degree to which the project should focus on training trainers, and does not make such training one of its outputs. The current

Implementation Plan does not appear to include any effort to train trainers. However, ILANUD agrees that it would be desirable to undertake a program to train trainers, but states that it has not yet been able to identify who the trainers at the national level would be.

This would seem to be a matter deserving early attention by ILANUD's management.

D. Administrative and Budgeting Improvements

As indicated in part II above, ILANUD has made important progress on the implementation of the program and on organizing itself to be able to meet the responsibilities of the project. Because of the immediate demands of those responsibilities, ILANUD has focused much of its attention on administrative and financial matters. It has nearly doubled its staff; replaced its previous controller, and created the new position of Director of Operations to supervise the conduct of the current project.

ILANUD's Personnel Officer conducted a thorough review of ILANUD's structure and operations; and in June, 1986 made a series of recommendations concerning staffing and the organization of ILANUD's operations. It commissioned the preparation of an operations manual by an independent auditing/consulting firm and an administrative review by that firm which issued its findings in September, 1986. Many of the recommendations in these reports have been implemented. The following discussion is of the major issues still pending.

1. Coordination of ILANUD's Activities

Coordination of the activities of the various divisions of ILANUD is not yet satisfactory. Complaints about this aspect of ILANUD's operations seem to be present throughout the organization. There are several factors impeding better coordination. First, the growth in the size and the complexity of the program has resulted in a lot of "hole plugging" and "catch up ball" by ILANUD's management. Second, the absence of a system for planning contributes to the tendency for each division to respond to opportunities or to forge its own agenda. Third, the lack of delegations of authority (see section 2 below) leaves unclear who is to be in charge of what decisions. Fourth, there is but one staff meeting--the weekly one of all division chiefs, the management and representatives of FIU and RAJO--at which everything is discussed. Some see the meeting as basically a way to keep everyone up to date as to what is going on, but not as a way to reach decisions. However, the meeting apparently is used for both purposes--probably because there are no other regular meetings for decision making or coordinating purposes. Fifth, the pressures of time in putting together the implementation plans and the yearly budgets have impeded the use of feedback and discussion between management and the operating divisions before the plans and budgets are adopted.

It would seem that improving the system of coordination should be the first priority of the office of the Director of Operations. The most important step in enabling him to achieve that coordination is to make clear what authority he has and to

create mechanisms for decision making apart from the weekly staff meetings. Although there is no one way to go about this which is clearly better than all others, one might try the approach of having thematic meetings of interested offices with agendas prepared by or under the direction of the Director of Operations. Alternatively, there could be monthly meetings with each division to review its efforts and problems and to set its course for the following period. The organization through trial and error should be able to find a system which best suits its personnel and style. What is important is that it recognize the importance of the problem it faces on this aspect of its operations.

2. Delegations of Authority

There are no written delegations of authority in ILANUD. The report of the operations review conducted by its Personnel Officer includes position descriptions. However, they are quite broad in their description of the scope of each position, and do not indicate what matters would be decided at what level and with what concurrences. Observers of ILANUD seem to agree that, in fact, there is little delegation of authority with almost all matters being somehow put before the Director General. It is not clear whether the Director General wants this to be the case or whether the situation has simply evolved. The situation surely contributes to the perception expressed by many within and outside ILANUD that decision making takes too long and/or is not predictable or always the result of agreed procedures.

It would seem that ILANUD should make a determined, priority effort to define for its staff what are their areas of authority and what procedures are to be followed in exercising that authority. The system should reserve as little as possible for the Director General to decide prior to action so that he can focus on broader issues and institutional relationships without holding up day-to-day decisions or the taking of decisions needed to coordinate and carry out the programs already approved as part of the yearly planning. Although outside assistance would not seem to be necessary for ILANUD to carry out this effort, it might be helpful for the FIU contract to anticipate the help of a long term institutional development advisor with some short term participation by a public administration advisor in any exercises which ILANUD undertakes on this aspect.

3. Role of the Director of Operations

The mounting expectations concerning the role of the Director of Operations are probably not reasonable. Too much is being expected of him already, and as ILANUD seeks to address its institutional and programmatic weaknesses (some of which have been discussed above) there will be a tendency to turn to this position to lead the way to their resolution. The position can be made more effective by making clear what are its authorities and by relieving it of the current acting responsibility for the supervision of the Advisory Services Program. However, additional responsibilities should be added to it only after careful consideration of the workload involved and the likelihood that the background of the Director of Operations is the most

appropriate for the particular function. Should any additional major element (such as planning or outreach to clients) be added to the responsibilities of this office, its staff would have to be increased. Preference should be given to creating separate offices for such major functions.

4. Role of the Controller

A new Controller, with long experience in both public and private organizations, recently was hired by ILANUD. His immediate priorities are to make functional the voucher review procedures worked out with AID and to set up a system under which the 1988 ILANUD budget will be prepared and adopted. That system also is to include periodic feedback to the operational divisions on the state of funding availabilities for their programs-- information which has not been available to date and which has resulted in considerable difficulty in the orderly execution of the programs. These two undertakings are very major ones. In addition, it would seem to be advisable for ILANUD to use its Controller as a point for assuring the compliance of its operating and administrative divisions with the regulations of ILANUD and of AID concerning the project.

Currently, the Controller has no staff to assist him in carrying out his responsibilities. The only accounting staff (three persons) in ILANUD is located under the Administrative Division. They perform the bookkeeping function of the organization. The theory is that they should not work under the Controller because as the person who reviews the operations of

the system he should not be responsible for the functioning of part of it. This would seem to be an overly theoretical approach to the function of a Controller. The expertise in guiding financial accounting resides with the Controller, and it is hard to see why the people performing the accounting function should not receive the benefit of being supervised by the person having that expertise. In any event, it does not seem possible for the Controller to exercise his responsibilities without some staff, and, thus, should the current accounting staff not be transferred to his supervision, additional staff would have to be hired.

In any effort to set forth the delegations of authority of the personnel of ILANUD particular attention must be paid to the authority of the Controller and of the responsibility of others to obtain his concurrence when called for.

5. Completion of Operations and Personnel Manuals

The personnel officer of ILANUD for sometime has been working on adapting to the work -a- day needs of ILANUD the operations manual produced by a consulting firm. (The manual provided was somewhat of a standard issue work suitable to organizations in general.) He also is working on a personnel manual the most important part of which is a system for evaluating the performance of personnel. Because this person has been used for many tasks in ILANUD (such as the administrative review mentioned above) he has not had time to complete his work. The existence of manuals by themselves, of course, do not solve problems. However, the existence of good reference manuals can help to clarify procedures and remove excuses for adopting ad

hoc procedures whose motives may be more personal than organizational. Along with the adoption of delegations of authority and new techniques for achieving coordination of the various offices, the issuance of these manuals could lead to a better functioning organization. No outside help seems to be necessary to complete them.

6. Change in Focus in Recruitment of and Expectations Re Personnel

Traditionally ILANUD has been largely staffed by Costa Rican nationals who were employees on detail from the Government of Costa Rica. Promotion has usually been from within the organization. The project has not changed these approaches significantly. The size of the staff has been roughly doubled by means of contracting personnel, and many of the additional staff members were not employees of the Government. However, all but two are Costa Rican, and the heads of the divisions and offices of ILANUD are all persons who were working for ILANUD previously. In general, the staff is young with most of its experience having been with ILANUD. All the key people hold university degrees, but only four of the some 45 staff members are attorneys. The remainder are largely what we would call "generalists". In-service training was not provided by ILANUD before the advent of the project, and under the project the training of ILANUD staff has been limited to on the job exposure to the technical advisors and other external participants and to the attendance of the Director of Operations and the head of the Administrative Division to the Development Project Design and Management seminar

in Brattleburg, Vt.

The staff of ILANUD has responded to the challenges facing it. Observers note that there seems to be a more dedicated and work-oriented atmosphere than before the project was undertaken. Clearly the level of activity and concomitant responsibilities has increased. However, it is not clear that this response can meet the needs of the project- especially if the project includes the forging of a long term role for ILANUD in post-project activities. There appear to be two main questions: (1) if ILANUD is to be seen as an international organization with a unique capacity to plan and implement programs in the criminal justice sector throughout the region should it not have international (rather than just Costa Rican) personnel, and (11) with the substantial increase in the level of activities and expectations for the future, should ILANUD seek more seasoned persons from outside the organization to supplement the experience of its existing staff.

While being aware of the financial and possible interpersonal relations problems that could arise, it is hard not to conclude that the answer to both questions is yes. One need not suggest a revolutionary approach. As positions may be added or turnover experienced, it would seem possible for ILANUD (with the project's support) to seek to recruit non-Costa Rican nationals with considerable experience in administration or any of the program topics. Since most personnel are under contract (rather than with full employee status) in any event, this should

be possible without creating separate categories of employees. Possibilities to begin such an effort might be (1) the addition of positions concerned with planning, programming and evaluation, project preparation, and fundraising and client outreach; and (11) the expected turnover in the division of training.

This topic might be one for early discussion by the Advisory Board of Directors (see section 8 below). It should be on the agenda for AID's discussions with the Director General.

8. General Management

Overly generalizing, one might say that ILANUD's program activity has gotten ahead of its management capability. Most of the issues and problems facing the project and ILANUD seem to be connected with strategy, policy and institutional role setting, planning, evaluation, the forging of client relationships and the definition of organizational roles of its staff. Thus it would seem that steps should be taken to strengthen the overall management of ILANUD. An Advisory Board of Directors is to be created with international membership which will assist the Director General in setting policies and evaluating the performance of the organization. The creation of the position of the Director for Operations has helped ease some of the administrative burden on the Director General. The creation of the positions and taking the steps suggested previously should help the organization to perform better. However, the role of the Director General will remain key to the performance of ILANUD. He must articulate its purposes and represent it at the highest levels of government, and he must see that the changes to

be introduced are in fact carried out. He will not have enough time to do all the things that can not be delegated to others, and thus will constantly have to to make difficult choices concerning his time.

In short, the position of Director General is very demanding one that deserves all the support which it can be given. It should be held by someone intending to remain actively involved with the organization for at least five to ten years.

E. Relations with AID

1. Need for Additional Written Guidance

As is usually the case with an organization when it first begins to participate in an AID funded project, ILANUD has had considerable difficulty in modifying its ways of operations to comply with the requisites of AID. ILANUD's own administrative weaknesses were a cause of the difficulty as were the universally acknowledged, complicated nature of AID's requirements. However, it would seem that the difficulty was increased by the lack of written guidance provided to ILANUD by AID. Twenty two Implementation Letters have been issued so far, but none sets forth the basic rules governing the operation of the project or the procurement and financial standards which are to govern the use of AID funds.

This relative lack of guidance probably was due mainly to the fact that USAID/Costa Rica was not able to provide the type of project and administrative support to the project that is usual with AID -funded activities, and that the backstopping office in AID/W is a programming rather than an implementing

office. The result was that the RAJO was more on its own in the conduct of the project that is usual for technical offices in AID Missions. In fact, the problems were addressed through trial and error over time and the close involvement of the RAJO in the operations of ILANUD.

Now that USAID/Costa Rica is more involved in the implementation of the project it should be possible to provide more timely, written guidance to ILANUD. This is not to suggest that personal contacts be reduced (although should it be decided to do so the written guidance would become even more important), but that providing important guidance in writing could help to clarify the issues being addressed and would give ILANUD a working reference document. Since one is encouraging ILANUD to put more order into its own operations, it would seem politic to set an example in the way AID guidance is presented to it.

2. Oversight Mechanisms

The RAJO has had a very close working relationship with ILANUD. Indeed, it appears that RAJO--together with the principal advisor of FIU--has been an integral part of the operational decision making system. They attend ILANUD weekly staff meetings; consult daily by telephone with all levels of personnel within ILANUD, and, whether consciously or not, act as spokesmen for ILANUD with other organizations involved in the project. This type of relationship arose in part because of the dynamism and personality of the people involved, but mainly because of the belief that the circumstances facing the project and ILANUD's

participation in it called for very close oversight and personal guidance. This relationship has remained basically unchanged to the present.

As one would expect, there is some feeling in ILANUD that AID gets too closely involved in operations. Still, it also is clear that people within ILANUD welcome (and take the initiative to get) AID's support for positions which they want to see prevail within ILANUD. Indeed, with ILANUD overwhelmingly devoted to the execution of this AID funded project, it is difficult to see that AID could have anything but a mammoth influence in ILANUD. Furthermore, ILANUD is not so accomplished in its administration and programming as to justify AID's not continuing to be concerned that it have detailed knowledge of what is going on and access to relevant persons to discuss problems on a fairly continuous basis. Still, it might be that AID could withdraw somewhat from its current role. It might encourage ILANUD to have policy and programming decision meetings without AID being present and rely more on information obtained from ILANUD about those decisions (either in written reports or by attending less frequently held information exchange staff meetings). It might try to deal with ILANUD mainly through key persons such as the Director of Operations, the Controller and the suggested position to deal with planning and programming.

The exact approach to providing suggestions and oversight to ILANUD is not a question of theory, of course, but rather of making best estimates of what is called for under current circumstances. Trial and error is the methodology. At present

some movement toward less detailed involvement in operations probably would be a useful trial'.

3. Clarifications of AID's Expectations for ILANUD

We previously have discussed the issues of ILANUD's long term role, its lack of active contact with the participating USAID Missions and its potential for use as an instrument of policy dialogue. On all of those topics ILANUD has indicated that it is not clear as to what AID expects of it. There are many other factors impeding progress on, or resolution of, these issues, and those other factors probably are of more importance than the attitude of AID. Still, given AID's overwhelming importance to the financing of the project and ILANUD current operations, it is understandable that ILANUD could be most concerned (and perhaps psychologically dependent on) what AID wants or intends. This situation probably is aggravated by AID's not being able to speak with one voice as far as the attitude and plans of the various AID Missions are concerned and by the fact that ILANUD is not really a part of AID's planning for the overall Administration of Justice and Democratic Development Project. Furthermore, for AID to articulate to ILANUD what it expects of it requires that AID be clear in its own mind as to what it expects, and that is not easy to achieve in itself, given the complicated nature of the problems, the still early stage of ILANUD's assumption of the greater responsibilities under the project being addressed, and the multiplicity of organizations involved.

It might be helpful for AID (presumably through the RAJO) to explain to the key staff members of ILANUD what is the nature, scope and at least tentative plans for the overall Administration of Justice and Democratic Development Project and the state of discussions of the regional project with the various USAID Missions now participating or planning to participate in it. AID also could make clearer how the AID programming and project preparation system is conducted and what this implies re the use of organizations outside of AID. Such a discussion would seem to offer a natural opportunity to have ILANUD express its own views on what it thinks it could do in the further formulation and implementation of the various ideas now being considered within AID.

F. Division of Responsibilities Among AID Offices Involved in the Project

Responsibilities for the conduct of this project are divided among several AID offices. General policy guidance and oversight for the project is provided by the Offices for Administration of Justice and Democratic Development (LAC/AJDD) in AID/W. Technical and project management responsibilities are with the RAJO -- which basically is a US contract employee. USAID/CR provides administrative support and financial services to the project and advice to the RAJO on general implementation matters. It does not see itself as being responsible for the substance of the project or of its activities in countries other than Costa Rica. The AID Missions in the participating countries supervise the work of the National Coordinators, provide guidance to the

RAJO in his contacts with national institutions; and are responsible for the preparation and implementation of any bilaterally-funded activities. Although with perfect cooperation this system can work, it is subject to obvious strains. In fact, it has resulted in problems.

The main problems which have arisen under the system of division of responsibilities have been:

1) The RAJO has not received much guidance on policy questions or program direction, and what guidance and direction he has been given appears to have been the result of his initiatives. Given the experience and quality of the current RAJO, this may not have been a crucial problem so far but it is not a desirable situation and could become crucial on the probable departure of the current contract employee in the middle of next year.

2) The RAJO has not had a policy or executive level AID official to turn to for advice and assistance in solving problems which arise from time to time with participating USAID Missions.

3) The Costa Rica Mission did not provide the administrative, fiscal and general implementation support that is usual for a project for which it had full responsibility. This situation has been improving over the past six months, and the Mission seems to be willing to do what it can to be helpful. However, it still does not see this project as being its "responsibility".

4) Policy Dialogue has not taken place in a systematic way.

5) It is likely that no one in AID except the RAJO has a

through understanding of what is the state of the activities under the project.

6) There is a suspicion that the LAC Bureau in fact does not place great importance on the operation of the project.

It would seem that this division of responsibilities for the project should be reconsidered. The rate of activity under the project is continually increasing, the need for addressing important issues is clear, and it is not likely that AID will find a person of the same caliber as the current RAJO to replace him on his departure. Even if the replacement were to be of excellent caliber, the level of regional activities and the utility of having the RAJO provide advice to Missions in their bilaterally funded activities will put a strain in his capacity to perform all his responsibilities. The staff of the RAJO might be increased by another professional to help meet these responsibilities, but that would not be a substitute for resolving the difficulties listed above.

No one outside the AID organization can be aware of all the factors that go into deciding how to allot responsibility for particular programs, and thus should be careful in making particular suggestions. However, if ILANUD is to remain at the center of the effort and, consequently, the RAJO is to remain stationed in Costa Rica, it is tempting to suggest that USAID/CR be given full program responsibility for the regional activity on behalf of AID. That Mission should be able--in consultation with LAC/AJDD through the usual program review and policy referral

process--to provide the requisite program and policy guidance given the quality of its staff and its place in the AID program. Should AID/W make clear to other Missions that it has placed policy guidance and operational responsibility for the project with USAID/CR it would seem possible for the latter to be able to exercise the coordination and other authorities vis a vis other Missions which now are the responsibility of LAC/AJDD. Should there be conflicts which are not resolvable by consultations among the Missions the matter could be referred to LAC/AA for decision. Such a system is hardly perfect, and does depend for its success on the willingness of USAID/CR to devote significant personnel time to the project as well as on other participating Missions to be willing to take guidance on this project from USAID/CR. However, the system would have the virtue of getting responsibility gathered together and having it exercised closer to the actual field activities.

IV. PLANNING FOR PROJECT EVALUATION

1. Background

The Project Paper calls for ILANUD to adopt a "program for both continuous and periodic evaluations: establishing base-line data, setting measurable targets and providing for appropriate means of appraisal." There were to be annual evaluations with an emphasis on feed-back to make on-going program corrections and external evaluations contracted by AID at mid-course and during the last year of the project which would emphasize "measurable impacts as indications of progress against direct and indirect achievement of purpose and goal level objectives."

The Project Paper suggested the types of criteria that might be used to measure impact and progress, but left the choice of which to use (and what quantification to adopt) to be decided by ILANUD and its advisor (FIU) using, among other things, the national program plans and the completed sector assessments. The Project Paper assumed that there would be a major effort involved in elaborating the evaluation packages which were to be applied to each of the major components in the project.

The original schedule called for the first evaluation report to be prepared by ILANUD by mid-1986, the second evaluation report by ILANUD and the participating USAIDs by mid-1987 and the first external evaluation during the second half of 1987. Because of delays in getting the project underway the 1986 evaluation was not performed. Instead RAJO and USAID/CR reviewed the evaluation plan proposed in the Project Paper and concluded that it was overly complex and not really appropriate for the type of program being undertaken (i.e. one aimed at preparing the way for more focused, country specific follow -on activities). A more simplified system was to be prepared and followed.

The current project implementation plan calls for internal evaluations to be held in the first quarters of 1987, 1988, and 1989 and external evaluations to be held in the last quarters of 1987 and 1989. The implementation plan does not address the nature or content of any of these evaluations, and ILANUD and FIU have not begun the effort to put on evaluation system in place.

2. Measuring Inputs and Outputs

Tracking the accomplishing of project inputs and outputs

should not be a particular problem. On inputs the financial systems now being created will provide the data, and a revised reporting system in placing emphasis on the analysis of problems should provide the background to explain that data.

For outputs the situation is a bit more complicated because not all the outputs listed in the Project Paper are expressed in specific or quantified terms, and because the currently revised Implementation Plan for the project also does not consistently quantify what is expected to be accomplished. However, for most categories of outputs this can be corrected without too much effort simply by insisting that each division of ILANUD present a detailed, yearly implementation plan which includes the quantification of the outputs to be sought. The revised reporting system would then explain any shortfalls from or changes in those projected quantified outcomes. This effort has begun. It should not be particularly difficult to complete during the course of preparing the 1988 program plan and budget. Furthermore, it seems that in most categories of outputs ILANUD is likely to meet or exceed the targets by the end of the project apart from those elements of the project which are being dropped for one reason or another.

The main problem facing the evaluation of outputs is giving specificity to those categories in which none now exists and in which yearly implementation plans would not necessarily supply that specificity. Examples of these would be:

- (1) the nature and size of the graduate program to train faculty at the National Autonomous University of Honduras if this

activity were to go forward,

(11) the meaning of improved national capacity to collect and use appropriate statistics in justice system management;

(111) the size and sources of the contribution of continuing financial or other material support to be sought by ILANUD, and

(1V) the standard to determine whether a National Commission is really "permanent".

The latter three outputs might better be considered to be measures of progress on achieving the project's purposes. In any event, their further definition should not be difficult to achieve.

3. Measuring Achievement of the Project's Purposes

The Project Paper chooses as the project's purposes:

(1) the upgrading of ILANUD's and IIHR's capability to act as training and technical assistance resources for work in the justice systems, and

(11) enabling the Supreme Courts of the region to control their own resources and function effectively as administrators of the national court systems.

Measuring progress on achieving these purposes will be more difficult than measuring the achievement of outputs. This the case of several reasons. First, as mentioned above, the Project Paper did not attempt to define what it meant by "upgraded" in describing the anticipated change in ILANUD's capability. It left that to be done by ILANUD and its advisors. Second, as discussed in part III A above, it is not clear what are the

project's expectations as to the long term role of ILANUD, and thus it is difficult to adopt standards for measuring its progress toward meeting that role. Third, the Project Paper does not even discuss what might be measures of the "Supreme Courts functioning effectively". Fourth, the Project Paper does not explain how the accomplishment of the various outputs is likely to lead to the accomplishment of the project purposes --at least it does not do so in a way that permits one to conclude what is the relative importance of the various outputs to those purposes. This is not to say that the outputs are not important or relevant to achievement of the project purposes, but that their connection and sufficiency is not fully analyzed and explained.

The Project Paper does include suggestions for the types of "impact" which the outputs might have, but again leaves the selection and quantification of those projected "impacts" for later elaboration. In fact, the project probably should have an expression of purpose which is broader than an improvement in the performance of the Supreme Courts.

On the other hand any evaluation effort will be able to be based on an unusually complete understanding of the "base line" situation as a result of the extensive analyses and work with ILANUD which has taken place and of the information contained in the various national justice sector assessments. Furthermore, the contacts and knowledge of the capabilities of the various sector institutions arising from the process of producing the sector assessments should permit a fairly efficient update of the situation to illuminate the "impact" of the overall project

activities in a particular country.

a. Role and Performance of ILANUD

The first step in preparing for the evaluation effort would seem to be to clarify what in fact is the expectation re ILANUD's long term role . Of course there are institutional improvements that need to be made no matter what that role is to be (for instance to enable ILANUD to carry out the current project responsibilities); but the final judgment on progress can not be made without having a clarification of this issue. In the meantime, questions which should be asked concerning progress on the upgrading of ILANUD would be:

1) Has ILANUD been able to modify its procedures to meet the fiscal and administrative demands of AID?

11) Has ILANUD been able to achieve a degree of coordination of its activities so that to the extent their nature permits they are reinforcing each other's impact?

111) Does ILANUD have the ability to judge the relative importance of its activities for the accomplishment of its purposes and does it modify its programs to reflect that judgment?

1v) Does ILANUD have a good understanding of the conditions prevailing in the justice sectors of the countries participating in the project and good working relations with the national institutions and USAID Missions in those countries?

v) Does ILANUD have a way of judging what are its capacities for performing various kinds of activities and in various countries?

v1) Is ILANUD able to provide assistance to countries in planning their approaches to justice sector reforms?

v11) Has ILANUD acquired a reputation among USAID and national institutions for providing training, technical assistance and other services of a quality expected of an international institution? Does it compare favorably to US institutions such as law schools in this regard?

v111) Does ILANUD have an operating strategy for raising funds which is likely to permit it to continue the level of activities achieved under the project after the completion of the project? Has it approached international organizations, foundations and key numbers of the US Congress to enlist their support?

1x) Does ILANUD have a system for evaluating the operation of its activities and their probable impact?

Most of these questions look for qualitative judgments rather than numerical ones, although there could be sub-questions aimed at identifying quantified results to help in determining the answers. The approach to answering the questions would seem to be the traditional one of interviewing all the relevant persons --the staff of ILANUD, the personnel the USAID Missions in all the participating countries, representatives of the national institutions which have had contact with ILANUD and, of course, the personnel of FIU and AID which have worked on the project with ILANUD.

b. Independence and Efficiency of Supreme Courts

Whether Supreme Courts control the budgets and resources of

the justice systems should be fairly easy to determine. Whether the Supreme Courts are administering the national court systems efficiently is much more difficult to determine. Indeed, the very questions to ask would seem to depend on the particular situation of each participating country, and thus one would expect that it would be in the adoption of a national program based on the results of the sector assessment that the targets for the accomplishment of this purpose would be identified. An evaluation of progress on this purpose would not seem to be useful before the final year of the project. Indeed, it would not be surprising if there was little if any discernible progress on this purpose until the national program has been in operation for some time, and that, of course, would be well beyond the completion of this project.

4. Impact of Major Activities

Although they may not be particularly clear indicators of progress on achieving the project's purposes, it probably is desirable to try to measure what the "impacts" are of the project activities. The Project Paper states that this would be done although it did not decide what, in fact, would be the criteria in measuring the impacts. Those criteria and accompanying measurements were to be part of individual evaluation plans to be developed for each major activity by ILANUD with the help of its advisors. This has not yet been done. In fact it will be a rather complicated, lengthy effort, since the expectations as to impact will depend on the conditions in each country in which the

activity operates and on the understanding of those conditions which would have to await the completion of the sector assessments. Furthermore, the criteria of impact to be chosen seem to be dependent on the nature of the national plans to be adopted, and, as in the case of the efficiency of the Supreme Courts, the likelihood of achieving measurable impact during the life of the present project seems to be slight.

In the meantime, one can seek to understand the way participants in the justice sector look at the problems facing it, whether or not they are changing their individual behavior, and whether people are using the assistance offered by the Project. Thus some questions that could be asked of the major activities are the following.

a. Sector Assessments

1) Have representatives of the sector's institutions participated in the review and discussion of the assessment? and have they in turn brought about wider distribution and discussion of the assessment's findings?

11) Have the national institutions (through the National Commission or otherwise) adopted a sector program or plan of action?

111) Has funding been identified and commitments achieved for carrying forward the plans of action?

1v) Does the program or plan of action include modifications to government policies identified as problems in the assessments?

v) Have USAID Missions in the participating countries

prepared bilaterally-funded activities to help carry out the programs or plans of action?

b. Extension Services

1) Do National Commissions exist, and do they perform any function which is seen as important by the sector institutions?

11) Does ILANUD assist the National Commissions or sectorial institutions directly in preparing plans and project activities to carry forward the recommendations of the national plans and sector assessments' findings? in updating the yearly national operations plans?

111) Are ILANUD's training and technical assistance activities seen as being responsive to the priorities identified in the sector assessments and national plans, and do requests for such assistance make clear the impact expected to be achieved?

iv) Are the sector institutions and USAID Missions aware of ILANUD's capability to provide services (and especially training and technical assistance), and have they contracted with ILANUD to provide such services to their activities?

c. Training

1) Are persons receiving training from ILANUD satisfied with its quality and relevance to their concerns?

11) Are persons who have received training from ILANUD applying what they learned, and, if so, how?

111) Does training with ILANUD make persons more likely to seek information about the approaches being taken by other countries or more willing to cooperate with personnel from other

institutions involved in the justice sector in their own countries?

1v) Has training received from ILANUD been utilized in connection with technical assistance from ILANUD?

v) Has ILANUD been able to train trainers who will continue to expand the coverage and renew the content of courses at the national level and achieved the agreement of national institutions (including governments) to finance the continuing training efforts?

v1) Have graduates of the postgraduate law program in Costa Rica taken positions of influence in their countries and contributed to the overall sector reform efforts?

v1) Does ILANUD have a system for comparing the costs and benefits of its several training approaches in order to judge their relative importance and utility?

d. Judicial Statistical Systems

1) Has the model system installed in the Dominican Republic produced statistics of a nature and in a form that they are useful to the sector institutions?

11) Has the availability of statistics in the Dominican Republic led to any changes in the way any institution conducts its business?

111) Has the Government of the Dominican Republic provided the funds or a firm commitment to provide the funds necessary to keep the system functioning?

1v) Is the Supreme Court in effective charge of the operation of the system in the Dominican Republic?

v) Have the other participating countries expressed an interest in adopting similar statistical systems and a willingness to provide the funds necessary to institute it with ILANUD's technical assistance?

vi) Have the national plans included the adoption of reformed judicial statistical systems?

e. Legislation and Jurisprudence Compilation Systems

1) Is the Thesaurus being used by all relevant organizations in the sector in Costa Rica?

11) Has the Colombia software package been installed in Costa Rica, and is it producing information in a timely way?

111) Has the information been used by the sector institutions in Costa Rica in any significant way?

1v) Is the Supreme Court in effective charge of the operation of the system in Costa Rica?

v) Have other participating countries included a legislation and jurisprudence compilation system in their sector plans and expressed a commitment to provide the funds necessary to institute it with technical assistance from ILANUD?

f. Judicial and Court Administration

This activity is still in the formative stage. However, the types of questions to be asked about it would be similar to those listed under the two major on-going major technical assistance activities discussed above.

g. Basic Libraries Project

1) To what extent are the libraries being utilized by

personnel from the various sector institutions in each country?

11) Do the personnel of those sector institutions consider the content of the libraries to be relevant to their needs? complete enough?

111) Have the sector institutions agreed to provide the financial and other resources needed to maintain and keep current the libraries provided, and have they begun to meet their commitments?

h. Data Base Information and Assistance

1) What is the extent of the use of the data base at ILANUD?

11) What purposes appear to be served by the requests for information?

111) Is the information service likely to become self-sustaining through charges for its services? if not, how is its worth to the users being assessed?

i. Development of Civic Legal Education Program

This activity is still in the formative stage. It seems to be overly ambitious for the amount of resources tentatively assigned to it. It is too early to ask questions about its possible impact.

j. Methodology

Most of the judgments sought on the impact of these major activities appear to be qualitative in nature and obtainable best through interviews with the relevant institutions in the various participating countries. These opinions might be supplemented with some statistical information on the use of services (e.g.

libraries, data base, statistical information) which should be easily available from the institutions in charge of providing them. Only in the case of the impact of training does it seem probable that questionnaires or survey instruments need be used and thus prepared and distributed in advance of the evaluation.

5. Measuring Progress Toward the Project Goal

Determining whether the judicial system will command popular confidence in the fair and impartial application of law and support democratic institutions will be the most difficult of all. Measuring progress on such a fundamental proposition is difficult in itself. In the case of this project it is likely to be extremely difficult because it is unlikely that there will radical changes at the national level by the end of the project much less time for people's appreciation of any such changes to have taken place. The Project Paper suggests that public opinion surveys can be taken and national statistics consulted to determine whether the judiciary system is performing better. That is certainly possible. However, since this project is aimed at preparing the way for more focused, national projects which are more likely to have impact at the national level it seems to be over-reaching to try to measure progress on the ultimate goal before those national level programs have had a chance to operate. It does not seem to be a useful topic on which to spend time and effort during this project.

6. Scope and Focus of the First External Evaluation

The first external evaluation is scheduled to take place in

the last quarter of 1987. Given the probable state of implementation of the project that evaluation probably should focus on: (i) the experience so far in achieving implementation of the project's components, (ii) the professional quality of the training and technical assistance which has been provided by ILANUD; (iii) the quality and usefulness of the sector assessments which have been produced, and (iv) the appropriateness of the role of ILANUD in the current project and future activities and whether ILANUD is able to meet the demands of that role. The evaluation might determine the extent to which the issues raised in this review have been or are being addressed, and could make an initial effort to answer the impact questions suggested above. The purpose of asking those questions is not to form a judgment as to the worth of the effort but to uncover attitudes or conditions which would indicate that changes in approach are required in the last two years of the project.

The evaluation team should visit all the participating countries to permit interviews with the key institutions of the sector as well as the USAID Missions. Ideally the evaluation would include interviews with the backstop personnel in AID/W as well. The evaluation team might be composed of a person experienced in public administration projects (ideally with a legal background as well), a person with experience in programs to improve the administration of courts and a person with experience in training. Preparation for the evaluation need not involve more than the preparation and previous distribution of questionnaires to persons who have received training from ILANUD

although other questionnaires for persons involved in other aspects of the program could be prepared as well. It might also be useful to use the National Coordinators and visits to the countries by ILANUD management people to begin asking the questions suggested previously in order to encourage participating organizations to think in terms of the purposes to be served and the impacts to be achieved.

7. Preparing an Evaluation System

Preparing an evaluation system should be considered to be a process rather than a one time effort. The main steps would be: (i) reforming the current reporting system as suggested, (ii) assuring that the yearly operations plans of ILANUD have quantified targets and specific events to be accomplished, (iii) having National Coordinators and visiting representatives of ILANUD begin to ask the impact questions suggested above, (iv) having the major divisions of ILANUD identify what they expect to achieved under the project and how they plan to measure progress toward those achievements, (v) preparing questionnaires for each major program aimed at gathering the information about the use to which the program's activities have been put and reaching decisions as to which of the questionnaires could be sent by mail and which would be used only as guides to personal interviews; (vi) organizing a separate programming-evaluation unit within ILANUD and determining the extent to which that unit can call on National Coordinators and others to carry out its work. The summation of these actions can then be put together on paper to

constitute the evaluation system.

Outside assistance to ILANUD might be helpful--especially for steps (iv) and (v) above, but basically, the work should be and can be done by the ILANUD staff. In order that evaluating work not suffer from the usual problem of being constantly given a lower priority than other demands of staff time it would be advisable for ILANUD's management to aim for accomplishing the steps by September, 1987 so that the "system" will be in place before undertaking of the first external evaluation.

V. ADEQUACY OF FINANCIAL RESOURCES
FOR COMPLETING THE PROJECT

The project as now defined is to run through the first quarter of 1990. It is almost totally dependent on AID funding for its operation. To date AID has authorized \$11,791,114 in support of the project. In preparing the revised project implementation plan in October, 1986 ILANUD and AID did not project training courses for 1989 and cut back on some advisory services projected for that year because the funds available for the project did not seem sufficient to cover them. At present the staff of ILANUD is reviewing its programs systematically to clarify their future needs. It expects to have completed that review in a month or so.

ILANUD now thinks that the project's current year budget is sufficient, and does not plan to seek more funding. It does plan to shift funds among line items to meet several underfunded activities, the most substantial of which is acquiring \$30,000 of equipment for Costa Rica and for Guatemala to carry out the

Legislation and Jurisprudence Compilation Systems activity. ILANUD also will seek clarification from AID as to whether it may use project funds for trips to foster relationships and project-related business activity both in countries now participating in the project and in others.

ILANUD has difficulty projecting the longer term financial needs of the project, since these needs will depend largely on the rhythm of activity at the national level which in turn depends on the response that is generated from national institutions. Of course, ILANUD can control the demands on its budget simply by not being responsive to all the requests which it gets, and that may be advisable from the point of view of achieving greater focus in its activities. The obvious question is whether important opportunities will be lost in its not being responsive. It is not possible to say beforehand that that will be the case. However, it is clear that if a major effort is to be undertaken in Judicial and Court Administration, in the Development of Civic Legal Education Programs, and in the development and use of manuals in the training programs, the currently projected resources for those activities will not be sufficient. Furthermore, should the project adopt the suggestions contained in this report there will be additional administrative costs for ILANUD and increased need for support either for National Commissions or some other local institution.

In summary, given the still large pipeline of funds available to ILANUD and still unclear scope of the demand for its services, it would seem to be advisable to wait to make any

further estimation of the adequacy of the currently authorized amount for the project until after ILANUD has completed its current program review and been able to respond to the suggestions contained in this report and to whatever additional needs (e.g. such as funds for training people in the use of the data to be generated by the statistics activity the review may indicate are important.