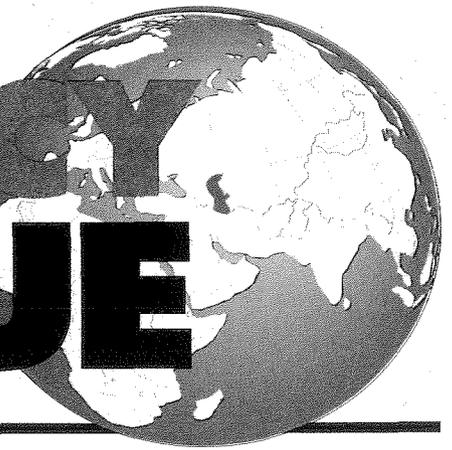


DEMOCRACY DIALOGUE

A Newsletter on Global Political Developments • Fall 1994



Global Rule of Law Conference Spurs Discussion and Debate

By Madelaine Crohn
National Center for State Courts

Should human rights violations be a cause for terminating assistance? How do you measure or report the impact of political instability on program development and performance? Does a comprehensive, legal structural reform involve more than the transference of technical expertise?

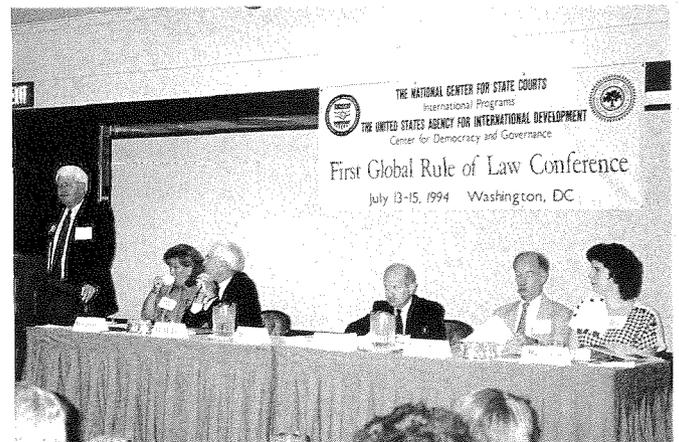
More than 130 participants dealt with these and scores of other questions during the "First Global Rule of Law Conference," held in July in Washington, D.C. The three-day conference, sponsored by the USAID and the National Center for State Courts (NCSC), brought together some 40 USAID mission representatives involved in administration of

justice and rule of law projects worldwide. Panel presentations and small working group sessions gave the participants opportunities to share information and assess experiences. Representatives of USAID/Washington, faculty, and guest observers joined in these discussions.

For the participants, sharing, learning, and assessing so much information was a tall order for three brief days; and the agenda was necessarily ambitious, given the complex, justice-related questions that mission representatives must confront in their respective host countries.

Good laws and constitutions do not in themselves produce democratic governments. Efficient systems are not end products but may be a means toward the delivery of justice. Distressed economic and social conditions can help explain, or be used as excuses for, lack of attention to rule of law issues. Even basics, such as reaching consensus on the definition of justice and rights, can de-

velop into obstacles for those responsible for rule of law programs. Yet, as Larry Sipes, NCSC President, reminded his audience at the opening session, "Many of us take for granted or easily forget the importance of right to counsel, right to confront our accusers, right to speedy trials—norms unfamiliar in many countries around the world." Or, as keynote speaker Thomas



Larry Sipes, president of NCSC, delivers welcoming remarks at the conference.

Buergethal observed, "International standards, embodied in human rights conventions and ratified by most nations, do serve as critical, universal frames of reference and values."

The test of experience in the field, measured against broad definitions and principles of justice, was at the core of case study discussions among rule of law program managers. They convened in small groups to review presentations by their peers on: delay reduction, alterna-

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Center Provides Field Support and Expertise

By Chuck Costello, Director
USAID Democracy Center

In the short time since I became director of USAID's new Center for Democracy and Governance, I have noted the excitement, intellectual ferment, and high spirit among USAID's democracy officers. These feelings stem in part, obviously, from the high priority attached to the democracy mission by President Clinton and by Administrator Brian Atwood. But they stem also from the rapidly evolving theory and experience related to how and why countries move toward democracy, confirming the centrality of democracy to sustainable development. These factors, along with the Agency's increasing allocation of talent and financial resources to the democracy sector, create an energy and excitement that I am delighted and privileged to share, as did John Mullen, the center's first director.

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Policy Guidance Updates and the USAID Reorganization

By Larry Garber, USAID Senior Policy Advisor
for Democracy and Human Rights

Promoting democracy worldwide, protecting national security interests, and expanding trade are the three pillars of the Clinton Administration's foreign policy. The establishment of a U.S. government Inter-Agency Working Group on Democracy and Human Rights, the very title and content of the proposed Peace, Prosperity, and Democracy Act, and recent U.S. policy in response to the degree of democratization in countries as diverse as Haiti and South Africa collectively signify the importance of democracy promotion to the Administration's foreign policy agenda. Further reinforcing this policy emphasis, U.S. embassies in all regions have been asked to prepare broad-based strategies for promoting democracy within their countries.

USAID's strategy papers, issued in January 1994, reflect this new orientation. As articulated in the strategies, a government's democracy and human rights performance will affect USAID's level and type of engagement in a country. Moreover, the papers recognize that both political reform and economic growth are critical to sustainable development.

Building on prior experiences, policy guidance for programming in the democracy sector is being reviewed within and outside the agency. The guidance reflects a desire to establish an analytic framework for prioritizing among different democracy activities; to focus on a limited number of activities for purposes of more effectively providing technical assistance; and to develop better mechanisms for measuring the short- and long-term results of democracy programs. Four broad areas of focus have been

identified for USAID emphasis: electoral processes and political competition; rule of law and protection of human rights; civil society; and good governance.

The USAID reorganization will also contribute to improved democracy programming. A Center for Democracy and Governance has been established in the Bureau for Global Programs, Fields Support, and Research. In addition to servicing the field, the Center will function as the home base for all USAID democracy officers. This will allow for the development of a professional and skilled cadre of individuals, who will ensure that USAID is on the cutting edge in implementing programs that help build and strengthen democratic institutions.

The newly created Office of Transition Initiatives (OTI), sited in the Bureau for Humanitarian Response, enhances the Agency's capacity to respond in countries that are recovering from humanitarian crises or protracted conflicts. In these societies, national and local political institutions must be rebuilt before traditional development programs are introduced. Through OTI, the Agency will be able to respond more rapidly than with traditional USAID programs. When necessary to the transition process, OTI will also focus on assisting with the demobilization of military forces.

The demands for assistance in the democracy sector are enormous, and USAID cannot be the only active donor. In addition to encouraging coordination at the field level, USAID has placed democracy promotion and respect for human rights on the donor community agenda. Consequently, the Development

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USAID DG Officers Mobilize Toward a Democracy Center Strategy

By Shelley Rojano, Information Officer
USAID Democracy Center

In May 1994, USAID's newly formed Democracy Center organized a retreat with the following three objectives:

- provide an opportunity for democracy officers from different bureaus to assist in the formation of the Democracy Center;
- build collaborative relationships among the USAID/Washington democracy officers; and
- help those currently assigned to the Center in developing short- and mid-term action plans.

Approximately 40 representatives from USAID's regional bureaus, the Policy and Program Coordination (PPC) Bureau, the Office of Women in Development, the Office of Transition Initiatives (OTI) within the Bureau for Humanitarian Response, as well as non-governmental organizations (NGOs) participated.

During the three-day retreat, much discussion was generated on the Agency's future democracy and governance needs, identifying the functions of the Center, and strategic planning in priority democracy areas. At the first day's session, Administrator Atwood related insights gained from his democratization experiences. On the second day, both Sally Shelton, assistant administrator for the Global Bureau, and Ann VanDusen, senior deputy assistant administrator for the Global Bureau joined the retreat and shared their vision for the Bureau and the Democracy Center.

The Center's Mission: Service to the Field

The Democracy Center was formed to provide technical expertise, advice, and support to the mis-

sions' democracy programs. Most of the debate focused on exactly how the Center will achieve its field support mandate. All of the various offices represented expressed high expectations. The Center's primary clients, the missions, identified the Democracy Center as the central source of quick technical assistance and a clearinghouse of information.

The regional bureaus expect the Center to assist in carrying out field assignments, participate in field-mission work-plan reviews, provide project management support, connect assessments more closely with progress measurement, and circulate cross-regional lessons. The PPC Bureau expects the Center to track the results achieved and use them to help devise more effective, results-oriented strategies. In addition, other U.S. government agencies involved in democracy assistance will expect the Center to take a lead role in collaborating on the design of complementary programs in areas such as the rule of law and human rights.

The Democracy Center's Action Plan

Acknowledging that the next six months will be crucial in earning the missions' trust and in establishing

the Center's credibility, the retreat participants set the following three priorities:

- design user-friendly contractual mechanisms that will allow easy access and quick technical assistance;
- develop an effective information and communication capability; and
- devise democracy and governance training programs, organize in-service workshops, and prepare self-study materials for democracy/governance officers agencywide.

Adhering to the Agency's reengineering principles, Center staff will be divided into six service teams: Program Support and Information, Strategic Planning, Rule of Law (ROL), Electoral Support and Political Process, Civil Society, and Governance.

All functional area teams have begun to work on the Center's top priority—field response—by designing new mechanisms in these areas. The teams are also co-managing the existing projects transferred to the Democracy Center from the regional bureaus.

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The Democracy Center was formed to provide technical leadership, advice, and support to the missions' democracy programs.

Rule of Law Conference

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tive dispute resolution (ADR), judicial councils, judicial training, oral process in the context of civil justice systems, prosecution, and legal services. Studies were drawn from programs in Argentina, Uruguay, Bolivia, the Philippines, Colombia, El Salvador, Paraguay, Kenya, Chile, and Panama. Despite obvious differences among countries and regions (Latin America, Africa, Asia, and Central Europe/Russia), most participants remarked on the relevance and transferability of experiences, the opportunities to hear about the successes and failures, and the usefulness of materials, such as manuals, developed in countries or regions other than their own.

Presentations at panel discussions and miniworkshops highlighted common themes and provided information on strategic and substantive rule of law issues, including legal counsel for the poor, the role of non-governmental organizations, women and justice, and visioning courts in the 21st century. Some highlights from individual workshops are listed below.

- At the Project Objectives, Indicators, Performance Standards, Project Design session, a panel reviewed how an action/research program on court performance standards was instrumental in providing meaningful performance indicators, pointed to the possibilities and constraints of research and evaluations (often as a result of methodology or levels of expecta-

tions), and addressed the impact of political uncertainties or instability on program development and implementation.

- At the session on Judicial Independence and Judicial Administration, presenters identified the purpose and key elements of judicial independence, and noted the benefits of an independent judiciary, as well as the relativity and limitations of the concept.
- Discussion at the session on Structural Reforms yielded these observations: Reformers too often overlook the complementarity of political and economic structures. In countries going through a transition, the centers of authority (decision-makers) are not always easily identifiable or may change rapidly, thus impacting program design and implementation. Interventions that overlook the social compact of a particular country (its underlying morality) are likely to fail. Transforming institutions is a lengthy process, one that is incompatible with donors' impatience, fickleness or inflexibility.
- The session on issues of Human Rights and their relationship to administration of justice programs fostered a debate on difficult questions faced by USAID officers: Is there a threshold of human rights violations that

should preclude programmatic initiatives? Can or should opportunities for productive reforms be pursued if the unintended by-product is to legitimize human rights abusers? What, if anything, should be done in a country that has decent laws but where human rights violations are routine? How does one assess the level of political will required to bring about programmatic success?

Tensions between the need for rigorous strategic planning and accountability on one hand, and changing, complex, and uncertain realities experienced in the field on the other, were at the center of all presentations and discussions throughout the conference. None were more spirited than those spawned by the presentation of "Weighing in on the Scales of Justice: Strategic Approaches for Donor-Supported Rule of Law Programs," a document recently issued by USAID's Center for Development Information and Evaluation.

Among other findings, the evaluation outlines criteria and preconditions linked to differing program options (with emphasis on building supply or demand for justice related reforms) and recommends that a decision tree be used for strategic choices.

Some of the questions raised by conference attendees about the evaluation included:

- Is the document a prescription for current and future program designs?
- To what extent is an either/or approach realistic?
- How will the document be viewed or used by heads of missions and by USAID/Washington officials?
- Will the document foster accountability?
- Will the document have a negative impact on program initiatives in the field?

"Many of us take for granted or easily forget the importance of right to counsel, right to confront our accusers, right to speedy trials."

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Rule of Law

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And there were some answers to the questions:

- Program components (such as building constituencies or helping reform institutions) can be launched concurrently.
- The document is less a prescription than a catalyst for strategic analysis.
- Program reports from the field should address questions raised by the evaluation and, where needed, explain why program design or initiatives depart from the criteria and decision tree outlined in the report.

Although the conference debate yielded more questions than definitive answers on the subject of rule of law programs, one important conclusion was reached. USAID should be encouraged to open and expand opportunities for communication through conference fora and systematic information channels among project officers and between project officers and officials in Washington. This communication is needed to challenge assumptions, foster deeper analyses, and build consensus within USAID on the subject of democratic institution building. On a practical level, the experience of project officers in Latin America can be helpful to colleagues in other countries and regions on such matters as developing programs, establishing links with NGOs, or preparing documents (for example, scopes of work for project implementation and evaluation). ★

To obtain further information or receive papers and case studies prepared for the conference, contact: Margarita Mattivi, National Center for State Courts, 1700 N. Moore St., Ste. 1710, Arlington, Virginia 22209; telephone (703) 841-0200, fax (703) 841-0206.

Policy Guidance

Continued from page 2

Assistance Committee of the OECD (Organization for Economic Cooperation and Development) has approved a far-reaching policy paper on popular participation and good governance, and has formed a working group to address issues raised by the policy paper. USAID has also formed a joint working group with the World Bank to discuss governance and rule of law issues of mutual interest.

Although the renewed political commitment, fresh policy guid-

ance, and agencywide reorganization demonstrate real progress, more action is required for democracy to be fully integrated into USAID programming. Progress in institutionalizing USAID democracy promotion activities require both critical review of past experiences and a willingness to take chances and, at times, risk failure. The challenges truly are both intellectual and practical. ★

Democracy Center Strategy

Continued from page 3

The Program Support and Information team has led the effort toward the second priority—an effective information and communication capability—by building a democracy database that will be able to track democracy projects, funding-levels, contractors, and country program performance. This database will serve not only as a tool for easy reporting to external inquiries, but also as an analytical tool for cross-regional comparison and country strategy planning.

The Rule of Law team, which organized the first in-service conference for ROL field officers (see article on page 1), has already made progress toward the third priority, training programs. All technical teams are also developing introductory materials for the Agency's new International Development Interns in the field of democracy.

Although not specified in the top three priorities listed above, the Center has emphasized cross-cutting, participatory approaches in all of its activities. It has begun to explore possibilities of broadening these

approaches with the Office of Women in Development, the Center for Economic Growth, and the Center for the Environment. In keeping with this objective, the Center has also initiated a research working group to examine and develop promising new areas in and approaches to political development. The group seeks the involvement of USAID field staff, NGOs and other partners, academics, and other donors in developing a democracy and governance research agenda that reflects the efforts and interests of the entire Agency.

The retreat succeeded in mobilizing the Center toward its field support mandate. The Center's momentum is reflected in post-retreat activities and in its recently submitted action plan. The Center is well on its way to achieving its vision of promoting sustainable development by providing technical and intellectual leadership and service in democracy and governance. ★



Updates from USAID Missions

USAID/Mali, An Integrated Approach to Democratization

*Contributed by
George R. Thompson
General Development Officer
USAID/Mali*

In a series of six direct elections between January and April 1992, Malians ratified a new constitution, elected municipal councilors, national assembly deputies, and a president. Mali became Africa's newest democracy when President Alpha Oumar Konaré took office on January 20, 1992.

To support the elections, USAID, through the International Foundation for Electoral Systems, provided technical advisors and commodity assistance such as ballot boxes and voting booths. USAID/Mali obtained over \$1 million dollars for elections support from the Democracy and Human Rights Fund (DHRF), a joint Department of State and USAID fund.

After elections, the mission mounted several projects from \$20,000 to \$100,000 through the DHRF, and funded activities to assist with civic education, women's rights, and legal clinics, including one especially for women. The mission also supported private radio stations by buying time for civic

education messages, and helped the new National Assembly in acquiring publications for their library and equipment for more efficient operation.

USAID/Mali has also supported democracy and governance activities for some time by integrating these activities into existing mission projects. A significant program of judiciary reform in USAID's Policy Reform for Economic Development Project contributes to the reality of a "state of law" in Mali. The Community Health and Population Services Project is helping organize multivillage associations along democratic lines. The Development Haute Valley Project has in effect created informal "governments" at the village level to raise funds, sign loans, and provide community services such as literacy centers and maternities. USAID livestock projects in Mali have long worked with herder associations promoting democratic organization and are now working on decentralizing marketing processes. Finally, training in support of democracy/governance is included in the mission's training project.

USAID/Haiti, Project Focuses on Human Rights

*Contributed by
Jane Nandy
Deputy Chief General Development
USAID/Haiti*

USAID's Democracy Enhancement Project (DEP) in Haiti was initiated to support institutions that are critical to a functioning democracy, and was designed to strengthen democratic institutions in five broad areas: civil society, the legislature, political parties, local government bodies, and electoral systems. However, the only component that is active at this time is assistance to civil society.

Although the DEP focuses on human rights through its civil society component, the deteriorating human rights situation has led USAID/Haiti to expand its focus to

include a one-year emergency Human Rights Fund. The fund serves to alleviate the suffering of the victims of politically-motivated violence and prevent further abuse, and, over the long-term, foster the emergence of a society based on non-violent democratic principles. The fund primarily supports Haitian NGOs that directly assist victims of human rights abuse, and is administered by the America's Development Foundation office in Port-au-Prince, which operates under the french acronym PIRE (Projet Intégré de la Renforcement de la Démocratie).

The fund was designed in consultation with the human rights community in Haiti through a series of roundtable discussions and working sessions, and an advisory council plays an integral role in maintaining the vision and direction of the fund. In the first weeks of operation, the fund provided urgent medical care to victims, temporary housing to families seeking shelter, transportation to safety for those being threatened, and safe havens for families.

USAID/Cairo, New Legislative Strengthening Program

*Contributed by
Ana Klenicki
Special Projects Officer
USAID/Egypt*

USAID/Egypt has just begun to implement a legislative strengthening program that will work with the National Assembly and Shura Council to improve the abilities of their members to access and use information in the policy-making process. The mission has also sponsored visits to the United States by approximately 24 judges and law professors to learn about independence of the judiciary through the Judiciary Exchange and Support Project. Looking ahead, the mission is designing a rule of law project and expects funds to be allocated in fiscal year 1995. ★

Center Provides Expertise

Continued from page 2

Our goal in the Democracy Center is to provide technical services and support. If the Global Bureau concept is to work, the centers of excellence must truly be excellent — able to provide the field support and leadership that missions, bureaus, and offices need in order to develop and advance democracy and governance as a cornerstone of U.S. sustainable development efforts. We intend to be just that, the central place to which USAID staff can turn for information on what others within and outside the Agency are doing, and what works and what research is showing; for technical expertise in designing and implementing strategies and programs; and for ideas and support for your priorities and needs. We intend to do it in partnership with you, designing our tools and mechanisms with your needs in mind, and in concert with USAID efforts in other areas of sustainable development, especially economic growth.

In furthering our efforts in civil society, rule of law, governance, elections, and political process, a number of overriding themes will emerge, including the full integration of women and minorities in the democratic process. Our mission is at once high-minded, inspiring, and practical. We seek to build, support, and reinforce laws, institutions, systems, practices, and values based upon the consent of all people. We aim to secure human rights and meet the needs of individuals — thus, permitting broad-based sustainable development to flourish.

This newsletter is part of one of the key elements in our service to you — the exchange of information. We invite your participation and help. ★

experience, knowledge of USAID, and experience in democracy/governance activities, preferably in Africa; masters degree in political science, international relations, public administration or a related discipline; a demonstrated ability to manage complex programs, maintain a wide range of interpersonal and analytical skills, and excellent writing skills. Portuguese or Spanish language is required.

This position begins December 1994, and requires a commitment of two years. Please submit a curriculum vita to Vanessa Coelho, USAID/Maputo, Dept. of State, Washington D.C. 20521-2330.

USAID Democracy Officers — International Development Interns

Assists host country leaders — both public sector and private sector — to further the democratic initiatives of their country. Conducts analyses of the socio-political conditions of the host country, and designs and manages a program that encompasses a broad range of activities to support the country's democratic initiative. Duties include working with U.S. government personnel, contractors, grantees, and international agencies, planning projects, providing technical assistance, and evaluating activities.

Requirements: a JD degree or a graduate degree in International Relations, Public Administration, Political Science, Sociology, or a related social science; two years of experience in one of the following areas: administration of justice, legislature support, constitutional bodies, political parties, public administration, elections, voter education, labor, or similar areas in the promotion of a democratic society.

To apply, submit SF-171 to: U.S. Agency for International Development, Recruitment Division, Room 1026 SA-1, 2401 E Street, NW, Washington, D.C. 20523-0116; telephone (202) 663-2368. ★



USAID/Ukraine, Rule of Law Grant Program

Through its Rule of Law Program, USAID/Ukraine has initiated a grants program that enables U.S. organizations to compete for grants to work in Ukraine to strengthen legal institutions, human rights organizations, and legislation supporting a market economy. The grants program will distribute approximately \$1.5 million over the next three years, with awards ranging from \$5,000 to \$100,000. For further information, contact: Mara Moldwin, Grants Manager, Rule of Law Consortium, Dom Kino, 6 Sagsaganskij, Kiev 252004; telephone (044) 227-5038, fax (044) 220-8505, e-mail mg@ruleoflaw.kiev.ua.

USAID/Mozambique, Personal Services Contractor

USAID/Mozambique is seeking a Project Manager for the Democratic Initiatives Project. Duties include: coordinating all project implementation; serving as the mission advisor on all issues relating to democracy and governance; supervising project staff; and establishing effective working relationships with senior government officials, political parties, NGOs, UN, and other donors.

Candidates should have a minimum of five years' development



October 24-25, 1993, Economic and Political Institutions for Sustainable Development: Implications for Assistance, Washington, D.C. Sponsored by the Institute for Reform in the Informal Sector, IRIS and USAID. Sessions will address the relationship between democracy and economic development; the effects of societal institutions on economic development; approaches to institutional reform in the formerly communist countries; reform and the sustainability of local institutions; ways the new institutional economics can improve governmental performance; and implications for donor policies and programs. Contact: IRIS, 2105 Morrill Hall, University of Maryland, College Park, MD 20742; telephone (301) 405-3110.

October 26-30, 1994, Society of Professionals in Dispute Resolution (SPIDR) Annual Conference, Dispute Resolution Across Continents, Dallas, Texas. Contact: Stephanie Jennings, SPIDR, 815 15th Street, NW, Suite 530, Washington, D.C. 20005; telephone (202) 783-7277, fax (202) 783-7281.

November 30 - December 1, 1994, Managing Chaos, a conference on the roles of non-governmental organizations, governments, and international organizations in coping with international conflict into the 21st century. Sponsored by the United States Institute of Peace, Washington, D.C. Managing Chaos will be a public forum to discuss both conventional thinking and new ideas on conflict management. For information, contact: United States Institute for Peace, 1550 M Street, NW, Suite 700, Washington, D.C. 20005-1708.; telephone (202) 429-3832, fax (202) 429-6063, e-mail managing_chaos@usip.org.

March 27-30, 1995 (tentative), Council Meeting for the Inter-American Bar Association (IABA), Buenos Aires, Argentina. The meeting presents a forum for IABA decision-making

on administrative and structural issues, along with a parallel conference on a selected topic in legal systems development. Contact: Ysbell Duran, IABA, 815 15th Street, NW, Suite 921, Washington, D.C. 20005; telephone (202) 393-1217, fax (202) 393-1241.

May 1-2, 1995 (tentative), Biennial World Conference on Democracy, Washington, D.C. Sponsored by the National Endowment for Democracy (NED), Washington, D.C. The conference will include six regional panel sessions featuring democracy activists from countries in each region. Contact: Public Information Office, NED, 1101 15th Street, NW, Suite 700, Washington, D.C. 20005; telephone (202) 293-9072, fax (202) 293-6042.

November 13-17, 1995, 32nd Inter-American Bar Association Conference, Quito, Ecuador. Includes a topic related to Latin American legal systems development, yet to be determined. Contact: Ysbell Duran, IABA, 815 15th Street, NW, Washington, D.C. 20005; telephone (202) 393-1217, fax (202) 393-1241. ★



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