

A.I.D. EVALUATION OF
211 (d) GRANT TO
STANFORD LAW AND DEVELOPMENT PROJECT (SLADE)

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Organization of the Evaluation

The Evaluation Team. LA/MRSD, as the project backstop office for SLADE, consulted with other LA Bureau offices, TAB and PPC, as to membership of the evaluation team. With the approval of the Assistant Administrator for Latin America, the team was composed of:

Edward J. Nadeau, Deputy Director, LA/PAN (Chairman);
L. Leonard Lundy, GC/LA;
Richard D. Schwartz, Dean, Law School of the State
University of New York at Buffalo; and
John C. Rothberg, Assistant Director, LA/MRSD (ex officio).

Selection of Dean Schwartz, a distinguished sociologist as well as law school administrator, resulted from a screening of nearly a dozen names by an A.I.D. panel of persons interested in law and development.

Materials Studied. Prior to its on-site visit, team members individually reviewed:

the original grant agreement;
a scope of work for the evaluation prepared by
Mr. Lundy when on a visit to Stanford in March 1975;
the response prepared by Stanford to the issues set
forth in the scope of work;
the most recent annual report on SLADE; and
memoranda prepared by Messrs. Robert Black and
Richard Greene of the project backstop office,
on September 13, 1971 and February 26, 1973,
respectively, following their visits to Stanford.

At Stanford, team members scrutinized:

tables of contents of the four general volumes
(see description under Section II, infra)
anticipated for inclusion among the research
products of SLADE; and

samples of inputs to the country volumes to be
included among SLADE research projects.

Use of Time at Site. The site visit took place during the period, January 27-29, 1976. The team alternated its work sessions between executive sessions and conversations with the SLADE group. Thus a session of a general nature, at with the A.I.D. members of the team compared notes with Dean Schwartz, whom they had not previously met, was followed by a meeting at which Prof. John Henry Merryman (Director of SLADE) described what he considered to be the principal significance of the project. The evaluation team then met in executive session to examine the grant agreement and to identify questions regarding grant implementation; these were discussed with the SLADE group (including Profs. Merryman and Lawrence Friedman and Dr. David Clark) at the meeting following. Finally, the evaluation team identified questions, not raised in the previous discussion, that remained upon examining the Stanford response to the issues posed in the scope of work of the evaluation; and these questions were then pursued with the SLADE group. (The evaluation team notes, with appreciation, the cooperation and grace of the Stanford respondents.) Brief informal meetings with Profs. Inkeles, Johnson and Collier of the Advisory Committee, Dr. Rojas (a Colombia scholar-in-residence), Dean-Designate Charles Meyers and Associate Dean Keith Mann, enhanced our perceptions of the project. Before departing, the team agreed on an outline of this report, and an assignment of work.

Preparation of Report. Upon completion of the various portions of this report assigned to individual team members, the evaluation team met to consider the whole and to compose differences. Once agreement was reached on the substance, the resulting draft was sent to Prof. Merryman; and his additional comments have been taken into account in the final report.

I. BRIEF HISTORY OF THE GRANT

A. Purposes Set Forth in the Grant Agreement

On May 28, 1971, A.I.D. informed Stanford that 211(d) Grant csd-3151 was made in the amount of \$700,000. The language of the grant agreement stated the grant would enable Stanford, "... to strengthen its capabilities as a center for research and training in law and development;" and that all

activities carried out under it were necessary "to build that science and to prepare practitioners in the field of law and development." The grant agreement stated that funds should be used for:

Research. According to the grant agreement, research was to have been of two types: "First, an effort will be made to develop a conceptual 'overview' of the field of law and development through interdisciplinary studies... Second, the program will produce a flow of empirical and analytical studies of specific institutions and processes in selected countries." "A first task of research," the agreement stated, "will be to develop working hypotheses and specific research designs."

Training. The agreement specified three kinds of training: new courses and teaching materials available at Stanford in law and development; study and research fellowships, obtainable at Stanford by law-trained persons from the Latin American countries; and work-study assignments for Stanford law students in selected countries of Latin America. A related purpose, identified in the grant agreement, is the assembly of a library of materials on law and development, with emphasis on Latin America.

Workshops. The agreement calls for a series of workshops, mostly interdisciplinary in approach and involving government officials as well as academicians from the United States and Latin America.

Institutional Links. The grant agreement refers to collaborative relationships with law faculties in Latin America. The objects of these relationships are to "advance the research interests of the Stanford program" and "to produce graduates ... prepared to help identify the deficiencies of legal institutions in the less developed countries."

B. Implementation of the Grant

Research has been the principal concern under the grant. The research done divides into three phases: formulation of a research design and methodology, data collection, and preparation of studies based on the data collected.

From June 1971 through February 1972, Professors Merryman and Friedman completed preliminary work on the design of a theoretical model and methodology for comparative, multi-country studies on law and development. An interdisciplinary advisory group, composed of twenty scholars from Stanford, the Center for Advanced Study in the Behavioral Sciences, the University of California and UCLA, assisted

them. Beginning in March, 1972, an intensive effort was made to refine the theoretical model and to develop a specific research strategy and methodology. Seven Latin American and European scholars did much of this work, as resident scholars or consultants. Their direct involvement reflected a conscious decision by the Stanford group that scholars from the countries of concern should contribute their experience to "theory-building", and thus make it more likely that the research design and results would reflect Latin socio-legal reality. The group effort produced some 35 monographs and working papers over a six-month period. Fine tuning of the research design continued at Stanford after the field research began.

The Stanford group concluded that, as a natural follow-up to the efforts of the Latin American and European scholars, these same scholars should conduct parallel field studies for at least two years in their own countries, based on the general research design. A workshop, held in Mexico City, in August 1972, sought to settle the details of the research design which were to guide the six country studies, (Costa Rica, Chile, Mexico, Peru, Spain and Italy), and discuss support arrangements.

Data collection began in the six countries in the grant's second year, which commenced September 1, 1972. The collection effort focused on indicators - both "social" and "legal" - of the scope and nature of changes in the countries under study. The "legal" indicators, by contrast with the "social" indicators, often involved original research. Changes in the legal culture and in the character of legal norms were approached through content analyses of contemporary publications and documents.

In five countries - Chile, Costa Rica, Italy, Peru and Spain - field research was completed by August 1974. The exception was Mexico, whose scholars were unable to complete the research design. The Stanford group decided to substitute Colombia for Mexico and, following negotiations, the principal Colombian scholar visited Stanford in July 1974, familiarized himself with the research design, and agreed that his group would carry out a research program.

Meanwhile, a workshop of program participants had been held in Bermuda in February 1973. Its objects were to refine the overall research design and methodology, to review data collected until then, and to discuss plans for specific studies in labor-management relations and agrarian conflicts. Work

was begun in each of the program countries on the specific studies of labor-management problems and the legal system's responses to them. By August 1974, data collection had been completed on these studies, in Chile, Costa Rica, and Peru, as well as on agrarian disputes.

All participants attended a workshop for the presentation of data, and discussion of methodological problems, in Yucatan, Mexico, in November 1973. Another workshop, attended only by Professors Merryman and Friedman and the Spanish and Italian scholars, was held in Rome, in June 1974, to adapt the legal culture research design for use in Spain and Italy.

As data collection progressed, the Stanford group's perceptions changed as to the magnitude of the job to be done. By August 1974, the Stanford group concluded that: the quantity of data was much greater than originally anticipated; sophisticated computer facilities would be required for analyses and interpretations; and preparation of national studies would require a greater commitment from the national scholars than could be provided as an integral part of their normal academic work in their own countries. Hence Stanford requested from A.I.D. a supplemental grant of \$150,000 for: salaries of national scholars, who would come to Stanford to complete their manuscripts; additional computer time, secretarial assistance, and materials; and translation and publication costs of SLADE volumes. Once it became clear in the early part of 1975 that the supplemental request would not be granted, the Stanford group: cut back on the period each of the national scholars would spend at Stanford; eliminated translation and publication costs from the budget; and reduced slightly expenditures for work-study assignments, library acquisitions, and workshops.

Preparation of studies included improving the data base of "legal" and "social" indicators, transferring these data to a computer format, and preparing preliminary manuscripts based on the data. This process was completed for Chile and Costa Rica by August 1975, and for Colombia, Italy, and Spain by July 1976. The national scholars from these countries utilized the information which they had previously collected on labor management problems and agrarian conflicts in the preparation of their manuscripts. National scholars from Chile, Costa Rica and Peru travelled to Stanford in 1974-5 and those from Italy and Colombia in 1975-6 to write their national studies and utilize Stanford computer facilities. Final manuscripts of the six country studies are now being prepared, with completion anticipated by late 1977.

Profs. Merryman and Friedman have shared the overall editorial responsibility for the various studies being produced. Prof. Clark, engaged as a research associate at the Law School for three years beginning in June 1973, and presently assistant professor of law at Louisiana State University, has been the assistant director of the research program. He is helping to evaluate and analyze the data, and to write the studies. In addition to the six national volumes, there will be a series of three multinational volumes. The first (the "data volume") will set out the data compiled for the six nations. The second, (the "legal culture study") will interpret the legal culture data. The final volume (the comparative study) will compare and interpret the data from all six nations. Professors Merryman and Clark are primarily responsible for the data volume, Professor Clark bears principal responsibility for the legal culture study, and Professor Merryman is preparing the comparative study. The manuscripts for these studies are expected to be final by August, 1977. It should be added, however, that neither the national studies nor the multinational volumes are assured of publication. Each national scholar is seeking to arrange for publication in his own nation in the national language. Professor Merryman is seeking funds to subsidize publication and distribution of the multinational volumes.

Professors Merryman and Clark have prepared a casebook on comparative law which will focus on the SLADE nations and include some of the SLADE data. The book will be published by the Bobbs-Merrill Co., Indianapolis, in 1978.

Training. Three Stanford law graduates, Clark, Timothy G. Todd, and James P. Rowles, spent approximately two years associated with a University of Costa Rica Law School research institute. Each then returned (Clark and Todd in 1972, Rowles in 1975) to Stanford to write a thesis on a law and development topic to qualify for a J.S.M. degree. Beginning with the Spring semester, 1973, Dr. Jane Collier conducted a new Law School course on the Anthropology of Law. The standard foreign and comparative law course regularly taught by Professor Merryman changed substantially in content and objective as a result of SLADE research. Stanford introduced a new interdisciplinary course in the Autumn of 1976 on legal systems and social change in developing nations; this will make extensive use of SLADE data.

Library. Throughout the period of grant implementation, Stanford has been expanding its collection of materials on the law of the nations in SLADE, with emphasis on law and development. The Stanford group feels that these acquisitions, totalling nearly \$60,000, will greatly enhance the foreign law component of the law library, and facilitate future research.

Institutional Links. Close working relationships with the Latin scholars were established, or strengthened, early in the period of grant implementation. Each of the national scholars used SLADE field research to engage the interest of his students and associates. The Stanford group feels that this network of professional and personal relationships among institutions of the six participating nations plus the United States will continue. The project has also fostered exchanges of views and materials with the Yale Law School, the Harvard Law School, the University of Wisconsin, UCLA, and the International Legal Center of New York City. Now that Prof. Clark is teaching at Louisiana State University, a closer link is being established between that institution and Stanford.

C. Intellectual Development

The SLADE group was determined from the beginning to construe law broadly and to study legal systems rather than concentrating solely on the rules of law. In view of their concern and their desire for quantitative measurement, they believed that the successful execution of their work would require interdisciplinary cooperation.

Early in the development of the project, they appear to have made several strategic decisions.

1. That development would be defined not as progressive social change, but -- omitting the value connotations -- merely as social change.
2. That legal phenomena can best be understood by going beyond the usual focus on rules to study legal systems, i.e., legal organization roles, and processes, as well as the social settings in which the legal system was imbedded.
3. That fuller understanding of legal systems would be greatly advanced by the gathering of comparative, quantitative, longitudinal data concerning legal systems in several societies.
4. That only after such data were available should there be a serious effort at systematically generating and testing hypotheses.
5. That the study should be focused on the effort to understand how legal systems are affected by the society, rather than the reverse; and therefore the study should not be expected directly to produce -- as a major output -- significant proposals for reform, or advice as to how law might be used as an instrument for achieving social change.

Concerning each of these decisions, it is appropriate to ask several questions: whether they fall within the discretion accorded by the original grant, whether they were scientifically justified, and whether they will lead toward fulfillment to the extent possible of the objectives of AID.

Original agreement in relations to the basic decisions.

While the proposal specified a number of activities, these were presumably to be judged in terms of their contribution to the central purpose of the grant, "to create a framework and support base for a range of activities which will strengthen Stanford University, through its Law School, as a center for research in law and development and enable it more effectively to provide assistance to Latin American legal institutions under separately funded arrangements."

The researchers then exercised their discretion in light of the need, as they perceived it, to understand the legal systems of Latin America. It was their view that, until such understandings were attained, they could not offer sound advice as to (1) how these legal systems could themselves be changed or (2) the manner in which law might effectively be used in these societies as an instrument for social change.

Scientific status of the basic decisions.

From a scientific point of view, their decisions, though thoroughly understandable, were not inevitable. Views of the proper scientific approach cover a wide range and it is in the nature of scientific culture that strategy assumptions questioned by some are held as articles of faith by others.

For example, the first decision -- defining development as social change and ruling out notions of progress -- would be questioned by many young scholars who reason that value assumptions underlie all scientific research and that the only way to deal honestly with those assumptions is by making them explicit. The more orthodox view, stated by Max Weber as the "value-free" position, asserts that, since value terms carry such diverse empirical referents, their use precludes precision of observation, replication, and verification -- all of which are vital to scientific method. In leaning toward the latter view, the SLADE researchers fall well within the range of current scientific opinion. Especially considering the complex and value-laden content of the term "development", they made a choice which contributed to the attainment of their goals.

Their second choice was also well within the range of scientific discretion. In choosing to examine the full legal system, rather than merely the substantive and/or adjective law, they took a bold step beyond the conventions of comparative law. Merryman puts it bluntly: "The dogmatic legal science of traditional comparative law represents a spent tradition of legal scholarship."¹ As one who had established himself by traditional criteria of comparative-law scholarship, he was in an excellent position critically to judge its limitations. In opting for an approach which emphasizes legal culture, legal organization, legal processes, and roles performed by actors in the legal system, Merryman and his fellow researchers were striving to understand the legal-system setting within which the legal rule functions. They believed that a given rule might function to affect behavior in diametrically opposite ways depending on its setting and that, accordingly, a functional analysis of legal rules could not be accomplished without an understanding of its legal-system setting. Further, they saw that the setting was intrinsically interesting and important in its own right.

The third decision -- to study legal systems comparatively, quantitatively, and longitudinally -- represents a bold choice. If such a study can be successfully carried out, it may well yield major dividends in understanding legal systems in relation to society. Nothing of the kind has yet been seriously attempted. Early comparative studies by such scholars as Wigmore and Weber, while dealing comparatively with legal systems, were neither quantitative nor systematically longitudinal. Statistics concerning legal systems, available to scholars even today, are sufficiently diverse, spotty, and questionable as to cast doubt on the validity of studies based on them.

Yet the promise of such studies is great. Systematic comparisons among societies have been undertaken in political science, sociology, anthropology, psychology, geography, and developmental economics. While such studies face special problems of data comparability and broader applicability of findings, they have attained wide acceptance as a potentially powerful method of explanation. In rare instances, when quantitative comparative data are gathered over a time series, the potential value is even greater. Whether this study will yield comparably valuable results cannot of course be known with certainty at this stage. But there seems no reason to doubt that this method of study holds great promise for the understanding of legal systems.

1. John Henry Merryman, "Comparative Law and Scientific Explanation" in J. N. Hazard and W. J. Wagner (eds.), Law in the United States of America in Social and Technological Revolution, Brussels: Etablissements Emile Bruylant, 1974.

The fourth decision -- that hypotheses should not be formed until the data were available -- raises certain questions. Under the terms of the grant, the researchers were expected to articulate their hypotheses during the early period of the project. After making a good faith attempt to do so, the researchers reached the conclusion that their originally projected strategy would not work. In their best judgment, they lacked a sufficient level of knowledge to permit the development, even on a rough basis, of a plausible set of hypotheses. In consequence, they delayed that stage of their work until the close of the grant period.

It appears that cognizant AID staff knew of the researchers' decision, without communicating to them either AID approval or disapproval. The views of those in AID who questioned the decision, and the evolution of the project, were canceled out by the views of those who were either unconcerned by the decision, or who felt that no useful purpose would be served by asking the researchers about it. The resultant of these divergent views was a lack of communication on the subject. Some of the broader issues which this experience raises are discussed infra in Part VI of this report.

In retrospect, the researchers' decision to delay development of hypotheses seems understandable. In well-developed fields, where a model exists that is thought to account satisfactorily for most of the phenomena, such a decision would be extremely rare. By contrast, research such as the present project, which enters previously unexplored areas, tends to be undertaken without a rigorous theoretical framework. The reason for the contrast is obvious: a priori hypotheses based on sheer guesswork, or on analogy from another system, rarely pay off. They may even impede investigation by obscuring phenomena which might prove to be centrally important.

In lining up their research, the SLADE investigators thought of themselves as entering scientifically unexplored territory. While they were interested in certain variables, they found it unwise to formulate working hypotheses. Rather, they decided to proceed inductively to explore the relationships that emerge from their data. Their data will provide two important sources for the production of hypotheses: the country studies and the bank of comparative, quantitative, longitudinal data. From the first, they expect to find the kind of holistic case study which yields insight concerning the operation of a national legal system; from the second, they hope to derive, by contrast and comparison, some generalizations which reach beyond the particulars of case study. They have thus placed themselves in a position to generate hypotheses or, potentially, a systematic theory. They cannot expect, however, to test a theory through this study -- since they did not start with one.

Nevertheless, there is good reason to expect that the study will yield valuable results. Professor Friedman is very well informed about current work in the American legal system and the researchers have followed some leads from that body of research in gathering and examining their data. Already, they are able to suggest some interesting hypotheses that come from the two data sources. For example, they think they can discern a decline in litigation related to the growth of administrative handling of commercial disputes; they believe that the courts are increasingly used for criminal as opposed to civil causes; and so forth. While the researchers themselves will undertake such analyses, they also made it clear that they intend to make their data available to other researchers, thereby increasing the likelihood that it will be studied from various perspectives to maximize its scholarly utility.

The researchers themselves plan, under their fifth basic decision, to focus on the impact of society on law. This decision reflects their assumption that society has more of an impact on law than vice versa. Since they are looking for results, it is reasonable for them to play their hunch as to which of the arrows interconnecting law and society carries the greater weight. In line with that assumption, however, they have gathered data which would not readily permit the systematic examination of questions such as whether and under what circumstances law leads to modifications in behavior or institutional change.

In line with that decision, the researchers make few claims for the probable contributions of the study to practical applications. Skeptical of the possibility that law can operate as an effective instrument of change, they seem reluctant to promise that their study will produce much that can be used in a practical manner by AID. As scientists, they place themselves closer to the "pure" than to the "applied" end of the continuum. While they believe that others might make practical use of their results, they assert few claims and demonstrate little interest in themselves providing such applications.

Effect of basic decisions on attainment of AID objectives.

One may ask whether these various strategies employed in the development of the research will contribute to the attainment of results for AID. The question of AID's objectives is a complicated one. The original purpose of 211 (d) grants seems to have been to build academic centers of expertise in particular subjects of presumed importance in the development process. There is little doubt that Stanford has become such a center for law and development studies, thanks in considerable measure to the support provided by this grant. Whether that will remain true after the completion of the study cannot be predicted, since it

depends on so many events that lie in the future. It does seem clear, however, that Stanford Law School now stands out as a major center of law and development work.

Since the grant was awarded, however, AID has moved toward a far greater emphasis on application. Acting under a Congressional mandate, AID shapes its policies toward quite specific agricultural, educational, and health objectives. Recently, human rights has assumed some place in the policies and programs of the Agency; and it is entirely possible that the SLADE project might prove to have some direct utility in the human rights area. By studying the operation of these legal systems, the researchers may be able to throw some light on the preconditions within the legal system for legal protection of human rights; and it is up to AID officers concerned with development of human rights projects--or with any other potential application of the SLADE data--to make known to the researchers AID's interest in this being done. It would be interesting to see whether the presence of conditions promoting access to the courts, for example, increased the perception (as evidenced in the legal culture study) of governmental legitimacy. The latter perception might in turn prove to relate to political stability and to social and political change.

Although such applications are possible, they should not be counted on as the sole justification for the course taken by the research. In effect, the researchers seem to have expected at the outset both to design new research approaches, carry out the research, and "support legal reform efforts in the less developed countries." The last of these intentions, support for reform, is muted in the grant agreement although more emphatic in the PIO/T; and, in fact, appears to have receded during the five years of the grant. Indeed, the basic decisions made during the first two years strongly suggest that this original expectation was dropped fairly early.

The deemphasis on reform is readily understandable. Faced with the dearth of dependable legal-system data, the researchers came to believe that the gathering of such data was a first requirement, without which they could not hope to advise on the use of law as an instrument of change. Approaching the practical task of obtaining these data, they seem to have concluded that the systematic gathering of the kind of data which they thought necessary would take up the energy, time, and financial support provided to them by the entire grant. The decision to confine the study to that research project seems to have been made in light of that projection.

Their reasoning and their decision appear to have been sound. If they had tried to do too much, they might have done a less adequate job than they have. By limiting themselves to one of two possible tasks, they put themselves in a position to do the one job very well. In deciding which of the two tasks to do, they chose the only reasonable one: the logically prior one.

II. RESEARCH PRODUCTS

The principal aim of the researchers is to develop a social science of law and development, a new body of theory and method, which will provide a framework for ongoing research and training in the field. In order to achieve this purpose, the primary research task undertaken by the Grantee was the establishment of a data base of legal and social indicators in six countries having a Mediterranean type of legal system. After these data were collected, they were to be transferred into a computer format and analyzed; and manuscripts were to be prepared using the data collected.

As noted in part IB supra, the researchers intend to prepare a multi-volume series of publications detailing the work and results achieved under the Grant. As presently envisioned there will be an introductory volume specifying inter alia the theory and design of the project. Six volumes will contain the manuscripts of the local scholars from Colombia, Peru, Costa Rica, Chile, Italy and Spain; and the multinational volumes will explain the approach followed by the scholars in the country studies and assess the results of pursuing this approach.

The national scholars have utilized information in the preparation of their manuscripts which they had previously collected in studies on labor-management problems and agrarian conflicts. Basically, the scholars examined the origins, both social and economic, of labor and agrarian conflicts, informal arrangements for their settlement and how the legal systems process those disputes that cannot be informally resolved.

As previously noted, additional volumes in preparation include: one containing most of the data collected; a comparative study of "legal cultures"; and an important comparative volume on legal systems to demonstrate generalizations about the relationship between social change and law.

It appears that the data collection effort is essentially completed. The researchers collected data on: the scope and nature of social changes in the studied societies ("social indicators"); and the present legal systems of the countries being studied ("legal indicators").

The social indicators include such measurements as population size and urbanization absorption into modern sectors via education and mass media; economic potential shown by the quantity of energy consumed or the gross domestic product; economic structure reflected in the growth of the non-agricultural economically active population and the concentration and stability of modern economic sectors; legislative competence, political participation, public satisfaction with government policies, and government stability. In general, the social indicators employ accepted measurements and make use of data already systematically collected and/or published by others.

The legal indicators by contrast, in most cases, involved original research into records and archives. The researchers claim that this data-gathering has been somewhat limited by the various political situations within the program countries, and by political attitudes of nationals of the program countries toward AID. The legal indicators include measurements of such things as the number, organization, distribution and budgets of countries of legal institutions such as courts, legislatures, law enforcement agencies, the public administration, faculties of law, etc.; the volume and duration of legal processes such as litigation, legislation, private dispute resolutions, resource allocation by public administration, etc.; the number, origins and compensation of legal actors, (lawyers, notaries, judges, judicial staff, legislators and their staff, police, public administrators and their staffs). In addition, important changes made in the constitution, codes and other significant legislation during the period 1945 to 1970 have been noted.

The social and legal indicators provided comparative information that will permit both diachronic and synchronic analysis. With respect to the former (analysis of changes over time), the duration of the study covers the years 1945 to 1970. The synchronic analysis (i.e., of events occurring within a limited time period) consists of two parts. First, from the national data collected from the six studied countries, it

will be possible to compare the social and legal systems of those countries. Second, within each of the program countries, different regions have been chosen representing various levels of socio-economic development. The study of these regional legal systems should reveal the differential impact of social changes over time. In addition, it is expected that regions of one nation can also be compared to similar or distinct regions in another nation. Initially, the raw data will be analyzed to show the absolute importance of a social or legal indicator. This will be followed by a range of statistical analyses.

What is the significance of this research? It is true that the social indicators do not represent a research product unique to the grantee. However the researchers have collected, perhaps for the first time, a body of knowledge formerly unavailable in one place for workers in this field. In essence, this knowledge consists of a data bank of social indices that can be used in a comparative way by anyone interested in development. The body of knowledge now collected as legal indicators does appear to be unique and unavailable from any other source. This information, as well, can be used in a comparative way by those interested in the field. Also, the actual data and theory of the design used in the collection process represent a significant contribution to a very limited field of knowledge.

The researchers have taken a rather novel approach with respect to attitudes held by people concerning the law and legal institutions. They have approached their "legal culture study" through content analysis of articles in newspapers representing opinions about legal events and law journal publications. This collection of data has been transformed into a computer format. It appears that this study will be more valuable as a design tool than as a body of knowledge, per se. The researchers strived for objectivity but a review of newspaper articles reflecting opinions of the societies is necessarily subjective -- because of the subjectivity of the writer, or the particular approach which he or she has taken in collecting the data upon which an article is based.

Presently, most of the data in the various studies conducted in the program countries have been collected, transformed into computer format, and partially analyzed. However, these data have yet to be subjected to a comparative analysis. It is expected that such an analysis will take place by late 1977. It is also expected that all six program country manuscripts will be edited and prepared for publication by late 1977.

The research done under this grant has contributed to other subsidiary research products. Several books and articles about law and social changes have been published in the past year by members of the SLADE team. A temporary edition of the Merryman-Clark comparative law casebook has been used to teach comparative law at Santa Clara University, Louisiana State University and Stanford. It will be published in early 1978.

We consider it significant that the research products presently on hand, and those expected represent the application of a novel approach to research in the relatively uncharted area of law and development. Hopefully this research can be applied to other studies in this socially significant field. The novelty and uniqueness of the design and methodology of the research may prove to be as important as the research itself and the data produced therefrom in that the design and methodology will be available to all social scientists interested in the methods of studying development.

III. APPLICATIONS: AID AND OTHERS

To date the principal researchers have been reluctant to project how the data can be applied. Perhaps this is true because their work is not yet complete. They feel that extensive analysis must occur before determining applications.

Yet the possibility for future application of the data does appear to be significant. If the data yield an analysis which will demonstrate the interaction between social changes and legal institutions within various types of social situations, this grant could prove to be of considerable significance to developing countries. While it was never intended, for example, that a study of the effect of agrarian reform in a specific program country on the legal institutions in that country could have direct relevance in a different social setting, one would expect that certain generalizations could be applied broadly. The researchers have, at least, formulated a model which can be utilized in different geographic regions of the world. Hopefully, at least in the program countries studied, AID will be able to demonstrate that certain changes in legal institutions take place as a country and its society develop. If an AID recipient country reviews the study and determines that its development has major points of similarity with the development of a specific area of a studied program country, then the recipient country may well detect -- or anticipate -- corresponding changes within its own legal institutions.

While AID was originally less concerned with direct applications than is now the case, those at AID responsible for initiating this project hoped that the research would show that changes made within a legal institution can directly affect development in a specific social setting. On the other hand, as noted above, the SLADE researchers made a strategic decision, early in project implementation, to follow the opposite course: to demonstrate how social changes affect legal institutions. The end products of a project thus structured may be invaluable to a developing country which is anxious to prepare its legal institutions for what appears to be a natural evolution as a result of development. Hence one measure of the value of this research could be the interest of developing countries in taking a systematic -- and progressive -- approach in development and strengthening of various legal institutions. But if developing countries are not interested in preparing their legal institutions to meet the various social changes which development naturally brings, then the research may well not be utilized except in an academic setting. It is simply too early to tell the extent to which -- and how -- the information collected will be applied.

IV. INSTITUTIONAL SIGNIFICANCE

The members of the evaluation team are confident that the Stanford University Law School will be the center for this type of research. The data collected have been stored in, and are available from, the Stanford University Computation Center. In addition, under the auspices of the AID grant, Stanford has built up the competence of its library in law and development. As the only institution with this type of knowledge readily available, Stanford Law School must necessarily attract the attention of people interested in this area of work.

The principal researchers, Professors Merryman and Friedman, brought a unique blend of talent and interest to this project. Merryman had established himself before 1970 as a major figure in the comparative law field, but even then was concerned with the sterility of the subject. At the same time, Friedman was emerging as an outstanding leader in the field of law and social change, but had not ventured into the field of comparative law.

While it is possible that such collaboration might have occurred without the presence of AID funding, the likelihood was very small. For one thing, the usual pattern of research among law professors is a solo one. Thus far, academic lawyers have not moved substantially in the direction of large-scale collaborative empirical research of the type that is familiar in the natural and social sciences. The style of research which has

emerged from SLADE, requiring collaboration and the organization of a substantial field staff, is quite new to the American law school world. One of its most important consequences is that it provides a setting for intellectual collaboration between scholars whose orientations and skills complement each other. This in itself may be a major, totally unexpected consequence of the SLADE grant, a contribution of great importance to the development of a social scientific approach to legal systems.

However, it should be noted that a great deal of this institutional building is the work of the personalities at the University. Prof. Merryman claims that research such as this is highly dependent upon individuals, and that essentially AID is investing in people, not in institutions. We would have hoped that the opposite would have been true. That is, it was the primary intent of the grant that Stanford's competence be built, not the competence of the primary researchers under the grant. We would have hoped that, if Prof. Merryman and the SLADE team were to withdraw from Stanford University tomorrow, it would stand as the center of competence in this area.

Prof. Merryman's comments on institution building are worth noting:

"I believe that there is a basic conceptual problem here, growing out of incomplete analysis by people at AID of what the term means, or can mean. An institution is composed of people and physical facilities. The people have interests and carry on activities, employing the physical resources. At Stanford there are Professor Friedman and me, plus colleagues who have been involved at various points in advising, counselling and discussing with us, and those library, research, secretarial and computer staff who have been directly involved. The library collection has been substantially enriched. The research has produced a major data base stored at the Stanford Computation Center. Books are being written and a major new teaching tool--a new kind of comparative law casebook--is under way and in temporary form is used to teach the course in comparative law here. Articles are being written and published. A special interdisciplinary seminar on legal systems and social change led by Professor Merryman and Seymour Martin Lipset is offered, focussing heavily on the SLADE data. A graduate student from Puerto Rico is replicating SLADE there as the basis for his J.S.D. dissertation. There is a steady flow of correspondence between Stanford, the national scholars, and interested persons throughout the developed and the third world. We propose to host a major conference on SLADE. I wonder how many other institutions, behind the rhetoric, are so thoroughly built."

In any event, this aspect of the grant is something that should be carefully considered whenever 211d grants are given. Ideally, a program such as this should not depend so heavily upon the knowledge and interest of individuals, but rather on the knowledge and interest of institutions.

However, because of the extremely objective method of research and the computerized format utilized to analyze the various data collected, there does appear to be some competence in Stanford itself that will continue despite any potential loss of individuals making up the SLADE team. We hope that, increasingly, the team at Stanford will interest others in law and development; and that these others will develop competence within their own institutions, or contribute to the competence already built within the Stanford Law School.

V. PROPOSALS FOR FURTHER AID INVOLVEMENT AND ACTIVITIES

For reasons mentioned elsewhere in this evaluation report, the research products of the SLADE project will not be completed within the five-year term contemplated at the outset. However AID has already decided not to extend its involvement in the project by providing additional AID funding for that purpose. Yet the AID evaluation team is confident that the SLADE volumes will be completed. We base this confidence on our sense of an intangible yet significant institutional commitment made by the Stanford Law School, and especially on the substantial professional and personal commitment and investment made by the key professors involved in the SLADE project.

While most of the AID funds for the SLADE project have been used to support basic and original research in the field of law and development, the quality and possible importance of that research cannot really be evaluated until the key volumes and studies are available for review and comment by experts and practitioners in the field. Thus, from AID's point of view, the timing of this evaluation effort has been premature and does not permit us to make hard judgments about the quality and importance of the AID investment in this project at this time.

In our opinion AID does have at least some responsibility for the continued monitoring of the major research products of the SLADE project. At a minimum a specific officer in LA/MRSD (or alternatively, GC/LA or PPC/PDA) should continue to monitor the SLADE project. This officer, in cooperation with SLADE professors should seek to establish a specific timetable for finishing the key volumes and country studies. We also believe he should arrange for a further evaluation of the research aspects of the project when all key volumes become available.

An evaluation at that time could usefully be structured with the following end products in mind: (1) a final report on the major research aspects of the project which could be made available for AID personnel in AID/W and the field and for our own AID history in order to complete the record for the SLADE project; (2) a judgment as to whether the SLADE results are worth disseminating, and particularly whether

doing so would result in further research with fairly high probabilities of practical applications in Latin America; and (3) a determination as to whether the research methodology and analyses of the data gathered would assist AID and/or the State Department to develop projects in the human rights area, possibly drawing on the considerable resource in law and development available at the Stanford Law School.

The timing of a further evaluation is dependent on the timetable established, and on actual progress made in completing the key volumes; it probably is some 12 to 18 months off. Regarding the composition of the team, we recommend that Dean Schwartz remain involved, if at all possible, because of his unique qualifications and recently acquired background and interest in the project. While probably only one AID officer need participate in the evaluation, it might also be useful to try and involve representatives from State and USIA if these agencies could be persuaded to collaborate in funding and/or dissemination of project results.

A further - and final - evaluation, assuming it showed the SLADE results to be worthwhile, would provide a very strong impetus to insure that the results of AID's investment were made available to the universities and scholars in the Latin American countries that were expected to benefit from the AID grant. While AID manpower and funds would be required for the evaluation itself, and for assisting Stanford in disseminating the results of the SLADE project in Latin America, the cost of such an AID effort would be small compared to the original grant.

At a minimum, AID could assure that the research volumes and studies were available in appropriate Latin American libraries. A further, and probably useful, step would be to arrange for one of the SLADE scholars to visit a number of the Latin American countries, under either separate or joint USIS and AID auspices, to give a series of lectures or seminars on the SLADE methodology and results. A more costly step, relative to anticipated benefits, and hence one we do not wish to advocate at this time, would be to sponsor a workshop(s) at Stanford or elsewhere.

In addition, there are certainly other ways of disseminating the knowledge that would serve our purposes. For example, USIS sponsors a number of leader grants; and often the Latin American individuals selected are lawyers who teach at least part-time in universities. It seems quite possible to arrange with USIS to have such individuals visit Stanford as part of their programs. Indeed, many already do visit California, and sometimes Stanford, for one reason or another.

VI. SIGNIFICANCE OF THE SLADE EVALUATION FOR OTHER AID (211 (d) GRANTS

The Evaluation Team decided that, as part of their evaluation task on the specific SLADE project, they would also try to look for some insights on issues of possible broader use to AID in developing, monitoring and evaluating other 211 (d) grants. We realize the limitations on our doing this: the SLADE project was one of the earlier grants made (ie, before Policy Determination 62); it focused primarily on basic research in a specialized field; and the evaluation team has not been involved in evaluating other 211 (d) grants, and therefore had only a limited basis for making comparisons and judgments. Nevertheless, we believe that the comments which follow may help those considering future proposals for 211 (d) grants.

A. Development of the Grant

As far as we were able to ascertain, the grant proposal was prepared by, and reflected primarily the views of, the Stanford professors who would carry out the grant when approved, and contained few inputs from AID. This can be explained by a number of factors: the specialized nature of law and development; limitations in AID technical backstopping; and, as the SLADE scholars would probably point out, the general lack of empirical knowledge in the field. The last factor affected both the development of the SLADE proposal and the implementation of the project.

Against this background we found it difficult to resolve certain persistent questions. For example, did AID recognize and accept explicitly the extent to which the project would finance basic rather than applied research? There is some evidence that AID at least hoped for more in the way of applied research with practical applications than has been the case. Nevertheless, there is certainly no indication that Stanford tried in any way to understate the emphasis on the "pure" nature of the research. Indeed, the researchers appear to have been most candid. Differences, if they exist, can be attributed to the respective biases of a university concerned with research and scholarship, and a government agency concerned with practical problems and results. Nevertheless,

in developing and considering other 211(d) grants, both in the project proposal and implementation stages, AID should recognize explicitly the university bias for basic research and the fact that AID and the university have different interests.

Other persistent, and somewhat related, questions concern institutional capability and commitment: What did AID really expect in terms of increasing Stanford Law School's institutional capability in the field of law and development? What did AID expect regarding a continuing Stanford commitment in that field? We have assessed the institutional significance of the SLADE project in part IV of this report; here we would only note again that the Stanford professors were most candid. If there were differences about expectations - and apparently there were some differences within AID - they were due perhaps to naïveté or lack of knowledge about how a university and its faculty interact on a project whose purposes are not central to a university's traditional interests and areas of activity.

The above questions, and possible differences in view and expectations, suggest that in developing similar projects with universities in the future, agreement should be reached in more precise terms, including more detail, about expected outputs. We understand this is now required under PD 62.

While we are confident that the project will be completed by the Stanford Law School, the 211(d) grant does not protect AID in any legal sense in this regard. In agreements AID signs with governments and institutions overseas, it is common to include language that they assume responsibility both for financing any cost overruns and for assuring that the project is completed. While it may be difficult for AID to include language of this type in 211(d) grants with U.S. universities, the grant agreements should address this type of problem to the extent possible in order to avoid misunderstandings and protect AID interests.

B. Implementation of the Grant

As previously mentioned, the emphasis of the SLADE project on basic research increased during project implementation, as shown, for example, in the decision to delay formulation of hypotheses until data were available. AID was kept informed through the reports provided under the terms of the grant and by visits of AID personnel to the Stanford campus. Specific and written AID approval of the change in emphasis was not required; and Stanford complied with the terms of the grant and did keep AID informed, as far as we are able to determine, every step of the way. Nevertheless we believe that AID should have documented that it approved the change in emphasis. Again, we believe the failure to do so reflects the special factors involved in the project.

In undertaking future 211(d) grants in fields where knowledge is limited, and the cognizant AID backstop office lacks the requisite time, interest and/or skills, AID should establish special arrangements for project monitoring and evaluation. For example, in the SLADE case various attorneys from GC and PPC were interested in the project and played ad hoc or informal roles in review, monitoring and evaluation of the project. These roles perhaps should have been formalized through a clearance process or by having a joint project managership-arrangement.

The SLADE case illustrates both the advantages and limitations of closer AID monitoring of 211(d) grants. If there had been a closer monitoring, it might have been possible to guide the research effort in directions that would have led to more immediate applications. Our impression, however, is that in this case such "guidance" might have been construed by the principal investigators as pressure that they would have resisted and resented. Moreover, whether they acquiesced to such requests or not, the result may well have been to divert them from a project to which they have devoted all of their energies and from which we may now expect important results. In short, a closer monitoring relationship might have gotten in the way of what they had done without necessarily producing anything of greater value. This issue of the kind

of degree of AID monitoring appropriate for 211(d) grants is worth pondering in considering future proposals.

C. Evaluation of the Grant

In hindsight, it appears that AID should have evaluated the project after the first year or so of the grant when the direction of the research started to take form. By that time, it was more apparent that the SLADE project was essentially "pure research", and that little in the way of practical applications could reasonably be expected during the proposed life of the project. Perhaps the original agreement should have provided that AID funds would be provided in two tranches, with the release of the second tranche linked to the outcome of an evaluation to take place 12-18 months after initiation of the project. In other words, AID could have taken the position that it was willing to finance development of the research methodology and prospect design in more detail, with the understanding that AID would then carry out an evaluation after the project had been under way for a year or other appropriate period, to determine whether the investment of further AID funds was justified or not. We are not in a position to state whether this would have been acceptable to the Stanford scholars or not, but believe that this would have been a more prudent manner of investing AID funds in what was clearly a new and unexplored field.

Our own evaluation effort in the last year of AID funding for the project was too late to shape the nature of the project, if that needed doing, and too early in terms of looking at the major outputs to be of optimal utility. We conclude that evaluation should be a more integral part of the project design and implementation process, and that the timing of evaluations should be set with this in mind.

Our experience also suggests the desirability of planning evaluations so as to allow at least one day at the end of on-site visits to draft the report of the evaluation team. Once team members return to Washington, they are apt to discover that work assignments having crash deadlines must receive priority - again and again - over completion of evaluation reports, with the result that the evaluation reports are not finished until long after memories of the project have begun to dim.

D. Issue of Applied vs. Basic Research

While the bias of the evaluation team is on the side of looking for practical applications, we also recognize that there are substantial gaps in knowledge about the development process in law and other fields. If one accepts the need for basic research and the validity of using 211(d) grants for that purpose acceptance of much of the above comment and related recommendations probably would not have resulted in improving the design and implementation of the SLADE project. Indeed there may be considerable merit in picking the right institution and scholars, as was done in this case, and giving them a rather free and unguided hand (except for funding limitations and monitoring of progress as required by that constraint). If more applied results are needed these could then be elicited by grants or contracts which might be monitored more directly, but it is important that such arrangements be sharply distinguished from 211(d) grants for basic research.

The evidence from the SLADE grant suggests very strongly that the concept of using 211(d) grants to finance basic research was a valuable and viable one. What has happened at Stanford is clear: the group working there made excellent use of a large grant to undertake a wideranging study which will certainly yield important empirical results and theoretical analyses to help provide us with better understanding of how legal systems work. Even though we cannot, at this stage, know with certainty what applications will come from this work, the Stanford project will certainly increase our capability for understanding the relationship between law and development. Ultimately, that result must increase to some degree the capability of AID or others to participate effectively in international development. Even if AID policies were to lead us away from projects in law and development, which is now the case, except where related to congressionally mandated areas of concentration we would need to be able to provide a rationale for a hands-off policy; and it is better to offer such a rationale in light of knowledge than in light of ignorance.

We are reluctant to take a stand on this issue, because our experience with one 211(d) project does not provide a sufficient basis for deciding anything. We raise the issue, however, because we think it is an important one for AID, and for its relationship with the universities.

VII. THE BOTTOM LINE: THE EVALUATIVE CONCLUSION.

Despite the merits of the project and the talents and dedication of the SLADE scholars, several key questions bothered members of the evaluation team before, during, and after the visit to the Stanford campus. Was financing this type of research project an appropriate use of AID funds? Did AID finance a project in keeping with its broad mandate and responsibilities? or did AID finance a project of interest only to scholars, one without reasonable prospects of being of direct benefit to AID or to development in Latin America?

We came to believe that the project was an appropriate use of AID funds. At the time AID entered into the project, there was significant Congressional and AID interest in using law to stimulate development. The SLADE project shows all of the signs of contributing in a major way to our understanding of how legal systems work in a comparative development context.

Empirical knowledge had not been available previously in this field and there was simply no logical basis for making judgments or trying to use law as a development tool. At a minimum the SLADE project should enable AID and others to evaluate future proposals for new projects in the field of law and development on the basis of greatly increased knowledge. If the SLADE assumption that development effects law has a high degree of validity, we and others may be willing to assist in projects designed to help countries adjust their legal systems to meet needed changes that can be predicted as part of changes in the development process.

It may well be, both here and abroad, that the most significant SLADE result will be in changing the teaching of comparative law. While this may not be directly related to the current AID mandate, it would be a result of major and lasting significance, and thus constitute an extraordinarily high pay off per dollar of AID funds invested when compared with many other AID projects.