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EVALUATION REPORT

STRENGTHENING DEMOCRATIC INSTITUTIONS PROJECT

I - Administration of Justice

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Foreword

USAID/Honduras believes that readers of this evaluation would benefit from information on the historical context in which this project began implementation, an update on activities that have developed under the project since the evaluation was conducted, and additional background on several issues raised in the evaluation.

The August, 1987 signing of the Project Agreement was followed by an unusually complex process of awarding and negotiating the project's primary contract with Georgetown University (GU). The Honduran presidential campaign was in full swing when the GU contract was finalized one and a half years later. As a result of the campaign, politics permeated the Supreme Court's decision-making process and greatly hampered the implementation efforts of both USAID and GU in many areas of the project. After the elections, the controversy surrounding the naming of the President of the Supreme Court further exacerbated delays caused by the change of administrations. The relationship between USAID and GU, initially strained by implementation delays suffered in early stages of the project, is now harmonious.

The project designers considered passage of career legislation a cornerstone of the project out of recognition that professional career civil service personnel are essential to de-politicizing democratic institutions. Since the evaluation was conducted in August of 1990, the Honduran Supreme Court accepted the organizational development plan designed by GU and the Court for implementation of the Judicial Career Law, and the President of the Court declared the Law in effect March 1, 1991. The Court has since worked diligently under the technical assistance and training of GU to develop the personnel regulations and procedures required to fully implement the law.

In closing, the Mission adds its own lesson learned from this project, that of the need for Democratic Initiatives project designs to be flexible enough to allow project implementation to keep step with changes in the political environment.

TABLE OF CONTENTS

	Page
ACRONYMS AND ABBREVIATIONS	ii
EXECUTIVE SUMMARY	ES-1
I. INTRODUCTION	1
II. PROJECT AND COMPONENT OBJECTIVES	2
III. PROJECT PROGRESS	3
A. Findings	3
1. Judicial Career Service	3
2. Justice of the Peace Program	5
3. Public Defender Program	8
4. Strengthening the Administrative System of the Judiciary	9
5. Training Program to Support the Career Service	10
6. Public Information Program	11
B. Conclusions	11
IV. ANALYSIS OF PROBLEMS, ISSUES, AND CONSTRAINTS	13
V. PROJECT DESIGN VALIDITY	14
VI. RECOMMENDATIONS	14
A. Mid-Course Adjustments	14
B. Training	15
C. Project Management	16
D. Impact on Women	16
E. Priority of Recommendations	16
VII. LESSONS LEARNED	17
A. Scope of the Project	17
B. Bilateral vs. Regional Activities	18
C. Information Sharing	18
ANNEXES	
Annex A: Evaluation Scope of Work	20
Annex B: List of Persons Contacted	23
Annex C: List of Documents Consulted	25
Annex D: Logical Framework	29
Annex E: Implementation of the Career Judiciary	34
Annex F: Training Activities	40
Annex G: Regional Programs and the National Judicial Reform Commission	50
Annex H: Organizational Development Plan for the Judiciary	55
Annex I: Analysis of Problems, Issues, Constraints, and Project Design Validity	59

ACRONYMS AND ABBREVIATIONS

AID	U.S. Agency for International Development
AID/W	Washington headquarters of Agency for International Development
AOJ	Administration of Justice
CAPEL	Affiliate of the Inter-American Institute of Human Rights for providing electoral advisory assistance
CIEL	Centro de Informatica y Estudios Legislativos (Center for Informatics and Legislative Studies)
CIPRA	The office in Georgetown University which oversees the unit in charge of supporting the SDI project in Honduras
CSLA	Consortium for Services to Latin America (a consortium of U.S. universities, a sub-contractor of Georgetown University)
DA	Development Associates, Inc. (a consulting firm)
GOH	Government of Honduras
GU	Georgetown University
GU/H	Honduras office of Georgetown University
HRD	Human Resources Development office of USAID
HSC	Honduran Supreme Court
ILANUD	Instituto Latinoamericano de las Naciones Unidas para la Prevencion del Delito y Tratamiento del Delincuente (Latin American Institute of the United Nations for Crime Prevention and Treatment of Criminals)
INCAE	Instituto Centroamericana de Administracion de Empresas (Central American Institute of Business Administration)
IRM	Information Resources Management office of AID/Washington
JP	Justice of the Peace
LAC/DI	The Democratic Initiatives office of the Bureau for Latin America and the Caribbean of the Agency for International Development in Washington, D.C.
MOU	Memorandum(a) of Understanding
NJRC	National Judicial Reform Commission
PD	Public Defender
PP	Project Paper (an AID document)
RAJO	AID's Regional Administration of Justice Office located in San Jose, Costa Rica
SDI	Strengthening Democratic Institutions project
TA	Technical Assistance
USAID	U.S. Agency for International Development mission in Honduras

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EXECUTIVE SUMMARY

On September 20, 1987, a Grant Agreement was signed by the President of Honduras and the U.S. Ambassador to initiate the Strengthening Democratic Institutions (SDI) project. One of the four components of this project was the strengthening of the administration of justice through the Honduran court system.

On August 27, 1990, AID signed a contract with Development Associates, Inc. (DA) to undertake a mid-course evaluation of the SDI project. See Annex A for the scope of work for the five-person evaluation. The team (except for Mr. Ferro) met in Washington D.C. September 5-7 to meet with AID officials and representatives of the prime contractor (Georgetown University--GU). Members of the team were in Honduras from September 10 to October 4 reviewing documentation (see Annex C) and interviewing senior officials of the Court and the National Commission for Judicial Reform, other Hondurans in the legal field, and officials from USAID, the Honduran office of Georgetown University (GU/H), and the GU subcontractor Consortium for Services to Latin America -- CSLA (see Annex B for a list of persons contacted). A draft report was submitted to USAID on October 2, 1990. GU and USAID provided comments on the draft report and these have been reflected in this final report.

Project and component objectives

The objective of this component, as stated in the Memorandum of Understanding (MOU) signed between USAID and the Honduras Supreme Court, is:

> "To strengthen the court system, making it more efficient and responsive to the Honduran populace in matters concerning civil and criminal justice and better able to execute its functions as a mediator of intragovernmental conflicts."

Initial priority was to be given to four tasks:

1. implementing a professional Judicial Career Service, including establishing experimental development programs for Justices of the Peace and Public Defenders;

2. strengthening the Judiciary's administrative structure;

3. instituting a major training program to support the career service; and

4. developing a public information program to increase awareness, understanding, appreciation and utilization of the legal system by the population of the country.

Project Progress

1. Judicial Career Service

A judicial career law was passed in 1980 which, when implemented, would provide the basis for a career service. Some of the implementing regulations had already been prepared with ILANUD assistance at the time the SDI project was being designed and the Supreme Court had taken some actions to implement the 1980 law. The earlier momentum was lost. Neither of the two Conditions Precedent nor the Covenant in the MOU relating to this element of the project have been fulfilled. The new President of the Supreme Court has promised to implement the Career Law by January 1, 1991. Although this may be optimistic, the logjam in implementation has been broken and the new government is committed to judicial reform. Thus, there are good possibilities for progress in this element.

2. Justice of the Peace Program

This element includes two activities:

(a) an experimental program assigning new law graduates as Justices of the Peace for a year each and, if the program proved successful, incorporating the graduates into the to-be-established career service; and

(b) one-week in-service training workshops (legal and administrative) for all 350 Justices of the Peace in the country.

The experimental program has been successful in the sense that three groups of 27 law school graduates have been assigned as Justices of the Peace and most have been retained as Justices of the Peace or promoted. Their salaries have been moved from USAID funding to the Judiciary's budget. Some questions have been raised about the selection process for candidates for the program. There has been no evaluation of the program (in contrast to performance evaluations of the justices). The President of the Court told the evaluation team that the Court has not yet decided whether to extend the experimental program beyond the initial 81 positions financed by AID.

The in-service training proposals in the MOU were drastically changed shortly after GU came on board (January 1989). Meetings were held with Court and ILANUD officials, and it was decided that ILANUD would continue to provide all legal training; GU's sub-contractor, CSLA, would be limited to administrative training. The legal training organized by ILANUD has been well received. ILANUD has also prepared a manual for use by Justices of the Peace. It recently prepared a training needs assessment, which has been well received by the Court.

The limited amount of administrative training carried out by CSLA has not been as well received as the legal training organized by ILANUD. CSLA has had less direct contact with Court officials and with the trainees. Furthermore, less data is available on the type of administrative training that is needed. Because administrative re-organization has been lagging, it has not been possible to establish training needs to support that activity.

3. Public Defender Program

One of the most significant achievements of the project has been the successful establishment of a Public Defenders program in Tegucigalpa and San Pedro Sula. The evaluation team understands that current plans are to extend the program to the interior of the country. The Public Defender System study proposed in the MOU has not been done. No legislation has been passed authorizing the Public Defender Program.

4. Strengthening the Administrative System of the Judiciary

The contractor submitted a study in June 1989 on the organizational structure of the Judiciary, but no action was taken on the report. A new report was submitted in September 1990 and was under review during the evaluation team's visit. Although it proposes activities outside the scope of the project, the new report provides a solid basis for future collaboration between GU and the Court in the area of administrative reorganization.

5. Training Program to Support the Career Service

The only in-service training provided is discussed under 2. above. No technical training for permanent staff of the support offices has taken place, reflecting delays in creating a permanent staff and lack of progress in carrying out administrative reforms. Of eight international observation visits proposed under the project, two were carried out to the United States in 1988, with two Court officials each, to review court administration Of two long-term graduate level fellowships planned for the project, one has been used by an official of the National Agrarian Reform Institute to study agrarian law at the University of Costa Rica.

6. Public Information Program

The MOU calls for two mass media campaigns to increase the understanding of the population of the laws of the country and the functioning of the court system. A Covenant calls for a permanent public information officer to be hired by the second year of the project and the position to be maintained after the end of the project. There has been no project activity in this area.

General Conclusions on Project Progress

1. The level of achievement against project plans has been low, but it seems likely that project outputs can be realized by the end of the project (August 1992) if: (a) The Court and the Government of Honduras have the will and political strength to implement the Judicial Career Law; (b) the Court and the contractor, with USAID's support, give high priority to the activities called for in the MOU; (c) USAID allows greater direct interaction between the Court and the contractor and does not allow needs in other components to slow up activities in this component.

2. Support to training programs should increase substantially as project implementation accelerates. For USAID-funded support to be effective, a number of issues need to be addressed: (a) the contractor's training role needs to be reviewed; (b) there is need for more analytical work on the working conditions of the Justices of the Peace and Judges of First Instance (Jueces de Letras) and on the application of the provisions of the Code of Criminal Procedure; (c) There is need for greater coordination between CSLA, the Judicial School, and ILANUD; and (d) GU will need to have a full-time person attached to the GU/Honduras office.

Analysis Of Problems, Issues, And Constraints

Implementation issues

A number of implementation problems plagued the project from inception to mid-1990. The problems are now largely resolved or overtaken by events, but a new issue has arisen. The evaluation team is concerned that the recent broadening of discussions with the Court from activities within the project to a consideration of everything the Court would like to do could result in diffusion of effort by the Contractor and continued minimal accomplishment on meeting project objectives. In particular, the team is concerned whether adequate attention is being given to the most important objective of the administration of justice (AOJ) component, i.e. the implementation of the career law for the Judiciary.

USAID Project Management

The evaluation team finds that there are a number of reasons why USAID project management has contributed to delays in project implementation. The team concludes that USAID needs to re-define the role of USAID and the contractor in project implementation and to review and re-define the role of the USAID liaison officer to the Court. Other issues discussed in the report are the role of the National Judicial Reform Commission and the impact of the project on women.

Project Design Validity

The evaluation team believes that the AOJ component is very important in terms of the goals of the overall SDI project. The effective operation of the criminal justice system in ways which both control crime and protect citizens' rights is a necessary pillar of any democratic society. An efficient and reliable Judiciary is also very important to the economic development of the country.

The basic design assumptions that achievement of the outputs specified will result in a more effective and more responsive Judiciary appear valid.

Recommendations

Mid-Course Adjustments in Emphasis and Approach

1. USAID should give highest priority to encouraging and facilitating the Court's effective implementation of the Judicial Career Law, with the immediate focus of attention on insulating the justices from politics.

2. USAID should let the Court know that: a) A.I.D. considers this the most important element of the component; and b) USAID is unwilling to make significant contributions to other elements of the component, let alone support any new ideas put forth in the September workshop, until:

   a. a detailed implementation plan has been prepared for implementing the law and action has been initiated in accordance therewith;

   b. current hiring by the Court is being done on the basis of public announcements of openings, competition among candidates, and selection by an impartial selection process that ensures political affiliation is not an element of decision.

3. Assuming that a strengthening of "will" is needed to bring about effective implementation of the career law, USAID should request the Court to ask the Bar Association or the Law School to take the lead in convening a workshop, with representation by political parties, to discuss the de-politicization of the Judiciary.

4. USAID should encourage the Court to ask for a joint U.S.-Honduran study to evaluate the experimental Justice of the Peace program, analyze some of the issues raised herein, and recommend its future.

5. USAID should facilitate the early drafting and submission to the Congress of enabling legislation for Public Defenders.

Administrative Training

1. USAID should propose that NJRC, with contractor support, or the contractor, following the completion of the study recommended above (A.4) hold a workshop, similar to the September 1990 one on judicial organization, which would focus on: (a) the relationship between administrative and legal training; (b) the role of the Judicial School in all elements of judicial training and its relationships with ILANUD and USAID contractors; and (c) the development of a plan for expanding and improving training in court administration and other areas of judicial operations not currently covered.

2. The contractor should proceed with the purchase and delivery of the furniture to the Judicial School. This overdue procurement was agreed to before there were delinquencies in meeting the MOU Conditions Precedent.

Project Management

1. USAID should modify its project management approach and allow the contractor greater freedom in dealing with the Court on a day-to-day basis on the implementation of an approved work plan.

2. Concurrent with the foregoing, USAID should focus its attention on policy issues (see A. above), routine project monitoring, and ensuring appropriate coordination of effort between bilateral and regionally-funded activities.

Impact on Women

USAID should undertake a study to evaluate the openness of the Judiciary to participation by women and one to determine if there are special problems that women have in obtaining justice under the law.

Lessons Learned

The evaluation team find that the three components are really three different projects and should be so administered. The team also offers some thoughts on bilateral-regional project relationships. Either AID/W's LAC/DI project or the regional project should arrange for greater information sharing for SDI activities. USAIDs can also ensure that their contractors are better informed on similar activities in the region.

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I. INTRODUCTION

The AID Project Paper for the Strengthening Democratic Institutions project was approved August 12, 1987. The initial obligation of funds took place the next month with the signature on September 20 of a Grant Agreement by the President of Honduras and the U.S. Ambassador. One of the components of this project was the strengthening of the administration of justice through the Honduran court system.

According to the terms of the Grant Agreement, there were to be evaluations of the project, including a mid-course evaluation. On August 27, 1990, AID signed a contract with Development Associates, Inc. (DA) to undertake the mid-course evaluation. See Annex A for the scope of work for the evaluation. DA fielded a five-person team to carry out the evaluation:

*James L. Roush	Team Leader--Economist, Evaluation Specialist
*James Rowles	Specialist in Comparative Law and Latin American Law and Legal Systems
Mitchell Seligson	Political Scientist, Latin American Specialist
*Joseph Alessandro	Educator, Training Specialist
Carlos Ferro	Commodity Procurement Specialist

* = Principal evaluators for the Courts component.

Mr. Roush visited Honduras August 28-31 to obtain preliminary briefings from USAID, to prepare a work plan for the work of the team, and to make logistical arrangements for the team's visit. The team (except for Mr. Ferro) met in Washington D.C. September 5-7 to study the scope of work for the evaluation, review documentation, and meet with AID officials and representatives of the prime contractor (Georgetown University--GU).

The team arrived in Tegucigalpa Sunday September 9 and started work on September 10. Mr. Rowles, Mr. Seligson, and Mr. Alessandro were in Costa Rica September 12-15 interviewing officials of AID's regional Administration of Justice office, ILANUD, and CAPEL. In Honduras, the team interviewed officials of the Court and the National Commission for Judicial Reform, other Hondurans in the legal field, and officials from USAID, the Honduran office of Georgetown University (GU/H), and the GU subcontractor Consortium for Services to Latin America -- CSLA (see Annex B for a list of persons contacted). The team reviewed documentation in USAID and GU/H files (see Annex C for a list of the principal documents reviewed).

The team reviewed the progress made against targets established in USAID's Project Paper, analyzed policy issues and implementation problems, reviewed the basic design of the project component, and made recommendations for improving the chances of achieving a successful outcome for the project component. A draft report was submitted to USAID on October 2, 1990. GU provided comments on the draft report on October 16; USAID's comments were received November 16. The comments, to the extent deemed appropriate by the evaluation team, are reflected in this final report.

II. PROJECT AND COMPONENT OBJECTIVES

The Logical Framework, outlining the design for the project, is appended as Annex D. The Grant Agreement sets forth the project purpose as:

> "to improve the capability of key democratic institutions (the Judiciary, the Congress, and the National Elections Tribunal/National Registry of Persons), develop local leadership and increase the knowledge and participation of the Honduran populace in the democratic process."

The only indicator for achievement of project purpose related to the Judiciary is a "reduction in time for court case processing."

To implement the project, separate Memoranda of Understanding (MOU) were signed with the three agencies. The MOU with the Honduran Supreme Court was signed on October 14, 1987. The objective was stated therein as:

> "To strengthen the court system, making it more efficient and responsive to the Honduran populace in matters concerning civil and criminal justice and better able to execute its functions as a mediator of intragovernmental conflicts."

Initial priority was to be given to four tasks:

1. implementing a professional Judicial Career Service, including establishing experimental development programs for Justices of the Peace and Public Defenders;

2. strengthening the Judiciary's administrative structure;

3. instituting a major training program to support the career service; and

4. developing a public information program to increase awareness, understanding, appreciation and utilization of the legal system by the population of the country.

III. PROJECT PROGRESS

A. Findings

1. Judicial Career Service

A judicial career law was passed in 1980 which, when implemented, would provide the basis for a career service. Some of the implementing regulations had already been prepared with ILANUD assistance at the time the SDI project was being designed. Prior to the entry in to force of this project, the Supreme Court had taken some actions to implement the 1980 law. ILANUD provided considerable help to the Court in this regard between 1986 and 1989. See Annex E for details.

In the Logical Framework in the Project Paper, there was no indicator at purpose level directly relevant to the judicial career law. However, the first output was "judicial career implemented." The importance of this output was emphasized in the Memorandum of Understanding (MOU). Two conditions precedent were established therein:

1) Except for technical assistance and $100,000 for other inputs, no funds will be made available until the Honduran Supreme Court provides evidence that "the Judicial Career Law guidelines and by-laws have been accepted by the Supreme Court and the schedule to begin implementation has been approved."

2) No disbursement should be made after December 1989, except for technical assistance, unless the Honduras Supreme Court has provided evidence that "all new judicial sector personnel, except Supreme Court Justices, are being hired under the new career personnel system, and that 75 percent of all judicial personnel currently employed have been hired under that system."

One of the covenants in the MOU also was relevant to this project element:

1) Within one year after the promulgation of the Judicial career guidelines and by-laws, all new employees shall be hired utilizing objective, technical hiring criteria and shall be included under the career personnel system.

The project was to fund experts to review the existing guidelines and redraft them if so desired by the Court. Project-funded experts were also to help the court develop an implementation strategy, including the identification of significant milestones and target dates.

The momentum of 1987-88 was lost. ILANUD assistance to the Court in this area, which had been funded by AID's regional Administration of Justice project administered from Costa Rica, was discontinued because the activity was to be picked up by the bilateral project. Because of delays in the USAID contracting process, the prime contractor for the SDI project, Georgetown University (GU), did not begin activity until January 1989, 16 months after the project agreement was signed. There have been additional implementation problems which are discussed in Section IV.A. of this report.

Thus, little has been achieved under the project to push forward the implementation of the 1980 career law; neither of the conditions precedent nor the covenant relating to the career law have been met.

The one specific action proposed by GU in its 1989 work plan (to revise and/or up-date regulations needed to implement the career law) was deleted by the USAID liaison officer to the Court. He told the contractor that the work was not needed, that it had already been done. Yet, when the contractor's expert interviewed a number of court officials in December 1989 asking about the status of the career law, he was told that effective implementation of the law would require the following:

1) a "reglamento" establishing a directorate of personnel administration;

2) the approval of two manuals: Position Classification and Salaries; and

3) a "reglamento" on the selection of personnel.

The officials indicated that they were counting on help from USAID, ILANUD, and GU to do the above.

The team found nothing in the project files or USAID's semi-annual reports to AID/Washington that indicated USAID had discussed with the previous court administration the lack of fulfillment of conditions precedent and covenants. No implementation letters had been sent to the GOH on the subject.

The new court administration, once organized, has been actively seeking to accelerate implementation of the court component of the SDI project. Furthermore, the President of the Court has promised to implement the Career Service Law by January 1, 1991. Given the lack of any written document spelling out the Court's plans, it is not clear how far the court is prepared to go in relation to the agreements in the MOU. There is room for some optimism, however, because the newly elected government has made public commitments to judicial reform (Plan de Gobierno, 1990-1994, page 23). Further, the logjam in project implementation has been

broken, and the organizational development plan being reviewed by the Court includes activities needed for effective personnel administration by the to-be-created Directorate of Personnel Administration.

For a fuller discussion of the implementation of the judicial career law, see Annex E.

2. Justice of the Peace Program

The project, as set forth in the MOU, calls for two activities to up-grade the performance of justices at the grass roots level:

(a) an experimental program assigning new law graduates as Justices of the Peace for a year each and, if the program proved successful, incorporating the graduates into the to-be-established career service; and

(b) one-week in-service training workshops (legal and administrative) for all 350 Justices of the Peace in the country.

The project output in the Project Paper for this element was "40 law school graduates participating in experimental justice of the peace (program)" and "400 judges trained"--the latter includes some municipal judges (Jueces de Letras).

a. Experimental Program

USAID support to the experimental program began in May 1988. During the first year, these positions were funded out of non-project funds which USAID channeled through ILANUD (for six months) and then directly to the Court. The positions are now funded through the GU contract.

The selection of Justice of Peace candidates is done by the Supreme Court, with no input from GU. The team heard conflicting reports on the selection process, including credible accounts that law graduates who had applied, taken the tests, and qualified subsequently found that the positions were allocated on the basis of different criteria. The team found no information in the files of GU or USAID indicating that either had looked into these or other allegations about the selection process.

GU's statement of work calls for it to provide four months of technical assistance to the Supreme Court and the National Judicial Reform Commission (NJRC) to review and make recommendations concerning the experimental Justices of the Peace (JP) and Public Defender (PD) programs. The evaluation team found no evidence that such assistance had been provided with respect to the Justice of the Peace program. Rather, GU's functions with regard to the experimental program appears to have been limited to

serving as a conduit for the payment of the participant's salaries for the first year--after which time the Court assumes that responsibility.

There is a need for diagnostic and analytical work to be done with respect to both the administrative tasks the Justices of the Peace perform, the degree to which and the manner in which legal provisions in the code of Criminal Procedure are being carried out, the efficiency of the administrative procedures employed at the level of the Justice of the Peace court, and the problems which may exist in the relations of the court to the central administration of the Judiciary in Tegucigalpa. This is an activity to which Georgetown could contribute by bringing in legal and administrative experts of the caliber of those who did the Public Defender evaluation. It would be supportive of the JP training program discussed below.

There has been no evaluation of the experimental program, but the Court did carry out in April 1990 an internal personnel performance evaluation of the current participants in the program. The Court found that 25 of the 27 JPs had performed satisfactorily and decided that the 25 should be incorporated into the judicial career service.

While there apparently was a high degree of turnover in Justices of the Peace throughout the country after the new Court assumed office on January 26, 1990, the reverse was reported to be the case with the last group of 27 JPs in the experimental program (financed by the project from May 1989 to May 1990). According to the USAID Project Officer, 3 of this group of 27 changed jobs or were fired, 4 were promoted to be Judges of First Instance (Jueces de Letras), 1 joined the Public Defenders program, and the rest remained in the Judiciary as Justices of the Peace.

Because of the high level of performance and the favorable retention levels, the evaluation team was surprised when the President of the Supreme Court told the team that the Court did not intend to extend the experimental program beyond the initial 81 positions financed by AID. He expressed doubt that it would be feasible to have law graduates in all JP positions. The Court does plan to maintain the 81 positions financed by the project.

b. <u>In-Service Training</u>

The MOU provides for the training of all of the Justices of the Peace and up to 38 Municipal Judges (Jueces de Letras). Shortly after GU came on board (January 1989), meetings were held with Court and ILANUD officials and it was decided that ILANUD would provide all legal training; GU's sub-contractor, CSLA, would be limited to administrative training.

The legal training organized by ILANUD has been well received. It uses local instructors chosen in consultation with the NJRC and the Court. These instructors provide the substantive content, under ILANUD's general supervision, to course outlines provided by ILANUD. The latter handles all logistical arrangements. ILANUD has prepared a manual for use by Justices of the Peace. It has also prepared a training needs assessment, which has been well received by the Court.

CSLA proposed not to do direct training but to carry out this function through training of trainers, with the idea that those trained by CSLA would subsequently provide training to other JPs. CSLA trained about 20 potential trainers in court administrative procedures in October 1989. Selected graduates of the class gave follow-up courses to about 30 JPs in Tegucigalpa and 30 in San Pedro Sula. This process was repeated in June-July 1990.

The logic behind the CSLA concept is that a pool of effective trainers will be produced and will be used. However, the first group of trainers were selected without any specific criteria; the second group were more carefully selected. However, the trainers' teaching capabilities have not been evaluated, which is particularly important given the limited amount of training being provided (one-week) and the limited teaching experience provided (one-week for some, none for others). There is no system for ensuring that the trainers get more training or experience--or that they are used.

A significant number of the people trained under the CSLA training of trainers activity have not been given training assignments. The program does not appear to be integrated into the Court's training program.

The administrative training carried out by CSLA has not been as well received as the legal training organized by ILANUD. CSLA has had less direct contact with Court officials and with the trainees. Furthermore, less data is available on the type of administrative training that is needed. Further, administrative re-organization has been lagging, so it has not been possible to establish training needs to support this activity.

Since the initiation of the training activity, the internal situation has changed significantly. The Judicial School became operational in 1989 to serve as the coordinating body for all judicial training of court personnel. It has a full-time training position, with the incumbent working on a program for implementing the ILANUD-funded training needs assessment. The proposed

training program of 12 modules covers both legal and administrative training. The Judicial School is looking to GU/CSLA to assist it in defining further and implementing the administrative training. CSLA does not appear to have determined the impact of the above developments on the need for its training of trainers activity or decided how to respond to the Judicial School.

The evaluation team believes the distinction between legal and administrative training is somewhat forced when it comes to training for judges and their assistants. The training of trainers seems to have been a way of circumventing the issue. How such an activity fits, if it does, into current training proposals in the ILANUD training needs assessment is unclear. All of the proposals in the MOU need to be reviewed and revised.

In a. above, it was pointed out that there was a need for more information on the functioning of the Justice of the Peace system. This information is particularly needed to facilitate the design of training programs for the JPs.

The MOU also calls for annual in-service training for "municipal" judges during three years of the project. Presumably this should be deleted if the training is being provided through the ILANUD program.

The CSLA training activities are discussed in somewhat greater detail in Annex F. Additional information on the Judicial School and ILANUD training activities can be found in Annex G.

3. Public Defender Program

One of the most significant achievements of the project has been the successful establishment of a Public Defenders program in Tegucigalpa and San Pedro Sula. The evaluation team understands that current plans are to extend the program to the interior of the country. Three lawyers ("abogados") and 12 law graduates are currently working under the program.

In May 1990, two technical experts from CSLA did an excellent evaluation of the Public Defender program, highlighting its important contributions as well as some of the problems it has encountered. This report was particularly significant in that it provided keen insights into the legal, administrative, and political conditions under which the Public Defenders program has been operating. The report is also suggestive of the type of diagnostic work that needs to be done in relation to the operations of the courts.

Public Defender System Study

The MOU calls for the project to finance a study to: a) examine the requirements to consolidate the laws and procedures regulating the public defender's capability in Honduras; b) draft legislation strengthening the public defender function; c) offer alternatives on how to organize and manage a public defender unit in the Judiciary; d) develop hiring criteria and required training programs, salaries and benefits within the parameters of the Judicial Career Law; and e) suggest equitable ways to encourage other lawyers to become public defenders on an occasional basis.

An expert from CSLA came to Honduras in April 1989 to secure support for a draft law on Public Defenders. However, he encountered opposition in his efforts, including, in his view, lack of support from the A.I.D./ILANUD liaison with the Court. There is no indication that the expert tried to do the system study called for in the MOU. A Public Defender law has not yet been passed, and the team found no evidence that GU or USAID was actively pursuing the matter. GU, commenting on the evaluation team's draft report, stated that its scope of work was less detailed than that set forth in the MOU and that GU considered it had met its terms of reference.

4. Strengthening the Administrative System of the Judiciary

Project outputs in the Logical Framework of the Project Paper include the training of 20 administrative staff and the following evidences of a strengthened administrative system:

-- improved planning, programming and budgetary capability

-- organizational and procedural manuals written

-- financial, management and personnel system functioning

-- procurement capability established

-- information system strengthened and utilized.

The MOU provides that the project will assist the Honduran Judiciary in an administrative reorganization. The NJRC was to take the lead in organizing the effort, but USAID's contractor was to provide up to 14 person-months of technical assistance in organization and management within the entire judicial system.

Clapp & Mayne carried out a study of the organizational structure of the Judiciary in June 1989 which was submitted to the Court in July. No action was taken on the report by the Court. The organization of the court re-surfaced during discussions with the Court February-March 1990. In late June, a GU subcontractor came to Honduras for discussions.

This led to the preparation of "An Organizational Development Plan for the Judicial Poder." This report was reviewed by Court officials in a September workshop, and a revised version was under review by the NJRC during the team's visit. It was planned that it would be submitted for Supreme Court review in October 1990.

The September 1990 plan provides a solid basis for future collaboration between GU and the Court in the area of administrative reorganization. However, the plan deals only marginally with the primary objective of the project -- achieving full implementation of the career judicial service. Related to the foregoing, the plan includes a number of items that are beyond the scope of the project. This opens up the possibility that project resources (e.g., the contractor's personnel) could get diverted to nonproject activities, leading to further delays in achieving project objectives. Further discussion of the development of the work plan, and some of the items in it, is included in Annex H.

Perhaps more relevant to this project element than others, the MOU included a covenant providing that key members of the Judiciary, including judges and administrative staff, will participate in a series of management by objectives conferences planned throughout the life-of-the-project. Except for the September 1990 workshop with court officials, this has not occurred.

5. Training Program to Support the Career Service

The MOU calls for four kinds of training to be undertaken under the project: (a) in-service legal training for judges; (b) technical training for permanent staff of the support office for the judicial system; (c) observation visits; and (d) long term training.

No in-service legal training has been provided, reflecting an agreement with the Court in early 1989 that assistance to legal training would be the purview of ILANUD. Responsibility for administrative training for judges was assigned to GU/CSLA. The CSLA training of trainers workshops (one in October 1989 and another in June 1990) and follow-on courses in court administration, are discussed in 2.b above.

No technical training for permanent staff of the support offices has taken place. This reflects delays in creating a permanent staff (i.e., implementation of the Judicial Career Law) and carrying out the administrative reforms anticipated under the project. The latter could be expected to entail considerable training.

Of eight international observation visits proposed under the project, two were carried out to the United States in 1988, with two Court officials each, to review court administration (see Annex F).

Of two long-term graduate level fellowships planned for the project, one has been used by an official of the National Agrarian Reform Institute to study agrarian law at the University of Costa Rica. Maintenance of the agrarian and municipal land registries are a responsibility of the Court; however, the fellowship student's course of study does not include subjects related to land registry reforms.

ILANUD has prepared a training needs assessment covering both legal and administrative areas in the training modules proposed. The Judicial School seeks CSLA assistance in designing and implementing the administrative training. The evaluation team found no plan for responding to the request. Furthermore, there appears to be little contact between the organization providing the training under the project, CSLA, and the principal clients--Court officials--and others working in judicial training--the Judicial School and ILANUD.

A covenant in the MOU calls for the Court to hire a permanent training officer by the second year of the project and to maintain the position after the project. The establishment of the Judicial School meets this covenant.

6. Public Information Program

The MOU calls for two mass media campaigns to increase the understanding of the population of the laws of the country and the functioning of the court system. A Covenant calls for a permanent public information officer to be hired by the second year of the project and the position to be maintained after the end of the project.

There has been no project activity in this area.

B. Conclusions

1. The level of achievement against project plans is disappointing:

   a. The effective implementation of the Judiciary Career Law is little advanced from when the project began, although there is reason to expect that some of the remaining technical work will be initiated soon. The tenure of judges and their isolation from politics appears no better now that when the project started.

   b. The amount of administrative training provided to Justices of the Peace is low in relation to the elapsed time of the project, although not too bad in relation to the time when the contractor came on board.

   c. In spite of earlier work by the contractor, very little has taken place in strengthening the administrative system of the Judiciary. This has contributed to the lack of training of judicial support staff.

d. No public information programs have been carried out; some publicity on the availability and workings of the public defender program would have appeared appropriate--at least in the two geographic areas where it has been available.

2. There have been mixed results in two of the activities:

   a. The experimental Justice of the Peace program has seemed successful; yet, the President of the Supreme Court told the team that he does not intend to extend its operation beyond the 81 Justices of the Peace whose first year has been financed under the projects. Thus, only about one-fourth of the JPs will be from the program--and their tenure will probably be contingent upon progress in implementing the career law.

   b. The Public Defender program also has received high marks, but its maintenance requires a Public Defender law and the implementation of the career law. Follow-up on the recommendations contained in the April 1990 study is needed.

3. The logjam in project implementation seems to have been broken in mid-1990; there are indications that progress will now accelerate:

   a. The President of the Supreme Court has stated that the Judicial Career Law would be implemented by January 1991.

   b. A work plan for organizational and administrative improvements has been developed by the contractor in conjunction with Court officials. It, or a revised version thereof, should be approved before the end of 1990.

   c. The program of the new Honduran administration (Plan de Gobierno 1990-1994) calls for judicial reform.

4. Since the life-of-project has been extended to August 1992, it seem likely that project outputs can be realized <u>if</u>:

   a) The Court and the Government of Honduras has the will and political strength to implement the Judicial Career Law;

   b) The Court and the contractor, with USAID's support, give high priority to the activities called for in the MOU. Given the increase in training activities projected in both components I and II, the contractor will need to add a training specialist to its Honduran office.

   c) USAID allows greater direct interaction between the Court and the contractor and does not allow needs in other components to slow up activities in this component.

5. Support to training programs should increase substantially as project implementation accelerates. For USAID-funded support to be effective, a number of issues need to be addressed:

   a. The contractor's training role needs to be reviewed in light of the establishment of the Judicial School, the acceptance by the Court of the ILANUD-funded training needs assessment, and the lack of current information on the working conditions and administrative needs of the Justices of the Peace.

   b. There is need for more analytical work on the working conditions of the Justices of the Peace and Judges of First Instance (Jueces de Letras) and on the application of the provisions of the Code of Criminal Procedure. This is needed to provide a basis for detailed curriculum design of proposed training programs, as well as provide input to an evaluation of the feasibility and desirability of continuing the experimental Justice of the Peace program.

   c. There is need for greater coordination between CSLA, the Judicial School, and ILANUD. A special workshop, like the September one on judicial organization, is needed to go over training needs and the roles of the different players, particularly CSLA. This would be most useful, however, if it were preceded by the necessary analytical work identified in b. immediately preceding.

   d. If GU is to play a significant training role, it will need to have a full-time person assigned to the Judicial School or attached to the GU/Honduras office.

6. The most effective contribution to the achievement of the AOJ objectives of the project have come from outside the project -- from ILANUD-supported activities. A number of its contributions have been cited above; see also Annex G.

IV. ANALYSIS OF PROBLEMS, ISSUES AND CONSTRAINTS

The evaluation team presents in Annex I a discussion of Implementation Issues, USAID Project Management, the National Judicial Reform Commission, and the Impact on Women of the project component. Recommendations covering these items are included in Section VI below.

V. PROJECT DESIGN VALIDITY

The evaluation team believes that the AOJ component is very important in terms of the goals of the overall SDI project. Further the basic design assumptions that achievement of the outputs specified will result in a more effective and more responsive Judiciary appear valid. In Annex I, the foregoing are expanded somewhat and there is a discussion of some specific design issues raised in the team's scope of work.

VI. RECOMMENDATIONS

A. Mid-Course Adjustments

The evaluation team does not see the need for a change in basic design, but it does wish to recommend some changes in emphasis and offer some ideas for alternative approaches.

1. USAID should give highest priority to encouraging and facilitating the Court's effective implementation of the Judicial Career Law, with the immediate focus of attention on insulating the justices from politics.

2. USAID should let the Court know that: a) A.I.D. considers this the most important element of the Judiciary component of the project; and b) USAID is unwilling to make significant contributions to other elements, let alone support any new ideas put forth in the September workshop, until:

   a. a detailed implementation plan has been prepared for implementing the law and action has been initiated in accordance therewith on a priority basis; and

   b. current hiring by the Court is being done on the basis of public announcements of openings, competition among candidates, and selection by an impartial selection process that ensures political affiliation is not an element of decision.

To implement the career law requires additional technical work and it should be finished soonest. For the implementation of the law to be effective, however, it may be necessary to work out arrangements with the political parties to insulate the appointment and tenure of justices from politics.

In its draft report, the evaluation team recommended that USAID determine what, if anything, besides "will" is needed to implement the career judiciary law. Further, it proposed that the USAID Liaison Officer provide a detailed report on the status of the implementation of the career law. The team understands that this was done, but it has not seen the report.

3. **Assuming that a strengthening of "will" is needed, USAID should request the convening of a workshop to discuss the de-politicization of the Judiciary.**

The Bar Association or the Law School could be asked to arrange the meeting, possibly utilizing an outside facilitator. There should be representation from the political parties. The agenda should include: a) the rationale for insulating judges from politics; and b) developing a plan for de-politicization. The USAID Program Officer discussed with the evaluation team why an efficient, honest Judiciary is important to the development of the country and quite possibly could offer names of potential participants who could discuss this theme in the meeting.

The evaluation team sees the Justice of the Peace and Public Defender programs as part of the effort to create a Judiciary worthy of career status and offers the following recommendations related thereto:

4. **USAID should encourage the Court to ask for a joint U.S.-Honduran study to evaluate the experimental Justice of the Peace program and recommend its future. The study should also review the items identified in III.B.5.b. above.**

If current GOH budgetary problems are the reason for the reluctance of the President of the Supreme Court to continue with the Justice of the Peace program, possibly USAID could absorb the salary costs for two years for an additional 27 Justices of the Peace, provided that the Supreme Court felt it could absorb the funding of these positions subsequently. If jobs for displaced justices is part of the problem, the joint study team proposed in Recommendation 4. above might be able to recommend ways to alleviate the problem.

5. **USAID should facilitate the early drafting and submission to the Congress of enabling legislation for Public Defenders.**

B. <u>Training</u>

1. **USAID should propose that NJRC, with contractor support, or the contractor, following the completion of the study recommended above (A.4) hold a workshop, similar to the September 1990 one on judicial organization, which would focus on:**

   a. **the relationship between administrative and legal training;**

   b. **the role of the Judicial School in all elements of judicial training and its relationships with ILANUD and USAID contractors; and**

   c. **the development of a plan for expanding and improving training in court administration and other areas of judicial operations not currently covered.**

2. The contractor should proceed with the purchase and delivery of the furniture to the Judicial School. This overdue procurement was agreed to before there were delinquencies in meeting the MOU Conditions Precedent.

3. Assuming that the contractor will have an expanded training role in the near future in both Components 1 and 2, USAID should authorize the contractor to add a full-time training coordinator position to its Honduras office.

C. Project Management

1. Given the arrival of a new chief of party for the contractor and the positive working relations developed with members of the Court, USAID should modify its project management approach and allow the contractor greater freedom in dealing with the Court on a day-to-day basis on the implementation of an approved work plan.

2. Concurrent with the foregoing, USAID should focus its attention on policy issues (see A. above), routine project monitoring, and ensuring appropriate coordination of effort between bilateral and regionally-funded activities.

D. Impact on Women

There are two issues related to women that should be of concern to USAID. One relates to the openness of the Judiciary to participation by women; the other to any special problems that women may have in obtaining justice under the law.

1. With regard to openness, USAID should arrange for a study to be funded under the project to (a) identify and assess the obstacles to female participation in the Judiciary; (b) review the Career Judiciary Law and its enabling regulations for potential for discrimination.

2. Depending upon the results of the foregoing study, it may be appropriate to establish a monitoring mechanism to ensure compliance with provisions of the Honduran Constitution and the American Convention on Human Rights (to which Honduras is a party) to ensure compliance in hiring and promotion within the career judiciary.

3. Regarding justice under the law, a study should be undertaken to determine whether there are special problems that women have in obtaining justice that could be dealt with under the project. A particular area for review would be the system of family law and child support payments.

E. Priority of Recommendations

A complete ranking of all recommendations (e.g., 1,2,3 etc.) does not make sense because some are contingent on other recommendations or actions, the timing of which the team cannot

determine. Nevertheless, there follows a categorization of priorities which should help give the team's perspective if it is not already obvious from the text above.

Category I

1. Recommendations A.1,2,and 3 regarding the implementation of the career judiciary.

2. Project management recommendations (C.1. and 2.)

3. Recommendations A.4 and 5 on the experimental programs.

Note: 1. and 2 are primarily USAID action while 3. will involve contractor action if the Court concurs in the proposal.

4. Delivery of furniture to the Judicial School (in process).

Category II

1. Recommendations B.1 and 3 on training

2. Recommendations under C. regarding impact on women.

VII. LESSONS LEARNED

A. Scope of the Project

The SDI project was essentially an umbrella project composed of three separately identified components: one to work with the Judiciary, one to work with the Congress, and one to work with the Elections Tribunal and the National Registry of Persons.

Each of the three components of the project were supposed to be self-contained, and problems in one were not supposed to cause delays in the others. It is doubtful that this can ever be guaranteed, but a minimum condition to achieve such a situation would be the provision of separate USAID project officers for each component. Having separate contractors for each component would further increase the insulation.

Even if it were not possible to have separate project officers for each component, it seems clear that support for the election should have been separately administered. The election component had less to do with the other two components, and it had a deadline by which a large amount of project action had to culminate. Thus, it was bound to have over-riding priority for USAID and contractor action for nearly a year. This adversely affected implementation of the AOJ component.

Aside from wanting to insulate the different components from problems in the others, having a separate contractor for the

individual components makes sense on other grounds. The three components have very little in common, and most potential U.S. contractors will not have expertise in all three activities. While this can be dealt with by forming a consortium or through sub-contractual relations, these arrangements diffuse authority and responsibility, complicate control of personnel, and are usually more expensive--e.g., by adding overheads on to overheads.

In sum, these three components really are three different projects. It is questionable whether the umbrella concept reduced project management workload in relation to what it might have been with two or three projects. In any case, the cost in implementation difficulties and delays does not seem worth maintaining the umbrella concept.

B. Bilateral vs. Regional Activities

In theory, the bilateral SDI project was to take over activities in Honduras previously funded under the regional AOJ project. Funds were transferred from the regional project to the bilateral project. However, the delays in the start-up of the bilateral project caused difficulties in on-going regionally-funded activities. The regional project had to resume funding activities it had dropped. Then when the bilateral project became operational, there were turf problems to be worked out. These were exacerbated by the fact that USAID had insisted on utilizing a training source other than that being utilized under the regional project.

In retrospect, one can envision having started the SDI project without the AOJ component initially and letting it continue as a regional project. The USAID was taking on enough new type activities with the other two components, and the AOJ activity was doing well the way it was organized.

Alternatively, USAID could have obtained AID/W approval to continue the regionally funded AOJ activity largely as it was and hire one or two contractors to handle the other components. Either process could have minimized the loss of momentum from the change-over of funding and should be considered in such situations in the future.

C. Information Sharing

The evaluation team found that neither USAID nor contractor personnel were well informed about similar activities being carried out by AID in other Central American countries. The team even discovered that a contractor helping the Congress automate in Guatemala was not aware that the Guatemalan Court was also in the process of automating. There appears to be a need for some systematic sharing of information about programs and specific actions being taken to deal with fairly common problems.

Either the AID/Washington LAC/DI or the Central American regional project should take responsibility for developing a system for sharing information, including periodic regional meetings of USAID project officers, contractor personnel, and host country counterparts

USAIDs should ensure that contractors have a process for ensuring that their advisors are current on relevant activities in other countries of the region. Contract experts should join host country personnel when they go on observation tours to other countries. The expert can help ensure that the participants receive maximum benefit from the visit. This process should also result in improved communications in subsequent project implementation.

EVALUATION SCOPE OF WORK

OBJECTIVE

To provide a team which shall evaluate the progress made to date under the project and to provide guidance for any midcourse adjustments that may be necessary. This objective will be achieved in a four-part process:

For each of the four project components:

1. A comparison of accomplishments to date against the planned outputs;

2. An analysis of problems and constraints that have impeded project implementation and achievement of planned inputs;

3. An analysis of the continuing validity of the original project logical framework and assumptions;

4. Recommendations for midcourse adjustments, if any.

STATEMENT OF WORK

The contractor shall conduct an evaluation which addresses the following areas:

A. Overall Project Progress

For each of the project components, the evaluation will provide answers to the following questions:

1. What are the project accomplishments to date?

2. How do these accomplishments compare to planned project outputs?

3. For planned outputs not yet realized, what are the prospects of achieving the outputs by PACD?

4. What achievements or accomplishments occurred that are beneficial toward achieving project objectives but that were not envisioned in the original design?

5. The cost effectiveness of supporting each component should be reviewed and compared against results and planned outputs.

6. What mechanisms should be incorporated into the project to measure the impact on women?

B. Analysis of Problems and Constraints

The evaluation will answer the following questions:

1. What have been the principal constraints to achieving the planned outputs in a timely and cost effective manner?

2. What factors, if any, have constrained the ability of contractors and subcontractors to achieve the targets established for their work.

3. Is the balance between contractor responsibilities and Mission Project backstopping appropriate for timely and cost effective implementation? If not, why not?

4. Is the overall project management appropriate for effective project implementation? If not, why not?

5. Is the quality of the administrative and legal training provided under the regional and bilateral projects adequate for achievement of planned training outputs? If not, what improvements are recommended?

6. Are the structure and role of the National Judicial Reform Commission appropriate for achievement of its goals? If not, what changes are recommended?

7. Is the organization and operation of the Judicial School adequate for the achievement of program goals? If not, what changes are recommended?

8. Are the regionally funded activities, Regional Administration of Justice Office (RAJO and ILANUD), consistent and effectively coordinated with the goals and objectives of the Administration of Justice Program in Honduras? If not, what changes are recommended?

C. Project Design Validity

The evaluation will answer the following questions:

1. To what degree are the logical framework and Project Paper analytical assumptions still valid?

2. Is the institutional analysis contained in the Project Paper still valid for each component? If not, why not?

3. Where assumptions and analyses are no longer valid, will there be a negative effect on achieving planned outputs? If so, in what way?

4. Is the recurrent cost analysis contained in the Project Paper still valid? If not, how will this impact the project?

D. Midcourse Adjustments

Based on the analyses in Sections A, B, and C above, the evaluation will describe what, if any, midcourse adjustments are necessary to achieve the project outputs by the Project Assistance Completion Date.

ANNEX-A:29Sep90

LIST OF PERSONS CONTACTED

SUPREME COURT OF JUSTICE

OSWALDO RAMOS SOTO	President, Supreme Court
RIGOBERTO ESPINAL IRIAS	Magistrado, Supreme Court
JOAQUIN ALCERO	Magistrado, Supreme Court
MARIO ALBERTO GUZMAN ZUNIGA	Magistrado, Second Court of Appeals
JUAN CARLOS PEREZ CADALSO	Secretary of the Supreme Court
ISRAEL GONZALEZ	
EDGARDO ORELLANA	
OTILIA CARASCO	

NATIONAL JUDICIAL REFORM COMMISSION

JOAQUIN ALCERRO
JORGE ALCIDES AGUILAR SOSA
WILFREDO BARRIENTOS, JR.
RICARDO ESTRADA IGLESIAS

OTHER HONDURANS

ROBERTO BOGRAN	USAID/H Liaison Officer with Court
JOSE HUMBERTO PALACIOS	

ILANUD

OSCAR ARCE
MARIA GABRIELA FERNANDEZ
EMILIA GONZALES
CARLOS JOSE GUTIERREZ

COSTA RICA

CARL CIRA	USAID/RAJO
LYNN HAMMERGRAN	USAID/RAJO
DANIEL ZOVATTO	CAPEL
JORGE ROVIRA M	Universidad de Costa Rica (UCR)
HUGO MUNOZ	Asamblea Legislativa/UCR

INCAE

JOYCE OSLAND	Costa Rica office
CESAR GONZALES	Executive Director, Honduras

AID/WASHINGTON

TOM PARK	Former Director of HRD, USAID/H
NORMA PARKER	Former Director of LAC/DI, AID/W
ANTHONY VOLLBRECHT	Former Project Officer, USAID/H
KAREN OTTO	Administration of Justice Officer, LAC/DI
JOHN FASULLO	Former Project Officer, USAID/H
LINDA ANDERSON	General Counsel Office
LOUIS MACRAY	Honduras Desk Officer, LAC/CAP/H
WILLIAM SCHOUX	Director, LAC/DI
MARIA MAMLOUK	LAC/DI

USAID/HONDURAS

JOHN SANBRAILO	Director/USAID
GEORGE WACHTENHEIM	Deputy Director
MICHAEL WILLIAMS	Regional Legal Advisor
JAMES ATHANAS	Contracting Officer
CONSTANCE PARASKEVA	Special Projects Division
ROBERT MURPHY	Formerly w/USAID/H
ROBERTO FIGUEREDO	Special Projects Division
CLAY EPPERSON	Special Projects Division
EMILY LEONARD	Director, Human Resources Dev. Office/USAID
EUGENE SZEPESY	Director, Office of Development Programs
EMIL FALK	Agriculture Division
MELISSA STEPHENS	Formerly in Special Projects Division
MARGARET KROMHOUT	Project Backstop Officer
CARMEN ZAMBRANA	Evaluation Officer

GU/WASHINGTON

GERALD PAGANO	Deputy Director, CIPRA
IRWIN LEVY	Project Manager
RICHARD BARRET	Assistant Project Manager
RAY GARUFI	Former Chief of Party in Honduras

GU/HONDURAS

STEVE LIAPIS	Former Chief of Party
DOUGLAS ROBERTSON	Acting Chief of Party
SONIA QUINONEZ	Training Support Officer
MARGARITA ARIAS	Comptroller
GUILLERMO PEREZ CADALSO	Legal Advisor

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LOGICAL FRAMEWORK

STRENGTHENING DEMOCRATIC INSTITUTIONS (522-0296)

Narrative Summary	Objectives Verifiable Indicators	Means of Verification	Assumptions
Goal			
To strengthen Honduran democracy	- continuing open elections - public's confidence in the system - increased access and participation	- Analysis of elections - Central Bank Statistics	- Regional political stability - stabilized economy - Continued political will to consolidate the democratic process
Purpose			
To improve the capability of key democratic institutions (the Judiciary, the Congress and the National Elections Tribunal/National Registry) improve local political leadership, and increase the knowledge and participation of the Honduran populace in the democratic process.	- universal suffrage - increased number of bills initiated in Congress - reduction in time for court case processing - separation of power enhanced in according with the constitution - relative increase in the number of participants in the system and awareness of the democratic process	- project reports - surveys - evaluations	- political acceptance of targeted institutions to change - maintenance of internal political stability

Narrative Summary	Objectives Verifiable Indicators	Means of Verification	Assumptions
Outputs			
1. Administration of Justice -- to strengthen the court system making it more efficient and responsive to the Honduran populace in matters concerning civil and criminal justice and better able to mediate intra-governmental conflicts	- judicial career implemented - 40 law school graduates participating in experimental justice of the peace; public defender system consolidated - strengthened administrative system -- improved planning, programming and budgetary capability -- organizational and procedural manuals written -- financial, management and personnel system functioning -- procurement capability established -- information system strengthened and utilized - 400 judges trained - 20 administrative staff trained - public information program initiated	- project reports - surveys - site visits - evaluation	- enhanced elite political commitment to rejuvenated judicial process - appropriate human resources available - increase in allocation of national budget to 3% for the judiciary by 1990.
2. Legislative Enhancement -- to improve the effectiveness of the Honduran Congress in formulating and passing laws which govern the country and to increase contact with the [SIC]	- Establish a National Center for Legislative support -- permanent staff -- reference service functioning -- policy research service functioning -- career service established for congressional administrative staff and employees of the National Legislative Support Center	- Project Reports - Surveys - Evaluations	

Narrative Summary	Objectives Verifiable Indicators	Means of Verification	Assumptions
	- Creation of the Congressional administrative office -- improved planning, programming, budgeting -- organizational and procedural manuals written -- financial, management and personnel systems functioning -- improved information systems - legislative process streamlined -- calendar established -- debates scheduled -- deadlines maintained -- tracking system developed - committee system strengthened and utilized - 134 legislators trained in orientation session - 120 trained in committee procedures - 150 administrative staff trained - 23 congressmen partake of observational trips - public information program functioning		

Narrative Summary	Objectives Verifiable Indicators	Means of Verification	Assumptions
3. Voter Registration/ Elections improvement - to assist in the improvement and professionalization of the TNE and the RNP; enhancing their ability to manage an effective registration process and guaranteeing the Honduran people universal suffrage and fraud free elections.	- Registries from 1880 - 1983 updated, verified and microfilmed - 45,000 registries including 20,000,000 documents and over 2,000,000 identity cards - establishment of a career service for the RNP - an improved administrative structure for the RNP -- financial, management and personnel systems functioning -- improved programming, planning and budgeting -- organizational and procedural manuals written -- information system improved - department and municipal register activities enhanced and linked better with the National Registry - 30 administrative support officers trained - 620 National Registry employees trained - 1000 local registry employees trained - improved conduct elections - strengthened administrative office	- Project reports - Site visits - Evaluations	- Multi-partisan support - human resource availability

Narrative Summary	Objectives Verifiable Indicators	Means of Verification	Assumptions
	- 80 administrative support officers trained - 52,000 election workers trained - 1989 Presidential elections carried out - public information program functioning.		

IMPLEMENTATION OF THE CAREER JUDICIARY

The need for the establishment of a career judiciary in Honduras was clearly revealed by the Legal Sector Study done by Florida International University under ILANUD auspices (May 1987), which was in progress as the Project Paper was being drafted. The authors of the Project Paper (PP) were able to draw on both the preliminary results of this comprehensive study of the Honduran legal system, and various concept papers including one by Mark Rosenberg describing the political and cultural context (and obstacles to be overcome), and a paper by Allan Austin addressing issues of administrative reform in the judiciary. With this background, the drafters of the Project Paper rightly focused on the establishment and implementation of a career judiciary as a primary objective of the Administration of Justice (AOJ) component of the Strengthening Democratic Institutions (SDI) Project.

The principal objective of establishing a career judicial service contained in the PP made good sense. For without employment stability on the part of judges and their assistants, or of the department heads and other administrative officials at the Supreme Court (the administrative center of the judiciary), little of a permanent nature could be gained by providing either training for judicial personnel or technical assistance for administrative reform.

Contemporary developments suggested that, as of 1987, the Supreme Court was moving toward full implementation of the judicial career service. The Court in office from 1985 to 1989 had, with technical assistance from ILANUD, already begun to address the issue. Three technical studies, which included drafts of certain rules necessary for full implementation, and a fourth report evaluating the three, were prepared with ILANUD assistance.

The principal goal of the AOJ Component of the Project was thus to contribute to the on-going implementation process of establishing a career judiciary, as mandated by the 1980 Law on the Judicial Career.

This objective was made clear in the Project Grant Agreement of August 12, 1987, under which the signing of a Memorandum of Understanding with the Judiciary was one of the conditions precedent to initial disbursement (§4.2.a); it was also established that the Judiciary would comply with the conditions for disbursement set forth in the corresponding Memorandum of Understanding [§4.2.b]. The Government of Honduras (Grantee)

further agreed "to provide the Judiciary with the level of funding necessary to meet and carry out an effective reform of the judicial system" [§5.3]. The Constitution mandates that three percent of the national budget be allocated to the judiciary.

In the Memorandum of Understanding between AID and the Judiciary (Poder Judicial) of October 14, 1987, the third Whereas clause referred to the fact that the judiciary had solicited AID "to provide assistance in order to strengthen the administrative system of the Judiciary, help implement the Judicial career service, study the public defender system and establish experimental training programs."

Significantly, the experimental Justice of the Peace and Public Defender Programs included in the project were closely linked with the establishment of a career judiciary in the minds of the drafters of the Project Paper. In describing the strategy, activities, and outputs of the AOJ component, the PP states the following:

> Initial priority will be given to four tasks: implementing a professional judicial career service, including establishing experimental development programs for Justices of the Peace and Public Defenders....

This task is described as a single component in the Project Paper under the heading of "Developing the Judicial Career Service/Experimental Programs" (PP at p. 26). The PP explains further that, "If successful, this program (comprising both JP and PD elements) could be an important source of career judges and experienced public defenders with permanent appointments offered to the most promising participants." Regarding the Public Defenders program, the PP states the if the Supreme Court decides to continue the program, "employees will be incorporated under the judicial career service and the program will remain permanent."

The importance of implementing the judicial career service was made explicit in the MOU, which established the following two Conditions Precedent:

> (1) Prior to any disbursement of the assistance under this agreement, or to the issuance of any commitment documents for the assistance, except for the provision of technical assistance and up to $100,000 in other Project Inputs, the Honduran Supreme Court (HSC) shall, except as the parties shall otherwise agree in writing, furnish to A.I.D. in form and substance satisfactory to

A.I.D., evidence that the Judicial Career Law guidelines and by-laws have been accepted by the Supreme Court and the schedule to begin implementation has been approved.

(2) Prior to any disbursement of assistance after December 31, 1989, or to the issuance of any commitment documents for the assistance, except for the provision of TA, the Honduran Supreme Court shall, except as the parties may otherwise agree in writing, furnish to A.I.D. in form and substance satisfactory to AID evidence that all new Judicial sector personnel, except Supreme Court Justices, are being hired under the new career personnel system, and that 75% of all judicial personnel currently employed have been hired under that system. [MOU of October 14, 1987, § g (1)-(2)]

As previously noted, the Supreme Court had adopted the General Regulations ("Reglamento") governing the Judicial Career regime in January, 1987. These were to enter into force on January 1, 1988. Significantly, the general Regulations contained definite deadlines for the adoption of specific measures (such as job classifications, pay scales, etc.) called for in the 1980 Law. Article 91 provided that these steps were to be completed within one year, by the end of which the career judiciary system was to be fully functioning and in force.

Under the regional AOJ program, ILANUD had provided technical assistance to develop these manuals, classifications, etc. during 1986. It does not appear, however, that after the bilateral SDI Grant Agreement was signed, either AID/Honduras or Georgetown carried forward the work originally undertaken by ILANUD. This work came to a halt as the bilateral project assumed responsibility for AOJ programs at the national level. This was the general A.I.D. strategy for the bilateral and regional programs at the time.

In addition to the work with ILANUD on specific projects, and the adoption of the General Regulations referred to above, other progress was made in implementing the Law on the Career Judiciary under the Supreme Court which held office from 1985-1989. The Court named the Judicial Career Council (Consejo de la Carrera Judicial) called for in the 1980 Law. Moreover, this Council took cognizance of at least several labor complaints and issued decisions as called for by the Judicial Career Law and Regulations. Another indication of the Court's interest was that it republished the text of the 1980 law in the Gaceta Judicial of May-August 1987. In short, the contemporary interpretation appears to have been that the Judicial Career Law was already in force, at least in part.

Unfortunately, this momentum was lost. The evaluation team has received information that a competition for the 27 Justices of the Peace to be funded under the Project was held with some 100 recent law graduates applying for the positions. According to some versions, the results of this competition were put aside, with candidates backed by the two parties being substituted for at least some of the successful candidates in the original competition. While representatives of the present Court either maintained that no such substitution took place or were notably reticent on the point, some substitution appears to have occurred. Thus, even after the Project Agreement was signed, positions envisioned in the Project Agreement apparently were filled not with individuals chosen strictly on the basis of competitive examinations, but rather on the basis of political allegiance. These positions have been funded directly, and indirectly, by USAID.

To be sure, legal arguments have been presented by representatives of the Court, based on the text of Article 90 of the 1980 Law on the Career Judiciary, to the effect that all administrative requirements must be met before the judicial career regime enters into force. Article 90 provides:

> Article 90. The application of the regime contemplated in this law should be done in a gradual or progressive manner, within the shortest possible time, once the regulations and other implementing measures of a technical nature have been adopted.
>
> [Artículo 90. La aplicación del régimen contemplado en esta Ley deberá hacerse en forma gradual o progresiva, para dentro del menor tiempo posible, una vez que hayan sido dictados los reglamentos y demás disposiciones de orden técnico que lo complementen.]

As noted above, Article 91 of the same law calls for the corresponding authorities to adopt complementary provisions within one year,

> such as rules, instructive or other manuals, as well as to take the measures and decisions necessary so that at the end of the aforementioned period the system for personnel administration will be fully and effectively functioning.
>
> [tales como estatutos, manuales instructivos u otros, así como tomar las medidas y providencias necesarias a fin de que al final de dicho período el sistema de administración de personal se encuentre en pleno y efectivo funcionamiento.]

In short, some are of the view that the Judicial Career Regime is already in force. Others make the argument that all of the technical requirements must be in place before the career judiciary is formally established. Since there are many such requirements, the latter interpretation affords ample opportunity for delay.

It appears that, during the latter half of 1989 and early 1990, USAID did not monitor closely Supreme Court compliance with the Conditions Precedent contained in the MOU. Whether this situation has continued in 1990 is not clear. Nor has evidence been found that the Conditions Precedent have been modified in writing, as required by the MOU, or even informally.

A letter from the current President of the Court, dated June 19, 1990, stated that the technical-level working group in the Court in charge of implementing the measures referred to in Articles 90-91 of the Law anticipates that such work will be completed within 10-12 months. Presumably, at that time the first Condition Precedent in the MOU would be satisfied. Apparently USAID has not responded formally to this letter.

One consequence of USAID's failure to closely monitor compliance with the Conditions Precedent of the MOU may have been the selection of some and perhaps a number of the Justices of the Peace under the experimental program on the basis of non-merit considerations. Far more important, however, has been the fact that the new Supreme Court which assumed office in January 1990 has named lower judges and court officials on a non-merit basis.

The evaluation team was unable to obtain precise figures on the turnover of Court personnel following the election of the new Supreme Court. Estimates heard, however, range from 25 to 50 percent of judicial personnel. Turnover at the Justice of the Peace level appears to have been quite significant. Moreover, there has been great turnover in the administrative positions the project is designed to strengthen and in some cases to finance.

It may well be that the new administrative personnel are highly qualified. It is also possible that those who were removed from office by the new Court were incapable or corrupt. The fact remains that a very significant opportunity was lost to at least fill the positions vacated on the basis of merit qualifications. This might have been done, and should have been done, in accordance with the <u>spirit</u> of the Judicial Career Law and its 1987 Implementing Regulations, regardless of one's legal judgment as to whether or not the regime of the career judiciary had formally entered into force by January 1990. It appears that opportunities to advance toward achievement of the principal

objective of the Judicial Component of the Strengthening Democratic Initiatives Project have been lost.

Fortunately, achievement of this objective remains feasible. The present President of the Supreme Court told the evaluation team that he has committed himself to implementing the career judiciary regime by January 1, 1991. These commitments reportedly were reiterated in conversations with the A.I.D. Assistant Administrator for Latin America and the Caribbean, the Mission Director and the Ambassador at a lunch held on September 18, 1990. Thus, significant movement on the career judicial service may be imminent, although it may be overly optimistic to assume that all technical and administrative changes will have been made by January.

Two or three years may have been lost by the delays in project implementation and the failure to monitor closely compliance with the Conditions Precedent contained in the MOU. To maximize chances for full implementation of the career judiciary regime in the near future, and to bolster the efforts of those Hondurans who seek to achieve such a reform, careful USAID monitoring of Honduran compliance with the Conditions Precedent in the MOU will be required. This item should form an important part of USAID's policy dialogue--at the level of the Mission Director and the Ambassador--with the Supreme Court and with the Government of Honduras.

AOJANNEX.E-3:12/21/90

COMPONENT I - ADMINISTRATION OF JUSTICE

A. Evolution and Current Status of Training

1. Training Activities

October 2-6/89

CSLA trained approximately 20 trainers in court administrative procedures. Upon completion of this seminar, selected trainers gave follow-up courses to approximately 30 Justices of the Peace in Tegucigalpa. The second follow-up course was given to approximately 30 Justices of the Peace on Oct. 30 - Nov. 3 in San Pedro Sula. The consultants used modern methods of teaching in their seminars with the hope that they would be assimilated by potential trainers being trained.

Instructional materials were developed in Spanish and distributed in support of classroom discussions. The consultant/trainer teaching ratio (16-20) was small, permitting dialogue and interaction.

June 26-29/90

CSLA again trained approximately 20 trainers in an Administrative Procedures seminar. The trainers were selected by the Judicial School. The topics and themes centered around the improvement of administrative techniques.

The first follow-on course for Justices of the Peace was given from July 2-6 in Tegucigalpa. The second was given on July 9-11 in San Pedro Sula. In all, approximately 60 Justices of the Peace were trained.

CSLA felt that their efforts to train trainers were successful. This was based on observation of trainers in the seminar and supervision of their teaching performance in the follow-on courses. CSLA felt the trainers were using group teaching techniques which invited dialogue on the part of their students.

Based on our interviews, some trainers felt that the seminars were beneficial. However, it was also noted that some trainers felt there was far too little time to learn much, let alone assimilate a modern teaching

methodology. As several persons put it, "time was the greatest enemy". The persons interviewed indicated that instructional materials for the seminar arrived late and that they were so voluminous that it was impossible to complete all of the suggested readings. There was the impression that some trainers left the seminar somewhat apprehensive of teaching others.

The seminar design assumes that the training of trainers scheme will produce a pool of effective trainers. However, the first group of trainers were selected without any specific criteria. It was observed that the trainers for the second seminar were more carefully selected, using established criteria as a basis of selection. Some participants who attended the second seminar felt that it was superior to the first and that it was very beneficial.

The CSLA consultants made no evaluation of the trainers' teaching competency. Therefore, those in a position to utilize the teaching services of these trainers have no idea of their teaching competencies. Good trainers develop a unique teaching style by teaching continuously over a period of time. Some of the trainers have been afforded the opportunity to teach at least in one follow-on seminar. Some were not provided this opportunity. To what extent their services will be utilized on a continuous basis is not known.

2. Graduate Fellowship Program

May 4/90

The project provided a fellowship (Ph.D) for the pursual of studies in agrarian law at the University of Costa Rica Law School. The specific areas of training and research were: (a) Agrarian Tribunals; (b) Agrarian Enterprise; (c) Agrarian Contracting.

The principal contractor called attention to the terms of its contract and suggested that the proposed training was not appropriate for the project. The USAID requested that the scholarship be granted and the contractor cooperated.

The participant is employed in the National Agrarian Institute as a legal advisor. His responsibilities in this position are: (a) to make judgements on proceeding

for land recuperation or expropriations which do not meet social functions; (b) prepare bills to be submitted to Congress as well as regulations to be approved by the President; (c) supervise the group of legal advisors who work at the institution; (d) provide legal advice relative to agrarian, labor, civil and administrative matters.

The participant expects to share knowledge learned with his colleagues at the central and regional level. He would assist in workshops, seminars and conferences on agrarian law. He would continue to support the creation of agrarian tribunals.

Progress reports on the participant indicate that he is doing exceedingly well scoring approximately 9-10 in all subjects[1].

3. Observational Visits

Feb-March/88

The project provided a one-month administrative training program in the U.S. for a Magistrate and the Secretary of the Supreme Court. The program consisted of observational visits covering all aspects of the U.S. Court System. Observations were provided in Washington, D.C.; Williamsburg, Virginia; Seattle, Washington; Denver, Colorado; Phoenix, Arizona; and Chicago, Illinois.

The participants felt that the court system had some differences and similarities. Of great interest was the efficiency in which the courts went about their work. It was felt that judges had independence but with responsibility. Security procedures were also of great interest to the participants.

The participants are very young and have many years to serve the Court. One felt that the comparative study tour broadened his thinking of judicial procedures and provided a strong motivation to become more professional.

[1] Taken from the Georgetown University files.

Aug 3-Sept 9/88

One month of court administration training in the U.S. was provided for one member of the Court of Appeals and a Magistrate from the Supreme Court.

The training program consisted of observation study tours to Washington, D.C.; Denver, Colorado; Phoenix, Arizona; Reno, Nevada; San Francisco, California; and Miami, Florida.

The group spent some extended time with the Coast Guard in discussing its campaign against drug trafficking. They were especially shown the various ways used to detect drug traffickers. Some time was devoted to a study of the Courts' work in cases of abused children and wives. The new technology for recording court proceedings was explained and displayed for close observation. The training course ended with an intensive treatment of judicial procedures in the U.S. Courts, the guarantees of the constitution, and the ways in which the Judicial System upholds democracy.

The participants are young and dynamic and felt that the observational tour helped them grow professionally. Through this trip they developed a deeper understanding and appreciation of the work of judges, the Courts, and Court personnel. Most of all, the participants stated that the trip had provided them a comparative dimension for interaction with students in their classes. They felt that the tour improved their teaching; this has been evidenced by the interest and respect shown by their students.

B. Implementation Issues

Inadequate communication among Georgetown University, USAID, CSLA, and the Supreme Court appears to have caused delays in the implementation of training programs and cast some doubt on CSLA's capacity to provide training before they even had a chance to perform. A training plan for CSLA activity was not prepared and coordinated with the Court.

C. Policy Issue--Continued Validity of Component Design

It is not certain how many more trainers, if any, will be necessary to provide needed training for the remaining Justices of the Peace and others in need of training. It might be wise to give more intensive training to a small

pool of trainers, perhaps from among those already given short-term training, who would then be given continuous teaching experience enabling them to develop a unique and effective teaching style. It does not seem desirable to continue producing partially trained trainers for a pool that is seldom tapped. If it should be decided to continue the training of trainers, some modifications of the current approach that might be considered are discussed below.

A built-in evaluation dimension should be included in this training component so that the consumers of such trainers will have some knowledge of their teaching competency. Some kind of pre and post-testing should be incorporated to determine the extent to which administrative concepts are mastered. In the follow-on experience, the trainers' teaching performance might be evaluated and a teaching performance rating given to the pedagogical adviser of the Judicial School.

Some thought should be given to the time of instruction. It appears to be too short a time for mastering content and to assimilate good methodologies of teaching. It might be more beneficial to have fewer seminars for longer periods of time.

A quarterly or semi-annual newsletter to trainers completing the seminar might be profitable. This newsletter could contain articles relative to the teaching process. Once initiated it might invite articles from trainers relating to teaching experiences in their classes. It might be a way of continuing the in-service training of trainers as well as giving them an opportunity to share their teaching experiences with others.

More time in the seminar might be devoted to the rationale of the teaching methodology used by the consultants. Some trainers interviewed felt that they needed to know more about the purposes and expectations of teaching methodologies.

D. Conclusions

1. Adequacy of Performance

Training implementation accomplishments were as follows: (a) of 18 training workshops for administrative training, four were completed; (b) of eight observational visits programmed (i.e., for eight

people), four were completed; (c) of two graduate fellowships, one has been utilized.

There appears to be a consensus that the seminars for trainers are improving. Although some of the participants feel it is too short a time to develop adequate teaching skills, they found both class content and instructional materials to be beneficial.

2. Appropriateness of Implementation Methods

It appears that the subcontractor is always in the process of developing training plans and the administration of justice officials waiting for something to happen. It might be wise to establish a planning and implementation unit with representatives from Georgetown, CSLA and the Judicial School to plan training activities for the remaining life of the project.

3. Mid-Course Adjustment Needs

a. Program Content

A determination should be made of how best CSLA might assist the Judicial School and ILANUD in the broader context of overall training. The Judicial School feels that the immediate need is CSLA's cooperation and assistance in the development of modules in administration.

There is the possibility at this time that CSLA's expertise in administrative techniques might be useful across the board to all units of the Judiciary. It appears that the time has come to discuss future training activities with the entities concerned:

(1) The Judicial School is not prepared at this time to offer training in administration. It is apparent that CSLA can make a contribution to improving administrative procedures at all levels.

(2) CSLA could collaborate with the Judicial School on the quarterly journal initially envisioned. The Judicial School is publishing an internal newsletter and this might be a good starting place.

(3) It might be wise to divert the funding for long-term training to short-term training, thereby financing more participants. It appears impossible to pull a worthy candidate from a key position over a long time period.

b. Implementation Methods

It would seem that the principal subcontractor, CSLA, and the Judicial School should develop stronger linkages to provide more rapid and effective training services. Training plans should emerge from an assessment of training needs. The Judicial School has a training needs assessment plan and should lead the way in developing training solutions to administrative problems.

E. Lessons Learned

1. The best training schemes are doomed to failure unless they are related to specific job performance problems for which in-service training is a relevant and realistic solution. It is essential that job performance problems be identified and that training solutions are suitable and appropriate.

2. Close collaboration is needed between the principal contractor, the subcontractor and the consumer if the training is to be effective.

F. Recommendations

1. That the principal contractor, the subcontractor and host country collaborate in the development of training plans for the remaining life of the project.

2. To effect the foregoing that a training advisory committee be established to evaluate what has been done, to plan for the implementation of the remaining tasks, and monitor and re-plan ongoing activities.

3. That there be a reexamination of the best use of CSLA's expertise in light of changing needs.

4. That CSLA consider the possibility of developing materials on administrative procedures and to place

such holdings in the Judicial School's library for use by trainers and other interested persons.

5. That ways be explored to utilize the services of trainers completing the course with the aim of developing a cadre of effective teachers in this specialized field.

6. That ways be found to build continuously the teaching competency of trainers through newsletters, observational trips, associations, etc.

7. That CSIA find ways to build an evaluation scheme in the training component so that empirical evidence of learning achievement and teaching competency can be determined.

8. That a direct channel be provided between the provider of training and the client to discuss training needs and training solutions. The client was not always certain of what kind and type of training was desired.

9. That Georgetown provide continuous information to its subcontractor on the ever changing training scene in Honduras with special attention to the sensitivities that must be taken into account by their consultants.

ANNEX-F:12/21/90

COMPONENT I
ADMINISTRATION OF JUSTICE

Training Proposed	Training Completed
o 18 one-week Departmental Training workshops to provide administrative training to all Justices of the Peace. They shall feature practical knowledge and techniques needed by judges, including administrative and record keeping techniques.	o Two Training of Trainers seminars by CSLA. Four training seminars for Justices of the Peace, two in Tegucigalpa and one in San Pedor Sula.
o In-service training for all municipal judges in the municipal courts. Once a year for a one-week period each year.	o None to date.
o 10 members of the professional staff of the Court will be given technical training for support office activities. On-the-job training of about six weeks per staff member shall be provided.	o None to date.
o 8 international visits for key court system administrative staff or law school professors to Latin America or the U.S. will be provided to study relevant models of administration of justice systems.	o One-month court administration training in the U.S. for one Magistrate and for the Secretary of the Supreme Court. o One-month court administration training in the U.S. for one member of the Court of Appeals and a Magistrate from the Supreme Court.

o Graduate level fellowships of four person-years for two to four participants will be provided to pursue judicial administration studies.	o One graduate fellowship granted for pursuit of a PhD in Agrarian Law at the University of Costa Rica.
<u>Mass Media Campaigns</u>	
o Two mass media campaigns to increase the understanding by the Hondurans of the country's legal system. These two campaigns shall each last for approximately two months and shall take place in 1990 and 1991.	o None to date.

REGIONAL PROGRAMS AND THE NATIONAL JUDICIAL REFORM COMMISSION

A. ILANUD Activities

ILANUD conducted a number of activities in Honduras prior to the arrival of Georgetown University (GU) in the country in January 1989. From 1986-88 it provided technical assistance to the National Judicial Reform Commission (NJRC) and the Court in connection with the preparation of the General Regulations (Reglamento) on the Career Judiciary. It prepared three detailed studies regarding the technical regulations concerning matters such as job classifications which needed to be adopted for the Judicial Career Law to become fully implemented. In 1988, when general A.I.D. strategy at that time was for the bilateral programs to assume responsibility of technical assistance at the national level, this ILANUD assistance came to an end.

ILANUD continued some training activities at the regional level. Originally, both AID/Washington and RAJO favored the selection of ILANUD to conduct judicial training under the bilateral. However, this preference did not prevail. Georgetown and its subcontractor, CSLA, were given responsibility for administrative training of judges, while additional A.I.D. funds were channeled through the regional project to ILANUD to provide all "legal" training of judges in Honduras.

In February 1989, ILANUD and the Supreme Court signed an Agreement in Spain which provided for ILANUD support of the Judicial School of the Court, which really began to function only in 1989. ILANUD is financing an Implementation Unit (Unidad Ejecutora) which has its offices in the Supreme Court building. With its support and that of ILANUD's representative in Honduras (who is also the liaison officer with the Court for USAID and A.I.D.'s regional Administration of Justice office (RAJO) in Costa Rica and works for ILANUD under what is termed an ad honorem contract), ILANUD has a capable and effective presence in Honduras. This has enabled ILANUD to carry out an impressive number of training courses in the country. In effect, all training of judges is being performed by ILANUD except for the administrative training which has been carried out, to date, by CSLA under the GU contract.

Given the very limited success of CSLA's "training the trainers" approach to putting on workshops for all of the justices of the peace in the country and others, ILANUD has performed a vital function in the training area.

Moreover, the training provided by ILANUD has been well received. Typically, it utilizes local instructors chosen in consultation with the National Judicial Reform Commission and the Court. These instructors provide the substantive content to course outlines provided by ILANUD, under the latter's general supervision. Significantly, ILANUD handles all logistical arrangements and has more or less mastered the mechanics of doing so.

The content of ILANUD courses was evaluated in the 1988 mid-term evaluation carried out by A.I.D. This report contains a detailed Appendix outlining and reviewing ILANUD's training and other activities in Honduras up to that date.

One of the most significant ILANUD activities in Honduras has been the preparation and publication of a training needs assessment for the Court. The report, which was very professionally done, was discussed at a workshop in Tela on May 30-June 2, 1990. The success of this workshop seems to have been an important factor in the Court's forcefully articulating its desire for Georgetown to get going on the activities described in the MOU. The GU-sponsored workshop at Valle de Angeles in turn provided a satisfactory response to what the Court perceived as a year and a half of project inaction.

In the needs assessment, which was carried out by highly qualified Honduran professionals under contract to ILANUD, 12 course "modules" were designed for future judicial training in the country. Six of these "modules" or general course outlines have been developed for the present year. Six more are to be introduced next year. Of particular interest to Georgetown are the two administrative "modules"; they deal with General Administration (of Tribunals) and Organizational Behavior, respectively.

The challenge for GU and its subcontractor is to see if CSLA is in a position to take responsibility for arranging for the teaching of the two administrative modules that have been developed as part of the organized training program of the Court, coordinated by the Judicial School.

With respect to other ILANUD programs, Georgetown has generally been unaware of their content, although visits and meetings have taken place, both in Tegucigalpa and in San José. Of greatest significance, perhaps, is the ILANUD project on Legal Information, which coordinates specific programs in various countries of the region.

For example, a computerized index and full-text retrieval system of up-dated laws is currently far advanced in development and partly operational in Guatemala. This experience is directly

relevant to the proposals under consideration for computerized data banks of legislation at the Congress and of Supreme Court cases at the Supreme Court in Honduras.

Interestingly, the evaluation team learned that an A.I.D. funded computerization program for the Congress was under development in Guatemala, without the managers of this program being aware of what was being done at the Supreme Court--in the same country! An obvious need exists for fuller coordination by LAC/DI, RAJO, and ILANUD in keeping project managers and contractors fully abreast of parallel developments taking place in different countries of the region.

There is a need for closer coordination between GU, ILANUD, the Court, and USAID at the planning and programming stage for all legal sector activities in Honduras.

Finally, it should be noted that ILANUD is currently under something of a cloud as a result of an administrative evaluation conducted by A.I.D. in June 1990. The evaluators did not consider outputs, but reached stinging conclusions as to ILANUD's overall institutional capacity. In view of ILANUD's past and potential contributions in the legal sector in Honduras, it appears highly desirable for it to continue current and anticipated programs at the regional and at the national level with respect to Honduras.

B. The Coordinating Role of the Judicial School

The Judicial School is currently set up to operate as the central coordinating body for all judicial training of court personnel. Both Georgetown and ILANUD should work to strengthen its operational capabilities by coordinating their training programs through the School. In doing so, they should pay particular attention to the institution-building opportunities that exist, and seek to transfer increasing responsibilities to the Judicial School instead of doing it all themselves.

C. The Role of USAID

The Mission is represented by a liaison officer with the Court who is at the same time ILANUD's local representative in Honduras. This officer also represents RAJO, which was instrumental in his selection in 1985. While he is a capable and energetic player in AOJ activities in Honduras, an important issue that needs to be addressed is whether a single individual, whatever his or her talents, can adequately represent different institutions whose interests can and do from time to time diverge.

The issue needs to be addressed at an early date. The evaluation team has not come up with a definitive answer to the questions posed. However, it is clear that lines of responsibility and accountability are blurred and need to be straigthened out. One possibility that should be given careful consideration is for USAID to designate an official with primary and exclusive responsibiiity for monitoring and coordinating all activities in the legal sector.

This person would then act as his or her own liaison with the Court and the other entities involved in activities in the judicial arena in the country. These include the Supreme Court, the National Commission on Judicial Reform, Georgetown, ILANUD, the A.I.D. Mission, the A.I.D. Regional Administration of Justice office in San José (RAJO), LAC/DI in Washington, and other entities such as ICITAP.

D. The Role of RAJO in Costa Rica

The role of RAJO is an important one in coordinating regional activities with those carried out at the national level in Honduras. Regular meetings should be held with the representativers of organizations operating in the legal sector in Honduras to help ensure coordination and the dissemination of pertinent information regarding activities underway in other countries of the region.

E. The Role of the LAC/DI Office in AID/Washington

LAC/DI is very thinly staffed in terms of professionals with technical expertise with responsibilities in the AOJ sector of the Democratic Initiatives office. A critical coordinating function, including the dissemination of a periodic written newsletter and other updates regarding activities in the region would be enormously useful to A.I.D. project managers and contractors working in different components of AOJ reform in different countries.

This function may and should be performed in part by RAJO, but it is important for LAC/DI to play a key role in coordinating and disseminating information regarding program activities underway in different countries. Information should be readily available, for example, indicating what countries are working on what kind of projects in collaboration with what institutions. Too much of this informationn is in the heads of a very few individuals. More needs to be disseminated on a periodic basis in written form.

F. The Role of the National Judicial Reform Commission

The NJRC was created in 1986 to serve as the principal channel for regional AOJ assistance and reform efforts, and to play a central role in the coordination of reform efforts among different state and private institutions in Honduras. This mechanism was designed to develop and coordinate requests and the use of foreign assistance in the AOJ sector.

At present the Commission functions largely as an arm of the Court, due to several reasons. First, most AOJ inputs have been channeled to the Supreme Court. The Law School's Institute of Legal Studies (Instituto de Investigación Jurídica) should be benefitting from project funds, but apparently is not. They could use a direct telephone line, one or more computers, and other support. The Colegio de Abogados might play an important role in civic education programs. This has yet to occur.

A second reason is that the Commission's offices are in the Court, and its President is a representative of the Court (and also the Court's liaison with the SDI project).

A third reason is that most of the representatives that regularly attend meetings are not of the same rank as the Supreme Court Justice who runs the meetings.

The Commission meets weekly for two to four hours, which represents a significant commitment to achievement of regional and bilateral reform objectives.

At present the Commission functions as practically an arm of the Court. In that sense, it is almost superfluous. However, its second function of developing consensus and coordinating activities with different entities involved in the judicial arena is an important one. Thus, it should be maintained.

One possibility for strengthening the influence of the Commission would be to hold some meetings (perhaps monthly) with the highest officials from the member organizations (ministries, bar association, Law School). The regular representatives could continue to attend weekly meetings, keeping their superiors informed of work being done by the Commission. The advantage of drawing in higher-level representatives, at least on a monthly basis, is that it might generate greater commitment on the part of their respective institutions to the goals of reform in the legal sector. This could have benefits in terms of generating Executive support for allocating a larger budget for the Court, i.e., more nearly approaching the 3 percent of the national budget which is mandated by the Constitution.

AOJANNEX.G-3:12/21/90

ORGANIZATIONAL DEVELOPMENT PLAN FOR THE JUDICIARY

The evaluation team has become concerned about the lack of an approved work plan for the contractor, Georgetown University (GU), and the recent decision to ignore the program called for in the Memorandum of Understanding (MOU) and embark on the development of a totally new organizational development plan for the Judiciary with reference to commitments on project content and budget.

GU presented a work plan to USAID in January 1990 for the first six months of 1990. In February, the USAID Project Officer "approved" the plan, subject to his subsequent approval of each activity. Given the restrictions on the contractor at the time (e.g., no independent contact with counterpart entities), this approval was meaningless. Further attempts to develop a work plan became intermeshed with attempts by the Court's middle level of management to find out what was happening to the programs and activities called for in the MOU. On most of these, there had been no action. In April 1990, GU prepared a revised work plan; it does not appear to have been approved.

In any event, by June, in response to calls for action from the Court, the Contractor effectively abandoned the April work plan, and began focusing instead on responding effectively to the Court's demand for action. The June 1989 report was made available to the Court, its author and other experts from GU and its subcontractor visited the Court in July to discuss the development of a joint plan for carrying out organizational development in the Judiciary. A draft of this plan was prepared by GU and its consultants, and distributed to Court officials prior to a workshop held at Valle de Angeles on September 6-7, 1990.

The document which emerged from the the Valle de Angeles workshop maintained in most respects the essential parts of the draft prepared by Georgetown. However, Honduran participation led to several significant improvements in the design for organizational reform at the Court.

Despite the highly improvised way in which the revised document was developed, the document lays a solid basis for future collaboration between Georgetown and the Court in the area of administrative reoganization. Significantly, its development and the implementation process envisioned are based on an organizational development approach which requires close and continuing collaboration between GU's outside consultant and Court officials, including in particular mid-level managers and department heads.

This approach should have been used at the very outset of the project. Fortunately, it is being put into operation now. Cooperation between the Court and GU had been virtually at a standstill up until June 1990. Now, there exists a widely-shared view that things are going much better.

Because the logjam has been broken, and active communication between Georgetown and the Court is now proceeding apace, GU and USAID are extremely optimistic at present. Paradoxically, while the biggest problem in the judicial component of the project was lack of significant movement prior to July 1990, perhaps the biggest risk that exists now is that parties on all sides will move too hastily on implementing reform measures.

Two key points must be borne in mind. First, the organizational and administrative reforms at the Court should not be permitted to obscure the primary objective of achieving full implementation of a career judicial service at the earliest possible date. The Valle de Angeles document does not appear to give priority to this goal.

Second, the organizational development plan for the court is not, and should not be considered, a substitute for preparation and approval of Georgetown's workplan for the remainder of the year or for 1991. The Valle de Angeles document, currently in a state of dynamic evolution, was prepared without respect to budgetary considerations. It is useful as a guide to the overall strategy the Court should pursue, and the TA and other assistance Georgetown can provide in this regard.

However, it includes elements that cannot and should not be considered part of GU's workplans for the next 15 months, such as a pilot project for developing a multiple purpose land registry in Francisco Morazan Department, a decision to broaden the existing Gaceta Judicial (in its 101st year of publication) to topics of educational interest (presumably as a substitute for the idea in the Project Paper of creating a separate magazine or journal for this purpose, and establishing a Public Defender's office in the Court.

While all of the aforementioned ideas may make sense from the point of view of the Court, it does not follow that Georgetown and the SDI project should be the instrumentality used for achieving them. Some should probably be deferred to a follow-on project (or projects) in the AOJ sector. Georgetown can and should assist the Court in developing these strategic plans. It should not, however, lead the Court to believe that it will actually implement all of them.

Consequently, it is recommended that the Court's plan for organizational development be treated as an independent document, and that Georgetwon prepare its own work plan for 1991. This should obviously be closely coordinated with the Court's plan.

It does not appear that sufficient deliberation has been given to certain of the changes anticipated in the Plan for Ogranizational Development which emerged from the Valle de Angeles workshop. The "Data Processing Center" is envisioned as a center for computerized data retrieval of jurisprudence, case-tracking, the registry of deeds, technical support for automation of administrative functions, and planning. The document talks specifically of two hardware alternatives, and anticipates selection of the appropriate system.

These elements raise several concerns. With respect to the retrieval of full-text cases decided by the Supreme Court, the drafters of the document seem unaware of the existence of computerized legal information systems in the region, including a regional program being run by ILANUD, the existence in Guatemala of a system established under ILANUD direction which is already partly operational, and similar developments and plans underway in Costa Rica. The document does not address the issue of the interface between the Court's computer system and that being developed at the Congress.

In this regard, there is a great need for the Court, the Congress, USAID, and the contractor to develop a decision process which can address the key policy issue of which institution should be charged with maintenance of up-to-date texts of the laws of the country.

The Supreme Court would seem to have both the legal expertise and the organizational mission most suited to maintaining the data base for both laws and jurisprudence. It requires both laws and jurisprudence to perform its essential role of deciding cases. The Congress, on the other hand, has a more episodic need for access to up-to-date texts of laws. If responsibility were placed at the Court, as has been done in Guatemala, Congress could have full on-line access to the date base, but would not be in a position to change the records in it.

Finally, before the full-text data base of Supreme Court decisions is implemented in the Court, a much higher priority would appear to be getting current laws up-to-date, putting them in a computer data base, and printing them so that they will be widely available to lawyers and the public in the country, the majority of which do not have computers. A member of the evaluation team attempted to obtain selected basic laws at the Administración de Rentas, where they are sold. He was told that the Constitution could only be obtained at the Central Bank, and

that the basic law on the organization of the judiciary as well as other basic laws were not available.

This need should be addressed before the full texts of Supreme Court decisions are put in an on-line data base, particularly in view of the way lawyers use laws and cases in civil law countries such as Honduras, where much, much greater reliance is placed on the former than on the latter, which play a relatively small role in legal research and argument.

AOJANNEX.H:12/21/90

ANNEX I

ANALYSIS OF PROBLEMS, ISSUES, CONSTRAINTS, AND PROJECT DESIGN VALIDITY

PROBLEMS, ISSUES, AND CONSTRAINTS

A. Implementation Issues

1. Findings

a. A number of implementation problems plagued the project from inception to mid-1990:

(1) Contracting delays resulted in the prime contractor coming on board in January 1989, 16 months after the project was initiated.

(2) By the time the contractor's personnel produced some material for the Court's review (June 1989), preparations for the election were in full swing. USAID was involved in contractual difficulties in another project component and was bringing great pressure on the contractor to increase activity in support of the up-coming election. Neither the USAID nor the contractor found time to focus on Component I. Some of the materials prepared by the contractor were not immediately passed on by USAID to the Court; the automation study was lost and was re-submitted by the contractor a year later when it was discovered that the Court had never received it.

(3) Although Court officials in December 1989 told a representative of the contractor that they wanted to move ahead with some activities related to implementing the Judicial Career Law, nothing was forthcoming to the contractor through USAID--the prescribed mode of official communication. The team received conflicting stories as to why no action was taken during this period.

(4) Further delays were experienced in early 1990: initially, while the new Court got organized; subsequently, while USAID was focusing on the negotiation of other agreements with the GOH.

b. The foregoing implementation problems are now largely resolved or overtaken by events, but a new issue has arisen. The evaluation team is concerned that the recent broadening of discussions with the Court from activities within the project to a consideration of everything the Court would like to do could result in diffusion of effort by the Contractor and continued minimal accomplishment on meeting project objectives.

c. Related to the above is a team concern whether adequate attention is being given to the most important objective of the administration of justice (AOJ) component, i.e. the implementation of the career law for the Judiciary. The President of the Supreme Court has said he expects to implement the law by January 1, 1991, but working level members of the Court said that such a schedule was unrealistic because too much still needed to be done.

d. Due to the original under-estimation of costs and implementation delays, the budget for Component I has increased from $2.04 million to $2.97 million. Thus, the cost effectiveness of the component will be significantly less than projected in the Project Paper. Even so, based on the assumptions in the Project Paper, the activity would be economically justifiable.

2. Conclusions

a. The lack of progress in implementing the Judicial Career Law may reflect a lack of political will. However, one cannot be sure because, for reasons mentioned in 1.a., USAID does not appear to have stayed on top of the issue.

b. The limited progress in other project areas appears to reflect the factors cited in 1. above plus weaknesses in USAID management (see next issue).

B. USAID Project Management

1. Findings

a. USAID had no full-time project officer for the SDI project until January 1989, at which point most activities were considerably behind schedule and a serious contract administration problem was evolving.

b. Because the cooperating GOH institutions had not dealt with USAID previously, the project design called for Honduran liaison officers on USAID's payroll to guide Honduran officials regarding USAID procedures and requirements. However, the Honduran liaison officer on Component I had no previous experience with USAID, and he was never given any training.

c. The design of the project also assumed that the liaison officers would coordinate with the contractor, once on board, in planning short-term technical assistance for their respective components. Apparently, there was an expectation that the liaison officer could represent both USAID and the contractor to the Court. Because the contractor felt it was to be out front in relations with the Court and other institutions, it did not feel it was appropriate for AID liaison officers to be representing it.

d. Because of the serious implementation problems occurring prior to the contractor's arrival, GOH officials had established the pattern of dealing directly with USAID on implementation matters before the contractor arrived. Thus, it was not possible for the contractor to carry out its role in a normal manner, let alone be out front, without strong support from USAID.

e. USAID, however, beginning in mid-1989, restricted the contractor in its relationship with GOH institutions and at times kept the contractor in the dark as to what was going on in the project.

f. The contractor's scope of work does not reflect the emphasis of the Project Paper and MOU on the priority to be assigned to implementing the Career Judiciary Law.

2. Conclusions

a. It is time to re-define the role of USAID and the contractor in project implementation, giving the contractor more traditional authorities and responsibilities for implementing technical activities and USAID restricting itself to a monitoring role. Only in the policy area should the USAID be out front in relations with the Court, e.g., implementing the Judicial Career Law and finding other means to insulate judges from politics.

b. The role of the USAID liaison officer to the Court should be reviewed, particularly in light of a. above. Consideration might be given to assigning him to specific tasks needed to make the USAID contributions to the project more effective, e.g., undertaking and/or participating in diagnostic studies and analyses and activity evaluations the need for which the team has identified in III.A.2.a. and B.5.b. above.

C. National Judicial Reform Commission

1. Findings

a. The NJRC was created in 1986 to serve as the principal channel for regional AOJ assistance and reform effort, and to plan a central role in the coordination of reform efforts among different public and private institutions in Honduras. This mechanism was designed to develop and coordinate requests for, and the use of, foreign assistance in the AOJ sector.

b. At the present time, the NJRC functions largely as an arm of the Court: 1) most AOJ inputs have been channeled to the Supreme Court; 2) the Commission's offices are located in the Court, and the president of the NJRC is both a member of the Supreme Court and its representative; 3)

most of the representatives that regularly attend meetings are not of the same rank as the Supreme Court Justice who chairs the meetings.

c. Nevertheless, NJRC does serve an important coordinating function, e.g., with the Ministry of Finance, the Bar Association, and the Law School (including its Institute of Legal Studies--Instituto de Investigacion Juridica).

d. The NJRC meets weekly for two to four hours, thereby making a significant commitment to the achievement of objectives of the regional and bilateral AOJ projects.

2. Conclusions

a. In general, the structure and role of the NJRC seem appropriate for assuring that regional (RAJO and ILANUD) and bilateral AOJ activities are effectively coordinated and are consistent with the Court's needs. It could do more to promote a strengthening of auxiliary organizations such as the Law School and its Institute.

b. The influence of the NJRC might be enhanced by arranging for higher level representation periodically from the non-Court agencies represented on the Commission.

c. The support of the other agencies and political parties for judicial reform could be strengthened if individual members or units of their organizations were asked to participate in diagnostic studies and analyses and/or evaluations of project activities, e.g. in relation to the functioning of and training needs for the Justices of the Peace.

d. Coordination of the activities of donors and their contractors could be enhanced by the NJRC by its holding semi-annual meetings with all appropriate participants in the AOJ sector to review progress and plans and to deal with actual or potential issues.

D. Impact on Women

This issue was not discussed in the Project Paper or in the MOU, and the team found no indication that it had been considered during the implementation of the project up to mid-1990. In the evaluation scope of work, USAID asked the evaluation team to suggest mechanisms that could be incorporated into the project to measure the impact on women. Such suggestions are provided in the Recommendations section (VI.) below.

The breakdown by sex of magistrates and judges is shown in the table below. Most of the female judges are located in two departments: Francisco Morazan and Cortes.

Number and percentage of Magistrates, Judges of First Instance, and Justices of the Peace by Sex.

	Feminine	Masculine	Total
Magistrates			
Number	2	12	14
(Percent)	(14)	(86)	(100)
Judges of First Instance			
Number	9	27	36
(Percent)	(25)	(75)	(100)
Justices of the Peace			
Number	11	87	98
(Percent)	(11)	(89)	(100)

PROJECT DESIGN VALIDITY

The evaluation team offers the following observations and conclusions relating to the validity of the project design:

1. The AOJ component is very important in terms of the goals of the overall SDI project, probably as important as helping the Hondurans improve their election process. The effective operation of the criminal justice system in ways which both control crime and protect citizens' rights is a necessary pillar of any democratic society. An efficient and reliable Judiciary is also very important to the economic development of the country, because it is needed to encourage investors to help develop agriculture, industry, and housing.

2. The basic design assumptions that achievement of the outputs specified will result in a more effective and more responsive Judiciary appear valid. The indicator at the purpose level of a "reduction in time for court case processing" seems inadequate of and by itself as an indicator of improvement in the administration of justice.

3. Although the basic design for the AOJ component is generally valid, the USAID management structure and contractual arrangements for implementation of the project were not appropriate given the magnitude of activities in, and the complexity of, the SDI project--including particularly the support to be provided to the administration of the election--see VII.A. below.

4. One of the external assumptions cited in the Logical Framework of the Project Paper was that there would be "an enhanced elite political commitment to rejuvenated

judicial process." This commitment appears to have waned during the latter part of the previous administration. The current government, however, has included judicial reform in its program. Further, it has a greater parliamentary majority and may thus be more able politically to take action.

5. It was also assumed in the Logical Framework that the allocation of the national budget to the Judiciary would be increased to three percent by 1990 (as prescribed in the Honduran Constitution). Although the Judiciary's share of the budget increased, it did not reach that figure.

6. The institutional analysis of the Judiciary in the Project Paper remains valid.

7. The general thesis in the recurrent cost analysis in the Project Paper for the Judiciary is valid: a budget allocation of three percent should adequately cover all the increased recurrent costs implicit in project activity. However, some of the individual budget item estimates will probably change--depending upon final organizational plans, the number of law school graduates incorporated into the career service as Justices of the Peace, the degree of expansion of the Public Defender program, the final decisions on automation for the Court, and any up-grading of prosecutors that may be necessary to balance the improved public defender results. The estimates of savings from elimination of political jobs may be overstated. It should be pointed out that the savings from more expeditious case processing will not accrue primarily to the Judiciary, but to the ministry administering prisons. Nevertheless, this point could be made by the Court as justification for being allocated the three percent it is supposed to receive.