



Project Report

**National Democratic Institute
for International Affairs**

1717 Massachusetts Ave., N.W., Suite 605
Washington, D.C. 20036
(202) 328-3136
Telex 5106015068 NDIIA

ARGENTINA:

INTERNATIONAL CONFERENCE ON CONSTITUTIONAL REFORM

April 23-25, 1987

Buenos Aires, Argentina



NATIONAL DEMOCRATIC INSTITUTE FOR INTERNATIONAL AFFAIRS

Suite 605, 1717 Massachusetts Avenue, N.W. Washington, D.C. 20036 (202) 328-3136 • Telex 5106015068 NDHIA

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NDI received bipartisan acclaim for organizing the international observer delegation to the "snap" presidential elections in the Philippines. NDI has also conducted a series of democratic development programs in nearly 30 countries, including Argentina, Barbados, Brazil, Chile, Haiti, Nicaragua, Northern Ireland, Senegal, South Korea, Taiwan, and Uruguay.

conducting nonpartisan international programs to help maintain and strengthen democratic institutions

I am not an advocate of frequent changes in laws and constitutions. But laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths discovered and manners and opinions change, with the change of circumstances, institutions must advance also to keep pace with the times. We might as well require a man to wear still the coat which fit him when a boy as civilized society to remain ever under the regimen of their barbarous ancestors.

Thomas Jefferson

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EXECUTIVE SUMMARY

NDI's ongoing project on constitutional reform options for Argentina culminated in a major international conference, which took place as the country's civilian government faced its greatest challenge since the restoration of democracy in 1983.

The April 23-25 gathering in Buenos Aires included some 30 political leaders and constitutional scholars from Europe, Latin America and the United States. They were joined by a counterpart group of 30 leading political figures and scholars from Argentina, drawn from the country's two major political parties -- the Union Civica Radical and the Partido Justicialista (Peronists).

Argentine President Raul Alfonsin launched the initiative to reform the national constitution as part of a national program to modernize the system of government and contribute to the consolidation of Argentine democracy. Alfonsin, who met with conference delegates at his residence, has cited constitutional reform as a major element in bringing greater stability to Argentina's democracy. He praised the conference as a display of international solidarity with Argentine democracy.

NDI was asked by the Radical and Justicialista parties to sponsor the International Conference on Constitutional Reform in order to analyze the issues and improve public understanding of options for reform. The conference was organized and sponsored in cooperation with the West German Friedrich Naumann Foundation and three institutes representing the Radical and Justicialista parties -- The Arturo Illia Foundation for Peace and Democracy (FAI), The Foundation for the Change in Democracy (FuCaDe), and The Foundation for the Coordination of Growth (FUNCRE).

Among the panel topics for the three-day conference were: 1) constitutional reform -- the development of an accord for national unity; 2) legislative organization and functioning; 3) individual, social and economic rights and their constitutional guarantees; and 4) the strengthening of political representation and participation.

General Conclusions:

The goals of the conference were well met, and the achievements can be summarized as follows:

1. the Justicialista and Radical parties convened for a constructive, cooperative exchange of ideas on major national issues;
2. the Argentines expressed satisfaction at having been able to profit from the experience and expertise of a diverse and distinguished international delegation;
3. the study of the strengths and weaknesses of various systems offered valuable insights on such reform options as a semi-presidential system, a parliamentary legislative branch, a strengthened senate, and constitutional guarantees;
4. the timing of the conference -- in the wake of the military mutiny -- demonstrated international support for Argentine democracy, capitalizing on the widespread publicity to launch the national debate on constitutional issues.

The following points summarize comments made during the conference sessions. These points illustrate the presence or absence of a consensus on respective issues of constitutional reform. The conference participants agreed that:

1. modern Argentina is in need of a constitution that reflects the national spirit and consolidates Argentine democracy, (national consensus will be the guiding force of the constitution, which in turn will be the guiding force of Argentine democracy);
2. diverse provinces and social sectors can best remain united under a federalist system;
3. Argentina could benefit from a strengthened senate, whose federalist role makes it the voice of the provinces (several comments suggested moving to a parliamentary form of legislature);

4. decentralization of the social, economic, and political power structure will enhance the democratic process;
5. political parties play an integral role in a pluralistic system, and that the constitution should protect the pluralistic system and secure the role of an effective, involved opposition; and
6. a semi-presidential system, introducing the position of prime minister, would share the responsibilities and dilute the power of the executive branch (this reform could further streamline legislative-executive relations and strengthen the system of checks and balances).

Consensus was not reached on whether:

1. Argentina's present political climate is opportune for undertaking a major reform initiative (prevalence of the public's democratic sentiment is tempered by the risks of making rapid changes during a time of instability); nor
2. individual, social and economic rights should be guaranteed in the text of the constitution (above and beyond the protection of fundamental human rights and civil liberties, there was not consensus on the range of rights to be guaranteed nor on the institution responsible for pursuing and upholding these rights -- i.e., constitutional text or government policy).

INTRODUCTION

The institutional problems facing Argentina's democracy include a powerful presidency, an election system that places party affiliation over individual qualifications, and weak or nonexistent congressional oversight.

There is general agreement among the political parties on the need to restructure the Argentine Congress. Theoretically, the Argentine Congress is vested with the same powers as the U.S. Congress. In fact, a strong party system prevails. Members of the Argentine Congress owe their allegiance, and their election, to their respective parties rather than the constituencies they represent. Strict party discipline prohibits open voting on policy issues. Thus, the minority party becomes largely irrelevant, except for its ability to obstruct the legislative process. The system is also hampered by overlapping committee jurisdictions and difficulties in convening a quorum.

During Easter week 1987, just days before NDI's constitutional reform conference, Lt. Col. Aldo Rico and his followers sparked a national crisis when they mutinied at the Campo de Mayo army base outside of Buenos Aires. Many of the mutineers had been among several hundred officers indicted on charges of murder, kidnapping, torture and other crimes committed during the campaign against leftist guerrillas and other dissidents in the mid 1970's to early 1980's. The military insurgents refused to accept civilian court jurisdiction in the human and civil rights cases. They demanded a shake-up of the army's high command and immunity for officers who, in their view, had acted under "due obedience" to orders for the illegal repression given by their superiors.

On the day the mutiny began, President Alfonsin addressed the Congress. He described the grave implications of the revolt:

This is not the temperamental reaction of one man. On the contrary, it is a premeditated maneuver by a group of men whose objective is to establish a situation that would force the government to negotiate its policy... Their intent is to impose on constitutional authorities legislation establishing impunity for those condemned or tried in connection with human rights violations committed by the previous dictatorship. In no way can we accept such blackmail. It is contrary to our democratic conscience, our Constitution and to the rules and regulations governing our

armed forces based on the concept of discipline. The era of coups has ended forever. Argentine democracy is not negotiable.

Public support for Alfonsin and democratic rule was overwhelming. On Easter Sunday hundreds of thousands of citizens poured into the streets; political parties, unions, civic and nongovernmental organizations signed pacts of solidarity, and a general strike in opposition to the military rebels was contemplated. That afternoon, President Alfonsin announced to the huge crowd at the Plaza de Mayo that the crisis was resolved and the rebels had surrendered.

Despite the successful outcome, the fragility of Argentina's governmental system had been dramatically underscored. The institutions that form the fabric of successful democracies -- a vigorous legislature, an independent judiciary, a protected and nonpartisan civil service, active interest groups and a loyal, disciplined military -- are uncertain entities in today's Argentina.

The objective of NDI's programs in Argentina was to facilitate debate and consensus on constitutional and legislative reform that would help consolidate Argentina's democracy.

PART I: BACKGROUND

Following a year of correspondence between NDI and the Arturo Illia Foundation for Peace and Democracy (FAI), NDI was invited in September 1985 to participate in a three-day seminar in Buenos Aires on congressional reform, co-sponsored by the FAI and West Germany's Friedrich Naumann Foundation. The seminar focused on the role of the Congress and its relationship with political parties, interest groups, and other branches of the Argentine government. Discussions at the seminar addressed reforms that would strengthen the legislative branch, and how these might be achieved.

Soon after the seminar, the Argentine political leadership began to explore broader reform issues -- such as constitutional reform and the restructuring of the governmental system -- to strengthen the country's democracy.

A. ALFONSIN'S "INITIATIVE FOR DEMOCRACY"

On December 24, 1985, President Alfonsin created a Council for the Consolidation of Democracy (referred hereinafter as the Council), and in March 1986 asked the Council to gather background information on constitutional reform, seek opinions and recommend issues for possible amendment. The reform initiative was posed as the consolidation of the governmental system through a streamlining of the state's administrative structure, the modification in the functioning of the judicial branch and the relationship between the executive and legislative branches. Alfonsin asked the Council to study constitutional reform with these objectives in mind.

According to Alfonsin, the growing concentration of decision-making power in Buenos Aires must be reversed in order to strengthen the power of the provinces, the autonomy of city halls, and the capabilities of state enterprises. The decentralization process would not only be valuable in itself, Alfonsin said, but would help to assure the direct participation of the population in the decision-making process. "Democracy will not be a privilege that is only occasionally practiced," he said, "but will become a daily event."

Alfonsin further proposed moving the national capital from Buenos Aires to Viedma, Patagonia and upgrading territories and less developed regions to the status of provinces. This, he argued, would promote decentralization of the economic, social and political power presently concentrated in Buenos Aires and fortify the federalist responsibilities and benefits of the provinces.

Alfonsin said "the democratic system will be strengthened through a public discussion and debate on constitutional reform." It was on this premise that NDI initiated the International Conference on Constitutional Reform.

B. THE ARGENTINE CONSTITUTION

Throughout its history, Argentina has encountered difficulty in reconciling the differences that stand in the way of establishing a national constitution. The principal forces in the constitutional debate have been the urban leadership (portenos) of Buenos Aires and the competing interests of the provinces. For the first 50 years after independence from Spain, Argentina was without an official constitution. The people of the provinces had rejected proposed drafts of 1819 and 1826 because the centralization of power ran contrary to provincial ideals of federalism.

Similarly, the 1853 constitution was not totally

accepted until 1859. Tensions between the provinces and portenos led to a civil war that ended in victory for the provinces. The portenos agreed to join the republic on the condition that Buenos Aires would be made the capital, and the constitution was finally ratified for use in the Argentine country as a whole. The document was a compromise between the opposing interests; strongly federalist in form, it showed clear unitarist influences to appease the portenos. Modeled primarily on the U.S. system, it provided for a federal republic consisting of a presidential executive, a bicameral legislature, and a federal court system headed by the independent Supreme Court. The provision of a strong executive, given powers of intervention in the provinces, was included to hold the diverse provinces together.

In 1949, the government of Gen. Juan Domingo Peron revised the constitution. The revisions represented, according to the preamble, the "irrevocable decision to constitute a nation that is socially just, economically free, and politically sovereign." In effect, the Peronist constitution strengthened the economic power of the federal government at the expense of the provinces and private enterprise. It also enabled the president to dominate the legislative and judicial branches. When Peron fell from power in 1955, the reformed Constitution was cancelled by decree and the 1853 constitution was reinstated. The 1853 document, with minor revisions, governs Argentina today.

C. COUNCIL REPORT

On March 13, 1986, President Alfonsin asked the Council to seek the opinion of diverse sectors of Argentine society on the need to reform the 1853 Constitution and the possible items to be included in an eventual and comprehensive constitutional reform package. Alfonsin asserted that "the democratic system will be strengthened through a public discussion and debate on constitutional reform." The initiative of the president in debating constitutional issues is premised on the need to develop an accord for national unity.

On October 7, 1986, the Council came back to the president with its findings in a published preliminary report (referred hereinafter as the Report). A synopsis of the findings is outlined in the individual session reports on the conference, under the heading "At Issue." In its general conclusion, the Council stated:

Summing up, a majority of members of the Council believes that, if the process of amendment is carried out trying to keep a broad agreement basis throughout, it may prove beneficial for Argentine society as a way to renew a pact of union around a

fundamental core of ethical principles, and to bring up to date government mechanisms that will allow for a better balance and a decentralization of the various federal and provincial powers.

It is clear that (Argentines) do not want a (radical change) of the Constitution. On the contrary, they want its fundamental principles to be preserved. It is felt that what is needed is to extend and strengthen the rights and guarantees connected with man's freedom and dignity the preservation of which is indispensable for the validity of reform proceedings.

D. NDI CONSULTATION, OCTOBER 1986

Following the 1985 congressional reform conference, NDI began discussions with the Council, the Radical and Justicialista party foundations, and the Friedrich Naumann Foundation to organize an international conference on options for constitutional reform.

In October 1986, NDI sponsored a consultation in Washington with a delegation of Argentine congressmen and academics. During the consultation, the visitors -- representing the Radical and Justicialista parties, and the Council -- provided individual assessments of developments in Argentina's constitutional reform program. They highlighted major issues such as the nature of political participation by the public, the role of political parties, and the relationship of the Church and military under the constitutional system.

After discussing these issues with NDI and several Washington-based specialists and academics, it was decided that the conference would have three general objectives:

- a) to focus discussion among key politicians and scholars from Argentina, Europe, and the Americas on the implications of reform options under consideration in Argentina;
- b) to strengthen the dialogue between government and opposition in designing constitutional changes which would be efficacious and enduring;
- c) to demonstrate international solidarity with Argentine democrats.

PART II: INTERNATIONAL CONFERENCE ON CONSTITUTIONAL REFORM

NDI was asked by the Union Civica Radical and Justicialista parties to facilitate a debate on the issues of constitutional reform that would promote public understanding of these issues. It was the hope of NDI and the Argentine hosts that the Conference would encourage consensus on constitutional reform through sharing the experiences of key practitioners and scholars from other democratic nations.

The conference was held in Buenos Aires from April 23-25, 1987. NDI invited some thirty prominent delegates from democratic nations -- or, as in the case of Chile, democratic leaders from authoritarian countries -- to represent a wide variety of constitutional models and which, in some cases, have written new constitutions recently or amended existing ones. See "Appendix A" for a list of those participating.

These participants were joined by a group of 30 leading political figures and scholars from Argentina, drawn from the country's two major political parties and led by the heads of the hosting foundations: Francisco Delich from FuCaDe, Dante Giadonne from FAI and Sen. Diego Guelar from FUNCRE. Minister of the Interior Antonio Troccoli, Radical Sen. Fernando de la Rúa, and Justicialista Party leaders Italo Luder and Antonio Cafiero made appearances at the conference.

The conference was structured to favor open discussion centered around a few key themes rather than formal presentations. Free exchange of ideas ensued. The Washington consultation had identified four themes for discussion at the conference that were later expanded to seven specific topics, addressed in separate sessions during the three-day conference. The themes were:

- a) developing a national accord for constitutional reform;
- b) federalism;
- c) strengthening political representation and participation;
- d) apportioning the powers, functions and responsibilities of government;
- e) constitutional guarantees of individual and social rights;
- f) organization and functions of the legislature;
- g) constitutional consideration of economic issues.

Discussion of these themes was preceded by a ceremonial opening (Session I) at the University of Buenos Aires Law School. It was concluded with summary reports from the moderators of Sessions III-VIII, and closing remarks (Session IX).

The bulk of the sessions (Sessions III-VIII) were scheduled concurrently on the second and third days to expand the range of issues for discussion. The size of the groups was kept small. This facilitated dialogue. Participants shared specific areas of expertise with their Argentine counterparts. Each session was led by a moderator and was conducted in a roundtable forum. The sessions, nine in all, were held at the University of Buenos Aires Law School and the Plaza Hotel conference rooms.

A. SESSION REPORTS

This section discusses the nine sessions of the conference. The name and title of the Session Moderator, the key points at issue on the session topic (including a synopsis of the Council's Report on the topic), a summary of the discussion from the closing plenary session by the Moderator, and a full report of the discussion by international and Argentine participants, are presented. See "Appendix B" for the formal agenda.

SESSION I

Opening Remarks: Overview of Constitutional Reform and the Situation in Argentina -----

The opening plenary session featured welcoming statements by NDI Chairman Walter F. Mondale, who led the U.S. delegation, and Argentine Minister of the Interior Antonio Troccoli, who represented President Alfonsin. These statements were followed by remarks from the heads of the three Argentine host party foundations -- FAI, FUNCRE, FuCaDe -- and the President of the Council for the Consolidation of Democracy.

In his opening words, Mondale told the conference, "We are here to share our experience as democrats, as politicians, as scholars and by sharing our widely varying perspectives, to advance the dialogue and enrich the national debate on the issues of constitutional reform in Argentina." Mondale praised Argentina's commitment to make democracy a permanent feature of Argentine society rather than a temporary interlude. He said the participants at the conference, gathered from the democracies of the world, had come to underscore international support for that commitment.

Referring to the recent mutiny, Mondale also noted that the democratic system had been strengthened by the overwhelming support of the Argentine people. "It is only when a nation's citizens make a personal investment in democratic government that freedom will thrive," he said.

Troccoli, noting President Alfonsin's efforts to resolve the military crisis, said the Argentine president was unable to make his planned presentation at the session. Troccoli emphasized the need for a renewed commitment by all sectors of Argentine society toward consolidating democracy. On Alfonsin's behalf, he reaffirmed the government's commitment to explore the establishment of a parliamentary or semi-parliamentary system and an executive branch that would divide responsibilities between a president and prime minister. President Alfonsin and the Council had previously urged these changes, saying they could add much needed strength and continuity to the legislative branch, as well as flexibility to the system.

Dante Giadone, chairman of the Arturo Illia Foundation concentrated his remarks on resolving the rift between the military and the civilian government. He stressed the need for close study of the military in future deliberations on constitutional reform. Giadone said FAI and the Argentine people wanted to rescue the military, rather than crush it, but that the values expressed inside the barracks must be made compatible with the values of society before this can happen.

Diego Guelar, the chairman of FUNCRE, conveyed his foundation's emphasis on the concept of democracy as a participatory, as well as representative, system. He suggested that the Democratic Pact signed by the parties on Easter Sunday be enacted as law. The chairman of FuCaDe, Francisco Delich, focused on the need to consolidate diverse sectorial interests in Argentine society, and to integrate these interests with those of the state. Fairness and strength of representation should be stressed even at the expense of efficiency, he said, because recent Argentine history illustrates that there can be no such thing as "too much democracy." Delich also raised the issue of the overconcentration of economic and political power in Buenos Aires.

In closing the session, Dr. Carlos Nino, coordinator of the Council for the Consolidation of Democracy, explained the Council's origins and its function of advising the president on the structural changes involved in transforming the Argentine government to a stable and working democracy.

Nino presented several stipulations which, he said,

would assure successful reform. He warned that reform is not wise during a time of national crisis and dissent. Therefore the reform movement should proceed with caution until the current military unrest was stabilized. He agreed that the current situation called for increased efforts to reach consensus across all sectors and strata of Argentine society. A partial, limited proposal for constitutional reform would then be made. Nino stressed that the present structure of the Constitution should be maintained and that flexibility and areas open to interpretation -- characteristics to which he attributed the longevity of the U.S. Constitution -- remain written into its text.

In regard to exploration and implementation of reforms, Nino encouraged the Congress to create and elect a constituent assembly that would draft reform proposals. He further urged the Congress to define its by-laws and powers. He advocated the proposal of the Report that recommended a semi-presidential system, similar to that of France, where the executive branch power would be shared by a president and a prime minister. Finally, Nino commended the purpose of the NDI-sponsored conference. "A constitution should ultimately seal the union of our country, which requires both the study of national issues as well as the achievement of consensus among the Argentine people, a process that begins with the kind of discussion we are holding here this week," he said.

SESSION II

Constitutional Reform: Developing an Accord for National Unity

MODERATOR: Enrique Tarigo Vasquez, Vice President of Uruguay.

AT ISSUE: In this session the presenters and participants explored the preparations that go into the making of a new constitution. Specifically they considered how to achieve and then channel consensus in the process of "consolidating" a democracy through constitutional reform; what determines whether amendments or a complete rewriting of a constitution is more appropriate; and how the resulting changes can be used to achieve a greater sense of national unity and civic responsibility.

The majority of members on the Council conclude that partial amendment of the 1853 Constitution is "necessary and timely." Their report states that "the existence of a national consensus on the need for constitutional reform makes this particular moment suitable for undertaking it."

Others, including leading Argentine newspapers, constitutional law authorities and a small group within the Council voice strong reservations about the need for reform. Not only is it unwise to amend the Constitution when the country is politically unstable, they argue, but the real blame for past crises in democracy rests with those who observe and enforce the Constitution, not the Constitution itself.

DISCUSSION SUMMARY: Most participants felt that the momentum of public interest in constitutional reform and support for democracy resulting from the military threat of the previous week should not be lost. The need for caution during a time of instability was noted, as well as the necessity of achieving national consensus on the fundamental issues before attempting to implement reforms. Many pointed out that reform should be directed at promoting pluralism, a workable system of checks and balances, and institutions that support democracy.

DISCUSSION: The session began with prepared presentations by representatives of the Argentine delegation. These were followed by comments from the international participants. Three presenters gave their respective opinions on the strengths and weaknesses of the present system in Argentina. They described the various issues that should guide considerations of constitutional change. The issues ranged from the "social contract" of the 1949 Peronist constitution to principles of Latin American political and economic integration. All agreed, however, that the ideal timing of the conference and unprecedented increase in national unity supporting democracy, made this the opportune moment to consider constitutional reform. The second speaker, FAI Vice President Dr. Fernando Moreno, reflected the optimism that pervaded the three-day conference:

The popular mobilization among all sectors during the April 12-19 crisis here in Argentina has given us a great start by providing our cause with the importance, the relevance, the validity, and the momentum for debate and understanding on issues of constitutional reform that it never had before.

Vice President Tariago then turned the floor over to the international delegates for their comments. He requested they draw from their respective experiences on the subject of constitutional change.

Julio Subercasaeux, vice president of Chile's "Group of 24", noted that, "In Chile, we are paying for the concentration and misuse of power that exists in our country." The need to promote pluralism and the

institutions of democracy was the overwhelming theme among the participants. Many cited the authoritarian tendencies still existing in certain sectors of Argentina (as evidenced by the events of April 16-19). Therefore, no measures should be spared to achieve deep and all encompassing democracy.

Several participants gave synopses of their respective constitutions and the events surrounding its creation or amendment. While the majority of the comments stressed the importance of achieving national consensus on reform, there were words of warning from both Judge Abner Mikva of the U.S. and Antonio Garrigues Walker from Spain. Overemphasizing consensus, they said, could confuse and impede the process of reform. It was preferable that consensus be left for only the most fundamental issues (i.e. building the foundations of the system, supporting political institutions, and delineating the rules by which a nation's citizens will agree to live). Mikva suggested further adjustments and improvements could then be made building on these foundations and supported by the democratic machinery. Garrigues Walker said democracy "consists in knowing how to live in disagreement."

SESSION III

Federalism

MODERATOR: Manuel Fraga Iribarne, Spain, member of parliament, deputy chair of the European Democratic Union, former president of the Popular Alliance Party and minister of state.

AT ISSUE: This session addressed the improvements that could be made to "streamline Argentine federalism", the specifics of the representative system, and the nature of the relationships among municipal, provincial and federal entities. Each of Argentina's 22 provinces has its own government with executive, legislative and judicial branches corresponding to the federal system. Tensions between the outlying provinces and the federal administrators of Buenos Aires have long been a source of instability.

The Report's underlying theme on the issue suggests that the federal government exercise only those powers expressly delegated to it by the provinces. To consolidate the ideal of federalism, the Council further proposes that the municipalities be granted the power to draw their own charters, elect authorities and fix municipal tax rates.

The Report advises that changes be made to bolster the Senate's role as tribune for the provinces and thereby

defender of the federal system. This would be accomplished primarily through the Senate's role as a review body for legislation and presidential appointments. A proposal to amend this section of the constitution is aimed at limiting the federal government's ability to intervene in the provinces for "guaranteeing" the republican form of government.

DISCUSSION SUMMARY: Fraga reported that participants in Session III had noted the practical advantage of unitarianism, but had overwhelmingly agreed that a country of such diverse provinces and sectors could only remain united under a system of federalism. Citing both the historical capital-province tensions and the abuses of executive branch power in the last half-century, most of the participants stressed further decentralization of the power structure.

DISCUSSION: The international participants began by discussing the systems of their respective countries, outlining the levels of autonomy and areas of responsibility at each level.

The Argentine participants displayed little disagreement on the shape of federalism. They argued strongly for some decentralization and recognition of provincial autonomy. Sen. De La Rúa put forth the Radical Party's suggestion that a revision in the function of the Argentine Senate to a legislative review chamber would preserve the representation of the provinces. To allow the provinces a stronger voice would relieve much of the tension and the threat to democracy.

Many of the participants brought up issues of funding. Decentralization has its own economic costs. Giving the provinces more responsibility would relieve some of the fiscal strains on the federal budget. However, the efficiency of decision-making and implementation from a highly centralized government would be lost. Moreover, historically many provinces were unable to fulfill their fiscal obligations. As a result, services for which those provinces were responsible (i.e. public schooling, health care) were badly deficient.

Other participants argued for a system that would produce more informed decision-making from the provinces. Some provinces, they said, have much to gain through programs that would increase their share of tax and production revenues. This issue is one of acute concern to state and province interests, given Argentina's economic and debt insecurities.

SESSION IV

Strengthening Political Representation and Participation: Constitutional Recognition of Political Parties, Nongovernmental Organizations and Civic Associations -----

MODERATOR: Rafael Caldera, former president of Venezuela.

AT ISSUE: Major issues included ways to enhance political participation by strengthening and institutionalizing the political parties -- in particular, the fostering of the role of a "loyal opposition." It is widely believed that a functional and influential opposition is key to the continued consolidation of the democratic process in Argentina.

Participants debated the appropriate role played by the constitution on these issues. Nongovernment and civic organizations -- such as religious groups and lay groups -- were also discussed in the context of strengthening the processes of political representation and participation.

The Report has several recommendations on these issues. The first suggests that Congress be granted a constitutional prerogative to create an Economic and Social Council with advisory functions. The council would channel the participation of multiple interest groups in cases where legislative decisions concerning the distribution of wealth and the improvement of social conditions are disputed.

The Report also recommended that the principles of direct and universal suffrage be spelled out in the Constitution, but that the current law of compulsory voting be eliminated.

The Council's most significant proposal concerns political participation. The Report advocates that the Constitution include provisions for more frequent and direct citizen participation through plebiscites, referenda, people's initiatives, and consultation.

DISCUSSION SUMMARY: Caldera commented on the trend in the last half-century of including language on political parties in newly-written constitutions. The most contentious issue of the session was constitutional provisions for funding of these parties. Some participants stressed the need to provide money for new or minority parties. Others, however, expressed fear that opposition parties could be rendered impotent if the government controlled the purse strings of parties. Caldera said pluralism and a legitimate channel for an opposition voice must be promoted by the Constitution to achieve a successful and balanced democracy.

DISCUSSION: Throughout Session IV, participants stressed that efforts to foster the long-term preservation of

pluralism hold top priority in future reform proposals. Repeatedly, the Argentine participants cited insufficient avenues of representation for the diverse and myriad sectors of Argentine society as a major cause of political unrest and destabilization.

The debate on whether there should be constitutional consideration of political parties was extensive. Many, such as Dr. Bolivar Lamounier of Brazil, pointed out the critical role that parties must play in making a pluralistic democracy prosper, particularly in countries like Brazil and Argentina where the infrastructure is undeveloped. Garrigues Walker expanded on this point, citing the function parties can serve as a "framework for stimulating voter participation, civic education and intellectual discourse."

The issue of funding arose as a major concern. Caldera described provisions in the Venezuelan constitution allowing for the funding of political parties in proportion to the results of the previous national elections. Castillo reported that in Costa Rica the political parties are highly developed and are considered basic institutions of the democratic system. Accordingly, he said, the state gives almost 27 percent of GNP to finance this "fundamental support of democracy." Comments on the Portuguese Constitution by Dr. Rui Machete stressed financial provisions in the constitution specifically aimed at newly-formed parties which, without some initial source of funding, would never be able to represent their constituencies. The participants agreed such funding is most appropriate for developing countries in which constituencies, though large in number, may have very little money to spend on politics. Eduardo Moreno, vice president of FAI, noted that these remarks were particularly relevant for Argentina's parties which he described as "financially poor in a relatively rich land."

Reservations were expressed by the participants from Chile. Eduardo Jara Miranda and Julio Subercaseaux warned against too much government interference in the financing and organization of political parties. For Jara-Miranda, such a relationship raised the specter of a "terrifying strategy of control" by a strong executive or authoritarian regime.

SESSION V

Apportioning the Powers, Functions and Responsibilities of the State

MODERATOR: Michel Charasse, senator and counselor to President Mitterrand, France.

AT ISSUE: The fifth session studied the applicability of various constitutional models to Argentina's reform effort. Discussion included consideration of cultural differences, popular confidence in the system and civilian-military relations. Since restructuring the executive branch was a top consideration at the conference, the extensive information and recommendations provided by the Report on this subject deserve special note.

The 1853 Constitution ushered in a government with executive, legislative and judicial branches modelled primarily on the United States Constitution. When the original constitution was written, it was felt that a strong president was essential to keep the young federation of provinces together. There is considerable support in Argentine society for a strong, charismatic leader -- particularly in contrast to the uncertainties of a more pluralistic system. However, the Report notes its concern that presidential dominance historically has resulted in instability due to misuse of power vested in the executive. The Report also warns against providing the president with more responsibility than can be handled. Many Argentine analysts find this scenario particularly frightening in the face of national crisis.

The Report recommends -- as do many other leading political and academic figures in Argentina -- the creation of a prime minister's portfolio that would perform a role analogous to that of the French chief of cabinet. The premiership would, in this model, dilute presidential power by providing a workable system of checks and balances within the executive branch. At the same time, the prime minister would assume some presidential functions, allowing the president to concentrate more on major issues and government programs while leaving the mechanics of administration to the prime minister.

The president should, according to the Report, be vested with the power to appoint the prime minister, dissolve the House of Representatives, pass emergency regulations and act as commander in chief of the armed forces. He would also promulgate and veto laws, initiate legislation in certain areas of executive concern, and retain all presently held powers of appointment that are subject to Senate approval.

The prime minister would have the powers pertaining to the highest executive office for administration of the country, and those additional powers that the president may delegate to him by decree. It would be the job of the prime minister to select and submit a list of cabinet members to the president. The prime minister, or any member of the Cabinet, could be removed by an absolute majority of Chamber of Deputies. In such a case, the president would have to appoint a new Cabinet with the

approval of the Chamber. If the new Cabinet were not approved, the president could dissolve the Chamber and call for elections.

DISCUSSION SUMMARY: Charasse reported that the major issues of Session V were the proposal of a semi-presidential system with a prime minister and the need for an improved system of checks and balances. Several international participants supported the idea of creating the position of prime minister to alleviate presidential responsibilities while diluting the latter's complete domination of the executive branch. The value of a functional and efficient system of checks and balances was overwhelmingly recommended in session comments. Areas where improvement was suggested included civilian-military relations, executive-legislative relations, as well as integration and cooperation between the diverse sectors in Argentine society.

DISCUSSION: The participants concentrated their discussion on how to modify the executive to both share the burdens and guard against abuse of presidential power. Further debate covered the possibilities for restructuring the legislature in order to check the executive with strong and unified pluralistic representation.

The participants were generally supportive of a parliamentary system of government, accompanied perhaps by introduction of the position of prime minister. The Argentine participants recalled President Alfonsin's initial call for reform in his April 1986 initiative, the advice of the Council Report and Troccoli's opening speech.

Dr. Hans Juergen Puhle of West Germany maintained that the Argentine presidency continues to hold too much power, putting democracy at grave risk given the nation's authoritarian past. He proposed diluting the president's power by adopting a semi-presidential system similar to that of France's Fifth Republic. Such a change would not be enough, Puhle said, adding that the Radical and Justicialista Parties must begin to act like partners, not rivals, if they hope to strengthen the legislature's role in a functional, democratic separation-of-powers system.

Given the similarities between Brazil and Argentina, many observers found the comments of Dr. Lamounier particularly relevant. The former member of Brazil's Constitutional Commission detailed the rationale for and mechanics of the parliamentary system presently under consideration by the Constituent Assembly in Brazil. Like Argentina, Brazil is considering a parliamentary system to counteract the effects of "an insufficient infrastructure and weak parties." Lamounier expressed reservations, however, of overcompensating to strengthen the legislature. "We fear the parliamentary system and its

potential power," he said, "but we must have it."

In light of the recent tensions between factions in the military and the civilian government, two international participants commented on the military's role in Argentina. Dr. Sotillo felt strongly that the military's mission should be limited to defense of the nation, leaving the job of policing the interior to a separate institution. Dr. Puhle advocated reforms to incorporate the military into a civilian and constitutional system that would specify such a role. He questioned whether a military engaged in such destabilizing actions as those of the April mutiny warranted respect.

Dr. Garcia Lema and Deputy Guelar, both of Argentina, raised two issues of historic significance. Regarding specific time limitations on presidential terms, Garcia Lema suggested reformers look closely at lessons his Peronist Party had learned from the debilitating experience of Juan Peron's over-extended presidency. Guelar said constraints must be implemented not only to prevent one person from commanding a position of predominance, but more generally to insure that "never again will a single sector of Argentine society be able to hold total control over the rest of the nation."

SESSION VI

Individual Rights, Social Rights and Constitutional Guarantees

MODERATOR: Thomas Eagleton, former senator, United States.

AT ISSUE: The Argentine Constitution embodies a comprehensive list of individual rights, affirming the principle of equality before the law, freedom of speech and religion, due process of law, etc.

The Report recommends that the Preamble remain in its present form and that the Bill of Rights not be subject to significant changes. The Council urged that if revisions must be made, they aim at extending -- not limiting -- guarantees to insure more effective implementation and enforcement of individual rights. Argentina, says the Council, has suffered from too little protection of rights and, therefore, any new laws should serve to inhibit the recurrence of rights abuses.

Among the issues examined by the Council was Argentina's Catholic religious tradition. The Constitution of 1853 recognized that the vast majority of Argentines were Catholic and established a close state-church relationship. While official ties no longer exist between

church and state, the constitutional provision requiring the president and vice president to be Roman Catholic remains. The Report suggests, with only a few members dissenting, amending the Constitution to assure that religious conviction is a matter of individual and private choice, and remain separate from governing of the state.

This session was focused more generally on how individual and social rights need to be constitutionally guaranteed. Special attention was given to national emergencies sufficient to abrogate or suspend those rights. Further consideration addressed responsibilities within the government for implementing and enforcing such guarantees.

DISCUSSION SUMMARY: Eagleton reported that Session VI participants disagreed on which rights should be guaranteed in a constitution. Some of the participants believed a constitution should provide only a broad framework within which to make laws and policies that will protect citizen's rights. Others believed a constitution should be responsible for guaranteeing specific social and economic rights in addition to fundamental human rights. Eagleton remarked that in any constitution, the "guarantees of the text, no matter how beautifully written, are only as successful as the people and institutions that uphold them."

DISCUSSION: The participants of Session VI addressed two closely related questions: what is the best method and/or mechanism to guarantee citizen rights, and which fundamental social and individual rights should be guaranteed?

The participants concurred that most rights are ultimately protected by forces other than a written constitutional guarantee. Vice President Ferreira and Eduardo Jara-Miranda drew on the respective histories of Uruguay and Chile to illustrate the point that, while inclusion of mechanisms in the constitutional text to defend rights is important, it is not enough. "If rights in the constitution can be suspended through exception or special circumstances [state of seige, martial law] and can remain that way for 14 years as they have in Chile, it is clear these laws of the land have no validity as a guarantee of basic rights whatsoever," he said.

The participants agreed that constitutional language, no matter how specifically or strongly worded, is only as effective as the government that must enforce it, the institutions that will support it, and the people who believe in and demand it. In the words of Gov. Brizola of Brazil, "A constitution itself will not prevent a coup d'etat -- the people and the institutions of democracy must do this work."

The debate produced little consensus regarding which rights to include. Dr. Denninger reported that in writing the West German constitution it was agreed that social rights should be formulated not as legal rights but as state goals or policy-making mandates. Ferreira concurred with this principle of keeping details other than those concerning fundamental rights out of the constitution. In Uruguay, he noted, the constitution provides the right of "housing for all", yet many Uruguayans still lack satisfactory housing. Such economic benefits, he argued, are ultimately the result of good government, and not constitutional guarantees. In short, Ferreira asserted that economic rights are hard to enforce in a continually changing economic climate.

On the other hand, Sen. Biaggi stressed that Peru's constitutional framers believe that "labor is not only a right, but is a fundamental social duty." Consequently, he said, the Peruvian constitution sets down laws pertaining to workers, trade unions and tax rates.

All Session VI participants agreed on the need for a constitution to remain flexible and adaptable to the ever-changing demands of the fast-paced modern era.

Note on Sessions V and VI:

Discussion of these important issues was curtailed by the invitation to visit President Alfonsin at his residence at Los Olivos, outside of Buenos Aires.

Alfonsin expressed his gratitude to the international delegation for its assistance in the study of his reform initiative, and expressed appreciation for the display of international democratic solidarity, particularly coming at the end of a difficult week for Argentine democracy. Mondale, speaking on behalf of the delegation, praised the Alfonsin administration and the courage of the Argentine people in their commitment to confront the threats to democracy. The visit received extensive national press coverage.

SESSION VII

Organization and Functions of the Legislature

MODERATOR: Abner Mikva, Judge for the United States Court of Appeals and former congressman.

AT ISSUE: The seventh session continued consideration of many of the issues raised but not thoroughly explored in Session V. As with the executive, the legislative branch in Argentina was modelled on that of the United States. However, Argentina's legislature has never achieved the status and power of its U.S. counterpart. Consequently, a

major concern addressed by the conference was how to improve the system of checks and balances between the executive and legislative branches. In Argentina, the executive has held most of the power and, particularly in times of crisis, the legislative branch has been left out of the governing process altogether. One serious limitation on the effectiveness of the legislature is the lack of a constructive role for minority and regional parties. Much of the discussion centered on strategies and mechanisms for improving the role of the opposition and enhancing effectiveness of the legislative branch. Also at issue were the fiscal responsibilities of the legislature and its ability to influence the national agenda through its role in the budget process.

In considering these issues, the Report made several recommendations designed to strengthen the role and influence of both chambers of Congress through changes in the technical and mechanical operation of the Congress.

First, the Congress could accomplish more if it held longer sessions and had the capacity to extend its sessions. Second, the president should be given the power to call Congress into session to pass emergency regulations in times of crisis. Third, to expedite the legislative process, the Report advises employment of specialized committees to debate bills and present them to Congress, and recommends procedures that would pass a bill automatically if it was not modified or repealed after a certain period. Finally, to simplify responsibilities, all legislation at the federal level should be initiated by the Chamber of Deputies and reviewed by the Senate, while all legislation affecting the political and economic autonomy of the provinces would be initiated by the Senate and reviewed by the Chamber.

DISCUSSION SUMMARY: Judge Mikva described the task of the Argentine reformers as that of creating a legislative model that will work for 200 years. The Session heard from representatives of both unicameral and bicameral legislatures. The main theme for the discussion, Mikva said, was promotion of a functional system of checks and balances through strengthening of the legislative branch. Larger support staffs, use of the media, and designation to the Senate of a stronger, better defined role were among suggestions from Session VII participants.

DISCUSSION: Consensus was apparent on the need for a legislature to act as a representative of the people and as a balance to the executive branch. The comments as to how this could best be achieved varied.

Discussion quickly turned to the issue of bringing the legislature up to date. "Modern communications are now so extensive in Spain that legislative news often appears on

television before it is known in the parliament," Fraga said. "The age of parliament is past, and democracy of the masses is the reality of the future."

Prof. Schwartz echoed Fraga's statement, adding that the Argentine legislature cannot function alone if it is to achieve a desirable level of control and efficacy. In the United States, Shwartz said, legislators are supported by a considerable staff of researchers, legal aides, press secretaries, economists, military experts, and extensive information resources such as the Congressional Research Service. Most participants agreed that support staff should be budgeted for legislators if they are expected to handle expanding responsibilities.

Charasse and Oesterling both complained that, in France and Peru, the executive kept the legislative branch at a disadvantage by setting an extremely demanding agenda and severely limiting the budget for legislative staff. On the other hand, Sen. Eagleton remarked that in the effort to increase support staff, it is possible to have "too much of a good thing." He maintained that while support staff is necessary, an excess of specialists and experts can create "over-bureaucratization" of the system.

Several suggestions were made about streamlining channels of information between the people and their representatives in congress. Prof. Schwartz recommended using the media. He noted that press reporting in the U.S. on public antipathy toward increased spending on certain military programs has had an effect on congressional appropriations. He also suggested creating cooperative institutions, such as an economic-social council that would help channel the views of all sectors of society directly to the legislature. Such a council would add to the infrastructure needed in Argentina to support a democratic system of representation.

In closing the discussion, Mondale observed benefits of certain powers residing in the upper chamber of a bicameral legislature. The chief virtue of the U.S. Senate, he said, is its ability to delay legislation. With the tools of the extended debate and the filibuster, all states have a forum in which they are equal, regardless of size or population, and can assure that their individual interests are duly acknowledged. The key to keeping this debate from prolonging the legislative process is the motion for cloture. While this process of "muddling through" is often frustrating and time consuming, in the long run, he maintained, it has generally ensured well deliberated U.S. policy making, and consequently, a more stable democracy.

SESSION VIII

Constitutional Consideration of Economic Issues -----

MODERATOR: Carlos Manuel Castillo, director of the Central Bank and former vice president of Costa Rica.

AT ISSUE: The participants in Session VIII turned to the subject of constitutional consideration of economic issues. The major dilemma facing the participants was the extent to which the Constitution should prescribe government's role in such areas as international economic policy, currency controls, monetary policy, and balanced budgets. Similar to Session VI on individual and social rights, the participants in Session VIII were also directed to deliberate on whether or not the Constitution should guarantee basic economic rights and, if so, which ones.

The Council's opinion is that the Constitution should increase the provinces' share of economic authority and benefits relative to the federal government. The Report recommends three points in particular: widening participation for the provinces in the exploitation of natural resources, extending taxation powers of the provinces, and the express acknowledgement of the "social function" of private property.

The Council suggested reserving the right of provincial governments to exploit natural resources within their jurisdiction. As part of a federation of provinces, it is understood that the individual provinces participate to some degree in joint ventures. Therefore, they are required to share a portion of the benefits accruing from those natural resources.

DISCUSSION SUMMARY: The central debate, Castillo said, was whether or not economic provisions should be included in the Constitution. He noted that most European and Latin American constitutions included economic guarantees, whereas the U.S. has kept such provisions markedly absent from its constitutional text. The middle ground for the majority of participants was to include constitutional provisions outlining the framework for economic planning and policy making, leaving the actual policies to the law makers and the executive. Such an arrangement allows policies and welfare standards to adapt with the economic climate, and relieves the government of often costly or inefficient economic programs.

Castillo also noted the comments of several participants urging constitutional language that would refer to Latin American economic integration.

DISCUSSION: Divergent ideologies -- ranging from belief in the free market to state control of the economy -- quickly

surfaced in the session. Castillo noted the trend in the last half-century of including economic considerations in constitutions. Many participants stressed the need for constitutional provisions protecting basic economic rights. What constitutes these basic rights is obviously a matter of opinion, and the participants recommended varying degrees of constitutional responsibility for such issues.

Participants from Argentina and Chile reported on constitutional histories that excluded protection and/or guarantees of basic economic rights. Dante Giadone related the failure of Argentina's private sector to redistribute wealth and land as a result of endless power struggles among controlling industries and individuals. Jara-Miranda declared that both countries overcompensated when they amended their constitutions to give the state a greater role in controlling the economy. In Chile, he said, state control is excessive and dangerous to the point that the constitution needs modification to protect the economy from being overwhelmed by the executive branch.

Garcia-Lema added that the Peronist Constitution of 1949 was specifically drafted to reverse some of these injustices. The divisive issue of land redistribution had been overlooked, he said, and should be studied in future deliberations on this subject. Guelar reiterated his argument for integrating the diverse sectors within Argentina. He urged that the text of the Constitution remain vague on such issues to avoid potentially untenable guarantees by the government.

Most of the participants agreed that the Constitution should provide a framework, or guideline, for the economic planning of the nation. Summing up this opinion, Moreno stated that, "since the Constitution cannot ensure happiness and economic well-being, the constitutional reformers should leave the details to the policies created by the executive and the legislature." Furthermore, added Sotillo, for numerous sectors the efficiency of increased privatization could prove very helpful as a stimulant to the economy and a relief from the burden on a federal budget.

Many of the session's participants believed that, in conjunction with protecting the most basic human rights, the Constitution must be the source of a welfare guarantee for the lowest economic groups in a society.

SESSION IX

Closing Statements and Observations

CHAIR: Walter F. Mondale, former vice president of the United States

The concluding statement on the session by former president of Venezuela Luis Herrera Campins included his own emphasis on flexibility, participation, and strong pluralistic institutions such as political parties and an independent judiciary. Mondale turned the floor over to the leaders of the Justicialista and Radical parties for final statements before his own closing words.

Justicialista leader Antonio Cafiero and Radical leader Fernando de la Rúa made summary statements for their parties.

Cafiero said the Constitution of 1853 had lost much of its legitimacy due to the authoritarian regimes of the last half century. Pointing to the modern European constitutions and the Peronist Constitution of 1949, Cafiero recommended that assurance of basic social rights be included in Argentine reforms to manifest the modern "social era." He further suggested that changes for a new constitution reflect the spirit of diverse sectors of Argentine society, without including specific reference or preference to these sectors. "A new constitution must be layed out to reflect the new times... to encompass and represent vast consensus, and most importantly, to manifest a sense of unity as a definition of a common Argentine way of life," he said.

De la Rúa echoed Cafiero's call for a constitution "made from within, by the Argentine people, taking into consideration Argentina's unique history and modern development." He also voiced his support for a more parliamentary system that would enable the legislature to play a more protagonist role, for increases in the areas of political participation and the defense of fundamental rights and for the implementation of a free market policy for the economy. De la Rúa cited the consensus in the nation on the will to defend their country's democracy, and thanked the conference participants for the wisdom, experience, and solidarity from the world's great democratic community. "The discussions of this seminar will be of great value to Argentina as the debate on constitutional reforms progresses," he said.

The following words from Mondale's closing statement brought an end to the successful three-day conference.

In the last few years we have seen the spirit [of liberty] aroused in the world again. Some years back people were writing democracy's obituary; we were a force that was spent. I believe now we see it is quite the reverse.

We saw it in Portugal where the people of Portugal demanded a return to democracy. We

saw it in Spain where the people of Spain returned to democracy and have consolidated that democracy in a brilliant way. We saw it in the Philippines, where the people of that country went to the streets against a despot and achieved a new democracy. And we have seen it here in our host country, Argentina. Nothing more inspirational could have underscored that commitment than the gathering of over a half-million citizens in the overflowing Plaza de Mayo, occurring just hours before we arrived. I believe that spirit of liberty is clearly in this room here today.

A mention was made during this seminar of the human rights emphasis of the administration of which I was a part. I am proud of that effort. But we always understood that all we could do was help from the outside; all we could do was to try to reassure people who were suffering torture and deprivation and even death that they were not alone, and we could stand together as human beings to fight for that liberty.

And to the future we are telling each other that people who suffer -- people whose lives and liberty have been threatened or destroyed -- should never stand alone again. I believe we have accomplished that here today.

PART III: EVALUATION

Responses to the NDI Evaluation Form reflect a high degree of satisfaction with the organization and outcome of the International Conference for Constitutional Reform. It was generally felt that the objectives for the conference were clearly stated and achieved, and that the major issues facing constitutional reform in Argentina were addressed. One expressed concern was that the three-day agenda did not allow enough time for thorough discussion of some of the more difficult and contentious issues.

NDI and the Argentine host institutions were praised for taking the initiative to bring international experts and leaders from Argentina's two main parties together in a constructive discussion of constitutional reform. The distinguished group of participants and the timing of the conference -- coming in the wake of the dramatic resolution of the military insubordination -- combined to attract national attention to the movement to reform the Argentine Constitution.

LIST OF PARTICIPANTS

INTERNATIONAL CONFERENCE ON CONSTITUTIONAL REFORM

BUENOS AIRES, APRIL 23-25, 1987

ARGENTINE PARTICIPANTS

UCR = Union Civica Radical

PJ = Partido Justicialista (Peronists)

Lousteau Bideau, UCR
President,
Constitutional Convention,
Cordoba

Mauricio Cabana Martinez
Supreme Court Justice
Buenos Aires Province

Antonio Cafiero, PJ
Candidate for Governor,
Buenos Aires Province
Federal Deputy
Buenos Aires Province

Juan Manuel Casella, UCR
Candidate for Governor
Buenos Aires Province

Hector Ciapuscio, UCR
Undersecretary for Science
and Technology

Horacio Costa, UCR
Undersecretary
Office of President Alfonsin

Miguel Cruchiaga, UCR
Solicitor General
Buenos Aires Province

Ricardo Daives, UCR
Deputy, Province of
Santiago del Estero

Fernando de La Rúa, UCR
Chairman
Constitutional Affairs Committee
Federal Senator
Buenos Aires City

Jorge de La Rúa, UCR
Delegate, Constitutional
Convention, Cordoba

Francisco Delich, UCR
Director, FUCADE
Former President,
University of Buenos Aires

Roberto Dromi, PJ
Professor of Law
University of Mendoza

Oscar Fappiano, PJ
Federal Deputy
Formosa

Francisco Figuerola, PJ
Former Secretary General
Office of former President Peron

Alberto Garcia Lema, PJ
Vice President, FUNCRE
Professor of Constitutional Law
University of Buenos Aires

Dante Giadone, UCR
President,
Arturo Illia Foundation

Alberto Gonzalez Harzac, PJ
Constitutionalist

Carlos Grosso, PJ
Federal Deputy
Buenos Aires City

Diego Ramiro Guelar, PJ
President, FUNCRE
Federal Deputy
Buenos Aires Province

Italo Argentino Luder, PJ
Former Vice President
Former President of the Senate

Argentine Participants cont'd

Jose Luis Manzano, PJ
Federal Deputy
Mendoza

Jorge Matzkin, PJ
Secretary
Finance Committee
Chamber of Deputies
La Pampa

Alberto Melon, PJ
Federal Deputy

Carlos Saul Menem, PJ
Governor
La Rioja

Eduardo Menem, PJ
Chairman, Administrative and
Municipal Affairs Committee
Federal Senator
La Rioja

Ricardo Mercado Luna, UCR
Former Deputy, Province of
La Rioja

Leopoldo Moreau, UCR
Chairman
Communications Committee
Chamber of Deputies
Buenos Aires Province

Fernando Moreno, UCR
Aide to President Alfonsin
for Governmental Relations
Vice President,
Arturo Illia Foundation

Prospero Nieva, UCR
Federal Deputy
Candidate for Governor,
Jujuy

Carlos Santiago Nino, UCR
Coordinator, Council for the
Consolidation of Democracy
Office of President Alfonsin

Enrique Petracchi
Supreme Court Justice

Juan Carlos Pugliese, UCR
President, Chamber of Deputies
Federal Deputy
Buenos Aires Province

Jesus Rodriguez, UCR
Chairman
Budget and Treasury Committee
Chamber of Deputies
Buenos Aires City

Elva Roulet, UCR
Vice Governor
Buenos Aires Province

Luis Rubeo, PJ
Federal Senator
Santa Fe

Juan Jose Russo, UCR
Delegate,
Constitutional Convention,
San Juan

Oscar Smolgan, UCR
Party President,
Neuquen

Marcelo Stubrin, UCR
Federal Deputy
Buenos Aires City

Ricardo Terrile, UCR
Federal Deputy
Sante Fe

Hector Jorge Velazquez, UCR
Federal Senator
Misiones

INTERNATIONAL PARTICIPANTS

Brazil

Bolivar Lamounier
Director, Institute for Economic,
Social and Political Studies of
Sao Paulo
Former Member
Constitutional Commission

Leonel Brizola
Former Governor, Rio de Janeiro
Chairman,
Democratic Labor Party - PDT

Chile

Eduardo Jara Miranda
Attorney
Member, "Group of 24"
Radical Party

Julio Subercaseaux
Attorney
Vice President, "Group of 24"

Costa Rica

Carlos Manuel Castillo
Governor, Central Bank
Former Vice President of the
Republic
(National Liberation Party - PLN)

France

Michel Charasse
Counselor to President Mitterrand
Senator
(Socialist Party - PS)

Germany, Federal Republic of

Erhard Denninger
Professor of Civil Rights and
Legal Philosophy
Johann Wolfgang Goethe University
Frankfurt

Hans Jurgen Puhle
Professor of Latin American
Politics
University of Bielefeld
Bielefeld

Peru

Romualdo G. Biaggi Rodriguez
Senator
(American Popular Revolutionary
Alliance - APRA)

Felipe Osterling Parodi
Senator
(Popular Christian Party - PPC)

Portugal

Rui Machete, President,
Oliveira Martins Foundation
Member of Parliament
Former Minister of Justice
(Social Democratic Party - PSD)

Socialist International

Pentti Vaananen
General Secretary
(Finland)

International Participants, cont'd

Spain

Manuel Fraga Iribarne
Member of Parliament
Former President,
Popular Alliance Party - AP
Deputy Chairman, European
Democratic Union (EDU)

Antonio Garrigues Walker
Vice President, Liberal Int'l
Former President,
(Democratic Reform Party - PRD)

Antonio Sotillo
Undersecretary of Government for
Judicial-Executive Relations
Member of Parliament
Former Chairman, Parliamentary
Constitutional Committee
(Socialist Workers Party - PSOE)

United States

J. Brian Atwood, President
National Democratic Institute for
International Affairs
Former Ass't Secretary of State
for Congressional Relations

Berkley Bedell
Former Member of Congress
Iowa

Thomas F. Eagleton, Board Member
National Democratic Institute for
International Affairs
Former Senator, Missouri

Judge Abner Mikva
U.S. Court of Appeals
Former Member of Congress
Illinois

United States cont'd

Walter F. Mondale, Chairman
National Democratic Institute for
International Affairs
Former Vice President of the
United States

Richard Thurman
Deputy Program Director
National Democratic Institute for
International Affairs
Argentina Project Director

Uruguay

Wilson Ferreira Aldunate
President, National Party
(Blancos - PN)

Enrique Ernesto Tarigo Vasquez
Vice President of the Republic
(Partido Colorado - PC)

Venezuela

Rafael Caldera
Former President of the Republic
(Social Christian Party - COPEI)

Luis Herrera Campins
Former President of the Republic
General Secretary, Christian
Democratic International
(Social Christian Party - COPEI)

Carlos Andres Perez
Former President of the Republic
Vice President, Socialist Int'l
(Democratic Action Party - AD)

INTERNATIONAL OBSERVERS

Brazil

Rivaldo Barbosa
Member of Congress
Constitutionalist

Chile

Federico Errazuris
Partido Liberal

United States

Elinor Bedell
Washington, D.C.

Alejandro Garro
Professor of Law
Columbia University, New York

Lewis Manilow
Board Member, NDI

Zorita Mikva
Washington, D.C.

Herman Schwartz
Professor of Law
American University
Washington, D.C.

Marvin F. Weissberg
Member, Executive Committee
and Board, NDI

Gary W. Wynia
Professor of Latin American
Politics, Carleton College
Author of Argentina: Illusions
and Realities

Uruguay

Diego Achard
Private Secretary to
National Party President

Victor Bjorgan
Press Spokesmen
National Party

Carlos Lupi
CELADU, National Party

Diego Vega
CELADU, National Party

NDI STAFF AND CONSULTANTS

Sean Carroll
NDI Staff

Curtis Cutter
Consultant

Gabriel Guerra-Mondragon
Consultant

Leticia Martinez
NDI Staff

Mila Rowencak
NDI Staff

Michael Stoddard
NDI Staff

Ingrid Thomas
NDI Staff

INTERNATIONAL CONFERENCE ON
CONSTITUTIONAL REFORM

BUENOS AIRES, ARGENTINA
APRIL 23-25, 1987

WEDNESDAY, APRIL 22

19.00 Cocktail Reception, Plaza Hotel

Welcome: Arturo Illia Foundation
Fundacion para el Cambio en Democracia
(FUCADE)
Fundacion para la Concertacion de Crecimiento
(FUNCRE)
Friedrich Naumann Foundation

Host: National Democratic Institute for
International Affairs (NDI)

THURSDAY, APRIL 23

PLENARY SESSION

09.00 - 12.00
Law School Auditorium, University of Buenos Aires

SESSION I: CEREMONIAL OPENING

Walter F. Mondale
Chairman, National Democratic Institute
for International Affairs
Former Vice President of the United States

Raul Alfonsin
President of the Republic of Argentina

Commentary on the Themes of the Conference

Dante Giadone, Illia Foundation
Diego Guelar, FUNCRE
Francisco Delich, FuCaDe
Carlos Nino, The Council

13.00 - 14.30 LUNCH

Hosts: Arturo Illia, FUCADE, FUNCRE

15.00 -
Law School Auditorium, University of Buenos Aires

SESSION II: CONSTITUTIONAL REFORM: DEVELOPING AN ACCORD
FOR NATIONAL UNITY

Introduction: J. Brian Atwood
President
National Democratic Institute
United States

Moderator: Enrique Tarigo Vasquez
Vice President
Uruguay

Questions for Consideration:

-- How can consensus best be achieved in the process of "consolidating" a democracy through constitutional reform?

-- What differences in approach are indicated when nations seek to reform an existing constitution, as opposed to drafting an entirely new document?

-- How have referenda on constitutional amendments or new constitutions been used to achieve a higher degree of national unity and a greater citizen awareness of civic responsibilities?

20.30 - DINNER

Host: National Democratic Institute

Toasts: Thomas F. Eagleton
Member, NDI Board of Directors
Former United States Senator

(Designated Representatives of the
Union Civica Radical Party and
the Justicialista Party)

FRIDAY, APRIL 24

09.00 - 12.30 SESSIONS III & IV CONCURRENT
Salon Colonial

SESSION III: FEDERALISM

Moderator: Manuel Fraga Iribarne
 Member of Parliament
 Member, Constitutional Commission 1978
 Alianza Popular, Spain

Questions for Discussion

-- How do federal constitutions define the powers of the states or provinces?

-- What is the relationship between provincial and federal constitutions, and how does one determine the degree of provincial autonomy?

-- What are the relationships between local, state and federal governmental entities? How do state and local entities gain a voice and determine their representation at the federal level?

-- Should provincial or municipal governments have the right to raise revenues for their own programs?

Salon Plaza

SESSION IV: STRENGTHENING POLITICAL REPRESENTATION AND PARTICIPATION: CONSTITUTIONAL RECOGNITION OF POLITICAL PARTIES, NON-GOVERNMENTAL ORGANIZATIONS AND CIVIC ASSOCIATIONS

Moderator: Rafael Caldera
 Former President
 Venezuela

SESSION IV cont'd

Questions for Discussion:

-- How do constitutions define the role of political parties?

-- How can their institutional status be strengthened?

-- How can the concept of "loyal opposition" be fostered?

-- How have constitutions defined the legal status of non-governmental organizations and civic associations? What mechanisms facilitate communication between these groups and governmental entities at all levels? Are such groups permitted to "lobby" the government?

-- What has been the experience of according religious groups or lay organizations special status or privileges?

-- What is the relationship of the electoral process to the governmental structure, and to what extent should the electoral process be specified in the constitution?

13.00 - LUNCH

15.30 - SESSIONS V & VI CONCURRENT
Salon Plaza

SESSION V: APPORTIONING THE POWERS, FUNCTIONS AND
RESPONSIBILITIES OF GOVERNMENT

Moderator: Michel Charasse
Counselor to President Mitterrand
Senator, France

Questions for Discussion:

-- Are there governmental models that might be adapted to Argentina's needs?

SESSION V cont'd

-- How should a nation's unique history and culture be reflected in its governmental structure?

-- What governmental structures produce an efficient decision process in which the people will have confidence that their views are taken into account?

-- How should the relationship between a civilian government and the military be defined in the constitution, and what responsibilities should the military be assigned?

Salon Colonial

SESSION VI: INDIVIDUAL RIGHTS, SOCIAL RIGHTS AND
CONSTITUTIONAL GUARANTEES

Moderator: Carlos Andres Perez
Former President
Venezuela

Questions for Discussion:

-- Which individual and social rights should be guaranteed within the constitution?

-- What conditions of national crisis, if any, are sufficient to abrogate these rights?

-- How can press freedoms best be preserved?

-- What responsibilities for enforcement should be assigned to the judicial system, the government, the legislature?

19.30 - 21.00

RECEPTION: Residence of the U.S. Ambassador

Hosts:

Ambassador and Mrs. Theodore E. Gildred

SATURDAY, APRIL 25

09.00 - 12.30 SESSIONS VII & VIII CONCURRENT
Salon Colonial

SESSION VII: ORGANIZATION AND FUNCTIONS OF THE LEGISLATURE

Moderator: Abner Mikva
 Judge, U.S. Court of Appeals
 Former Member of Congress
 United States

Questions for Discussion:

-- How should the legislature be empowered to achieve the proper mix of checks and balances without excessively encumbering executive authority?

-- What is the nature and degree of oversight responsibility that the legislative branch will exercise, and what mechanisms will be established to enable it to exercise those functions?

-- How will jurisdiction for policy subject areas in the legislature be determined to avoid overlap and redundancy?

-- Should mechanisms be established to preserve a constructive role for minority or regional parties; if so, what are the mechanisms that will best achieve that goal?

-- What are the fiscal responsibilities of the legislature and what budget process will be employed to assure open and democratic consideration of national priorities?

Salon Plaza

SESSION VIII: CONSTITUTIONAL CONSIDERATION OF ECONOMIC ISSUES

Moderator: Carlos Manuel Castillo
 Director of the Central Bank
 Former Vice-President
 Costa Rica

SESSION VIII cont'd

Questions for Discussion:

-- To what extent should the government's role in establishing economic policy be articulated within the constitution; for example, should requirements be defined for such matters as international economic policy, currency controls, monetary policy, or balanced budgets?

-- What have been the consequences when the role of the state in the domestic economy is defined by the constitution?

-- Should the constitution guarantee basic economic rights to the citizenry and, if so, how would such provisions be enforced?

-- What are the appropriate responsibilities for a central bank and what should be the government's relationship to same?

13.00 - LUNCH

15.00 - 18.30 PLENARY SESSION
Salon Colonial

SESSION IX: GENERAL CONCLUSIONS AND OBSERVATIONS

Chair: Walter F. Mondale

Conclusions of Sessions III - VII: Session Moderators

Observations on the Moderators' Reports:

Luis Herrera Campins
Former President of Venezuela

Closing Statements:

Antonio Cafiero
Fernando de la Rúa

General Discussion

Adjournment