JUDICIAL INDEPENDENCE AND LEGAL EMPOWERMENT PROJECT

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QUARTERLY REPORT

JANUARY 1, 2011 – MARCH 31, 2011

JUDICIAL INDEPENDENCE AND LEGAL EMPOWERMENT PROJECT QUARTERLY REPORT APRIL 1, 2011 – JUNE 30, 2011

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BACKGROUND

On September 24, 2010, the United States Agency for International Development (USAID) awarded Cooperative Agreement No. AID-114-A-10-00008, the Judicial Independence and Legal Empowerment Project (JILEP) to the East-West Management Institute (EWMI).

JILEP is designed to support and strengthen the judiciary as an independent yet equal branch of government, and to improve Georgia's commercial law system. The program is organized around the following four objectives: 1) strengthen judicial independence, accountability, and professionalism; 2) strengthen the institutional capacity of legal professional associations, legal rights NGOs, and the state legal aid system; 3) improve legal education; and 4) develop commercial law and improve commercial law related practice.

The following is submitted as JILEP's Quarterly Report for the reporting period April to June 2011.

COMPONENT 1: STRENGTHEN JUDICIAL INDEPENDENCE, ACCOUNTABILITY AND PROFESSIONALISM

A. Significant Results, Accomplishments, Activities

Working for Judicial Independence through the High Council of Justice (HCOJ)

Judicial Selection, Evaluation and Appointment

Having established a solid working relationship with the HCOJ in previous quarters, JILEP began working with the HCOJ to achieve one of its key development goals – reform of the judicial selection process. JILEP provided technical advice aimed at improving the judicial candidate interview process and began its support for the creation of a Judicial Qualification Examination and Candidate Interview Software that will make the judge candidate selection process more objective and transparent.

On June 29-30, JILEP sponsored a "Judicial Candidate Interview and Evaluation" workshop for HCOJ representatives and staff. The workshop aimed to make the judicial selection process more merit–based and transparent. JILEP advisor, Timothy Baland, a retired US judge, led the workshop. The HCOJ member participants included: Konstantin Kublashvili, Chairman of the Supreme Court of Georgia and Valeri Tsertsvadze, Secretary of the HCOJ. Judge Baland led the participants in an analysis of the current judicial interview and evaluation processes and a discussion of the measures that should be taken to improve them. The participants also discussed the need to create meaningful evaluation criteria for the selection committee to use in evaluating candidates and the importance of creating standardized questions for candidate interviews. Participants debated the advantages and disadvantages of creating a point-based system for evaluating candidates' overall performances in the interviews. Upon conclusion of the workshop, Judge Baland provided a set of written recommendations for the HCOJ to consider as it works to improve the candidate interview process.

Judge Timothy Baland introduces a sample judicial candidate application form and explains how a completed form becomes part of a judicial candidate file.

To support the Georgian government's goal to move to computerized management systems, the HCOJ expressed its intention to develop a computer software system that will provide a platform for the application, administration and grading of Judicial Qualification Examinations, and support the judicial candidate interview and evaluation process. The HCOJ requested JILEP assistance to develop this software. Seizing a unique opportunity to build objectivity and transparency into the process, JILEP agreed. JILEP worked closely with the HCOJ to develop software RFP to be released in July. Within the next few months, the HCOJ and JILEP expect to launch a software system that will:

- provide prospective judges with application information for the Judicial Qualification Examination;
- provide a neutral portal for submitting their applications;

- establish a comprehensive examination format that will be graded anonymously; and
- support an objective interview process with randomly-selected interview questions and a numerical scoring framework for interviewers.

The ultimate goal of this software is to reduce the opportunity for arbitrary or politically motivated ranking and selection of judges.

During the quarter, JILEP was invited by the Inter-Agency Coordination Council for Criminal Justice Reform (IACC) to review draft amendments to the internal rules established by the HCOJ in October 9, 2009 entitled, "Approval of the Rules for Selecting the Judges" (hereinafter "Rules"). JILEP provided the IACC its suggestions on how to improve the amendments and participated in an IACC roundtable discussing them. JILEP made the following suggestions:

- the Rules should clearly separate the evaluation process used for listener judges from that used for former judge candidates;
- the criteria for evaluation introduced laid out in the Rules should be both easier to understand and easier to measure using some type of objective scoring system;
- the Rules should include a description of how each of the criteria will be measured; and
- The Rules should include an obligatory interview for both listeners and former judge candidates.

JILEP also identified other aspects of the selection process that were worthy of reconsideration; for example, establishment of a more empirical scoring system for candidate evaluation, and the development of a clearly defined evaluation process for candidate listeners *prior to* their admission to the High School of Justice.

Judicial Education - Courtroom Communications Course Development

JILEP made plans with HCOJ, HSOJ, the Supreme Court of Georgia, and the Judicial Administration and Management Reform Project (USAID/JAMR) to create a special training program for judges entitled, "Courtroom Communications for Judges." While JAMR focuses on improving the general comportment of judges in and out of the courtroom, JILEP views this training as an opportunity to deliver its core messages – the need for independent judicial thought and action, and the need for strict adherence to a code of judicial ethics.

With guidance from USAID, JILEP and JAMR coordinated and divided their responsibilities for the program. JAMR sponsored an independent assessment of the current courtroom communication practices of Georgian judges. JILEP engaged an outside expert, US Judge Carolyn Temin, to design the training program - using the results of the JAMR assessment as well as her own experience working as both a US and international judge to guide her. Judge Temin is scheduled to visit Tbilisi in July to begin her design work.

HCOJ Outreach Capacity Building

JILEP brought judicial outreach and communications expert, Dr. Mark West, to Georgia to advise the HCOJ on its outreach and communications strategy. Dr. West assessed the HCOJ's current outreach capacity, conducted a workshop for HCOJ staff and court press secretaries, and provided recommendations designed to expand HCOJ's capacity, improve transparency, and build public trust in the judiciary. The workshop included an analysis of the current perceptions of the HCOJ held by the general public and by the judiciary. Dr. West worked with the group to identify target audiences and discuss possible communication strategies to reach those audiences. The group also discussed ways to increase the transparency of the HCOJ by establishing regular HCOJ meetings; designing meeting agendas to elevate the more newsworthy aspects of HCOJ work; and encouraging the press to increase coverage of HCOJ activities. Dr. West's input was well-received by the HCOJ leadership and there are positive indications that the HCOJ will adapt a number of his informal recommendations. In the coming months, Dr. West will help draft a HCOJ Communication Strategy Outline to guide the Council in its creation of a more comprehensive communications plan. Such a plan should supplement the Court Communication Strategy document, released by JAMR in May, 2011.

During first quarter discussions with JILEP, the HCOJ recognized that an informative and interactive website is a critical tool for public outreach and communication. Last quarter, JILEP assisted HCOJ draft an RFQ to attract a website developer and agreed to fund the website's creation. This quarter, JILEP and HCOJ selected Digital Design Studio as the winner of the bidding competition and are now working to create a website that will help the HCOJ keep the public informed about its makeup, mission, and activities. JILEP anticipates that a number of Dr. West's suggestions on layout and content of the website will be included in the design. One

extremely positive indication given by the HCOJ is that it intends to include information regarding judicial disciplinary matters on the site.

Georgian Supreme Court Press Secretary Nana Vasadze (far right) discusses a point with a member of the HCOJ at the May workshop while JILEP advisor, Mark West (far left) observes.

Strengthening the High School of Justice (HSOJ)

Trainings and Training Modules for HSOJ

While the HSOJ declined JILEP offers to assess the quality of its new judge training program and to assist in the design of CLE curriculum, JILEP was able to work with the HSOJ to identify some course topics of interest to HSOJ. These topics are: *Legal Method, Legal Reasoning and Interpretation in Judicial Decision-Making; Modern Methods of Teaching Law; and Courtroom Communications Skills for Judges.* JILEP will develop course outlines for these topics and present them to the HSOJ for consideration in the next quarter.

Support for the Judges Association of Georgia (JAG)

As part of an effort to support the development of a more independent judges association, JILEP sent five members of the Judges Association of Georgia (JAG) to Poland to meet with representatives of the Polish Judges Association: *Justitia.* The trip was designed to encourage the JAG members to learn from *Justitia's* experience in judicial association building. The five

Georgian judges - Paata Silagadze, Ketevan Dugladze, Giorgi Chemia, Shorena Jankhoteli, and Khatuna Bolkvadze, spent June 12-19 in Poland. The program was directed jointly by Polish Supreme Court Justice Maria Teresa Romer, the Founding President of *Justitia*, and Professor Delaine R. Swenson of the Catholic University of Lublin.

During the visit, the Georgian judges met *Justitia* members and visited key judicial institutions including the National Judicial Council; the Supreme Court of Poland; the Lublin District and Regional Courts; the Center for Training for Judges and Prosecutors at the Ministry of Justice; and the new E-Court in Lublin. Through their exchanges with Polish judges, the Georgian judges learned how *Justitia* became influential in the Polish legal reform movement and how they were able to, among other things, provide member training, create judicial spokespersons, build a strong social network, establish a funding base, and improve their public reputation.

Georgian Judges Paata Silagadze, Ketevan Dugladze, Giorgi Chemia, Shorena Jankhotely, Khatuna Bolkvadze and JILEP's Judicial Reform Advisor Inga Todria meet with the members of the Polish National Judicial Council.

Monitoring and Evaluation (M & E) Indicator Results

Anticipated Result B: The High School of Justice (HSOJ) is more sustainable and better prepared to meet evolving needs.

(3) Number of judges, judge-candidates, court personnel trained with JILEP assistance –

Total: 52 (30 men/22 women)

HSOJ Tax Code Training- 25 judges (15 men/ 10 women)

Communication Strategy Workshop – 13 (5 men/ 8women)

Judicial Selection and Interview Workshop – 9 (8 men/1 woman)

Georgian Judges Study Tour to Poland – 5 (2 men/3 women)

Key Issues and Challenges

At this early point in its operations, JILEP succeeded in building productive working relationships with both the HCOJ and the Supreme Court. The HCOJ was pleased to receive training in public outreach and accepted JILEP's recommendations to expand and improve their outreach efforts. The HCOJ eagerly received JILEP's technical input on how to design and structure the interview phase of the process. The HCOJ signaled an intention to follow JILEP's suggestion that the new website include information related to judicial disciplinary proceedings. JILEP will need to continue its engagement and encouragement in coming months to ensure that the HCOJ follows through with its stated intentions. A crucial test of the HCOJ's commitment to transparency will be the final look of the new website. If they ultimately put up a site that includes a clear description of the HCOJ's structure and purpose, post updates on developing court-related events, and explain both the process and results of judicial disciplinary proceedings, JILEP will be able to claim significant early success in its HCOJ cooperation.

Finding avenues to expand cooperation with the HSOJ continues to be a challenge. At this point, the only available approach seems to be to continue offering the HSOJ delivery of single topic courses of mutual interest and hope that somewhere in the future this limited cooperation will lead to a more expanded involvement in the assessment and development of the larger school operation.

Plans for Next Quarter

The following activities are expected to take place during the next reporting period:

- Continued assistance to the HCOJ in the development of the judicial selection process, including improvement of the Judicial Qualification Exam, and the interview and evaluation stages;
- Selection of HCOJ software designer;
- Continued engagement in amending the *Approval of the Rules for Selecting Judges;*
- Continued assistance in designing and launching the new HCOJ website;
- Preparation for an exchange study tour by *Justitia* members to Georgia;
- Continuation of HCOJ outreach support, including delivery of an HCOJ Communication Strategy Outline by Dr. Mark West; and
- Development of a Courtroom Communications for Judges course for the HSOJ.

COMPONENT 2: STRENGTHEN THE INSTITUTIONAL CAPACITY OF LEGAL PROFESSIONAL ASSOCIATIONS, LEGAL RIGHTS NGOs, AND THE STATE LEGAL AID SYSTEM

A. Significant Results, Accomplishments, Activities

<u>EPF Sponsored Coalition Building</u>

At the beginning of the reporting period, EPF provided prospective Coalition members with drafts of the Coalition Memorandum of Understanding (MoU) and Bylaws. The Coalition working group finalized the documents on April 7 and met to discuss outstanding questions regarding the two documents. At the same meeting, the group identified legal reform issues to focus of the Coalition's work over the next few years.

On April 29, EPF sponsored the Coalition Inaugural. Representatives of local NGOs, the media, international organizations, and representatives of judicial, legislative, and executive branches of government attended. At the Inaugural, EPF President, George Zarubin, welcomed the presence of the Senior Deputy Assistant Administrator for USAID, Ms. Roberta Mahoney, and introduced

the key note speaker, USAID Georgia Mission Director Jonathan Conly. In his opening comments, Mr. Conly stressed the importance of maintaining a constructive and mutually beneficial dialogue between civil society and government to ensure the country's democratic development. During the event, twenty-nine organizations signed the Coalition MOU, thereby demonstrating their commitment to a partnership that would advocate for a truly independent and transparent judiciary. Several Coalition members addressed the audience and shared their visions of the Coalition's work.

USAID Mission Director Jonathan Conly speaks at the Coalition Inaugural, supported by EPF President George Zarubin and EPF Country Director Ketevan Vashakidze

Following shortly after the Inaugural, the Coalition met to pass Bylaws and elect members of their Steering Committee. The Coalition elected nine organizations to the Steering Committee: Georgian Young Lawyers' Association (GYLA), Georgian Lawyers for an Independent Profession (GLIP), Human Rights Center (HRIDC), Open Society Georgia Foundation (OSGF),

Eurasia Partnership Foundation (EPF), American Chamber of Commerce (AmCham), Article 42 of the Constitution, Multinational Georgia, and the International Society for Fair Elections and Democracy (ISFED). The Steering Committee began its work by electing a Committee Chair and Vice Chair. The Committee elected Ms. Tamar Chugoshvili, Chairwoman of GYLA, as Chair and Mr. Ucha Nanuashvili, Executive Director of the Human Rights Center, as Vice-Chair. At a meeting held on June 14, EPF encouraged the Steering Committee to clearly define the direction of its work. In response, the Chair volunteered to provide a preliminary draft of a document outlining the Coalition's one-year and four-year priorities. EPF also asked Committee members to provide EPF with the most relevant topics for the Advocacy Grants soon to be considered by EPF.

Legal Advocacy Grants (EPF)

On May 6, EPF published an RFP for Legal Advocacy Grants and received 16 grant applications. On June 16, the Expert Panel met to consider the applications. This Panel consisted of the following individuals:

- Keti Kvartskhava- Partner, BLC Law Office
- David Magradze- Consultant, DPK Consulting
- Eka Gigauri-Executive Director, Transparency International Georgia
- Tamar Chugoshvili- Chairwomen, Georgian Young Lawyers' Association
- Tamar Kaldani-leads Human Rights and Good Governance Program, Open Society Georgia Foundation

After reviewing the applications, the Panel recommended only two applications for the award: a joint application by Article 42 of the Constitution and the Association of Young Economists of Georgia, and the Georgian Lawyers for an Independent Profession. EPF identified two other proposals that, if significantly revised, could be considered for an award. These were proposals submitted by Multinational Georgia and the Center for Protection of Constitutional Rights (CPCR). EPF met with both organizations and provided detailed feedback to them about their submission. Both organizations agreed to consider EPF's recommendations and also to consider submitting revised applications.

Due to the lack of high quality applications, EPF decided to announce a second RFP for Advocacy Grants and encouraged the Steering Committee to give its views on the most important advocacy topics. EPF announced the new RFP on June 23.

Legal Aid Grants (EPF)

EPF issued an RFP for Legal Aid Grants on June 3. It held open door information sessions for interested parties on June 15. EPF ultimately received 23 legal aid grant applications. The Expert Panel is scheduled to meet and consider these applications on July 6.

Organizational Development of NGO partners (EPF)

EPF continued the process of adapting CMI materials to Georgia and was able to complete the translation into Georgian of its six CMI tools. Since the Georgian Young Lawyers' Association (GYLA) already expressed an interest in undergoing the CMI process, EPF began its OD work with GYLA. In June, EPF conducted interviews with GYLA management and staff and reviewed the documents critical to developing a baseline assessment report. The GYLA CMI process will continue into the next quarter.

CRRC Judicial Independence Study

Having completed the focus group element, and begun the in-depth interview element of the study in the last quarter, CRRC moved on to the creation and delivery of the larger survey element. By mid-April, CRRC completed the survey instrument-questionnaire in Georgian and Russian, and began its fieldwork activities in late May. CRRC used complex stratified and cluster sampling to draw the sample of 5,547, which resulted in 4,318 completed interviews. The survey covered all regions of Georgia: Tbilisi, Kakheti, Shida Kartli, Kvemo Kartli, Mtskheta-Mtianeti, Samtskhe-Javakheti, Imereti, Racha-Lechkhum-Kvemo Svaneti, Samegrelo-Zemo Svaneti, Guria, and Adjara. The survey did not include the territories not under the control of the Georgia state. To complete this task, CRRC engaged 171 interviewers and 10 supervisors.

Data entry took place from May 25 to June 5. The double entry method was applied to eliminate the number of data operator mistakes. Once the database is finalized, CRRC will start its analysis of the data.

Between March 16 and April 3, CRRC conducted 25 focus group discussions with legal professionals, members of the general public, and court users in Tbilisi, Kutaisi and Batumi. CRRC also produced a focus group report in both Georgian and English. The content of this report will be included in the overall report to be issued in the next quarter.

Support for NGO Legal Aid Providers

In this quarter, JILEP continued supporting NGOs providing legal aid services.

Georgian Young Lawyers Association (GYLA)

GYLA's Legal Aid Centers in Tbilisi and its seven regional offices provided free-of-charge legal assistance to citizens, journalists, non-governmental organizations and other persons. During the reporting period, GYLA's eight legal aid offices issued 46,545 pieces of legal advice.

GYLA providing legal consultations to clients in Tbilisi

According to GYLA, the bulk of cases relate to the enforcement of court decisions, inheritance, labor rights, land rent and property registration. GYLA also noted that as a result of new

legislation, there has been a tremendous increase in the number of its consultations with individuals claiming to be victims of the Soviet political repressions who wish to apply for government compensation. GYLA also reported that during the quarter, journalists showed an increased interest in understanding the articles of the Code of Administrative Offences related to drunken behavior in public and the administrative measures taken by the authorities to deal with these cases. GYLA is trying to determine why there has been a heightened interest in this topic by journalists.

During the quarter, GYLA provided litigation support for cases brought to the Constitutional Court of Georgia and selected two cases for submission to the European Court of Human Rights.

Transparency International (TI)

During this quarter, TI began providing free legal aid as part of its JILEP-supported programming. TI's Advocacy and Legal Advising Centers (ALAC) came on-line with three full-time lawyers, one part-time lawyer, and five part-time interns in Tbilisi; and two full-time lawyers, and four part-time interns in Batumi. To advertise its new legal aid program, TI launched a publicity campaign in June. As part of the campaign, TI posted 340 ALAC stickers on trains in the Tbilisi metro for a one-month period. In addition, in cooperation with the Batumelebi newspaper in Batumi, TI made plans to distribute 12,000 flyers advertising their services in the three main districts of Ajara. Out of those 12,000 flyers, half will be distributed in Batumi and half in the two other districts, mostly covering tourist areas where there are serious property rights disputes related to real estate development.

TI representatives also traveled to Mestia, conducted meetings with people having problems registering land, and offered legal consultations to individual citizens. The Georgian training center, CTC, provided office space to the lawyers free of charge. In the end, six local citizens received free legal advice, and one of the consultations resulted in ALAC initiating a full legal case. In regards to the other five citizens, ALAC lawyers mostly provided clarifications regarding procedural issues. In two of these cases, they assisted citizens draft letters and statements to send to public agencies. After these consultations, TI representatives visited

different public agencies, including the local council of Mestia and the Public Registry office. The aim of these visits was to gather information about ongoing property rights cases.

Support for State Funded Free Legal Aid

During the reporting period, JILEP's team continued working with the LAS to identify points of potential cooperation. The Head of the LAS was invited to serve as an expert on EPF's Free Legal Aid Grant Competition Expert Panel.

Court Monitoring

GYLA finalized its court monitoring forms and checklists and composed guidance notes for its monitors. GYLA selected court monitors for the program from among individuals who had worked in their Legal Aid Center and students of their Legal Education Center. GYLA trained the monitors on the parts of the new criminal procedural code relevant to their monitoring and on court monitoring methodology. Before sending monitors to court, GYLA met with representatives of the HCOJ, the Ministry of Justice and the Tbilisi City Court and explained the monitoring program. GYLA began its pilot monitoring June 1, with three monitors attending hearings in Tbilisi City Court. During the reporting period, GYLA's monitors attended more than 200 court hearings. During the next quarter, they will analyze the monitoring data and make any needed adjustments to their monitoring methodology.

TI began its pilot monitoring of administrative cases on June 1 at the Tbilisi and Batumi City Courts. TI's monitoring team was made up of five part-time monitors in Tbilisi and four part-time monitors in Batumi. Monitors attended hearings every day. So far, the monitors have attended a total of 195 hearings in Tbilisi and Batumi.

Monitoring and Evaluation (M & E) Indicator Results

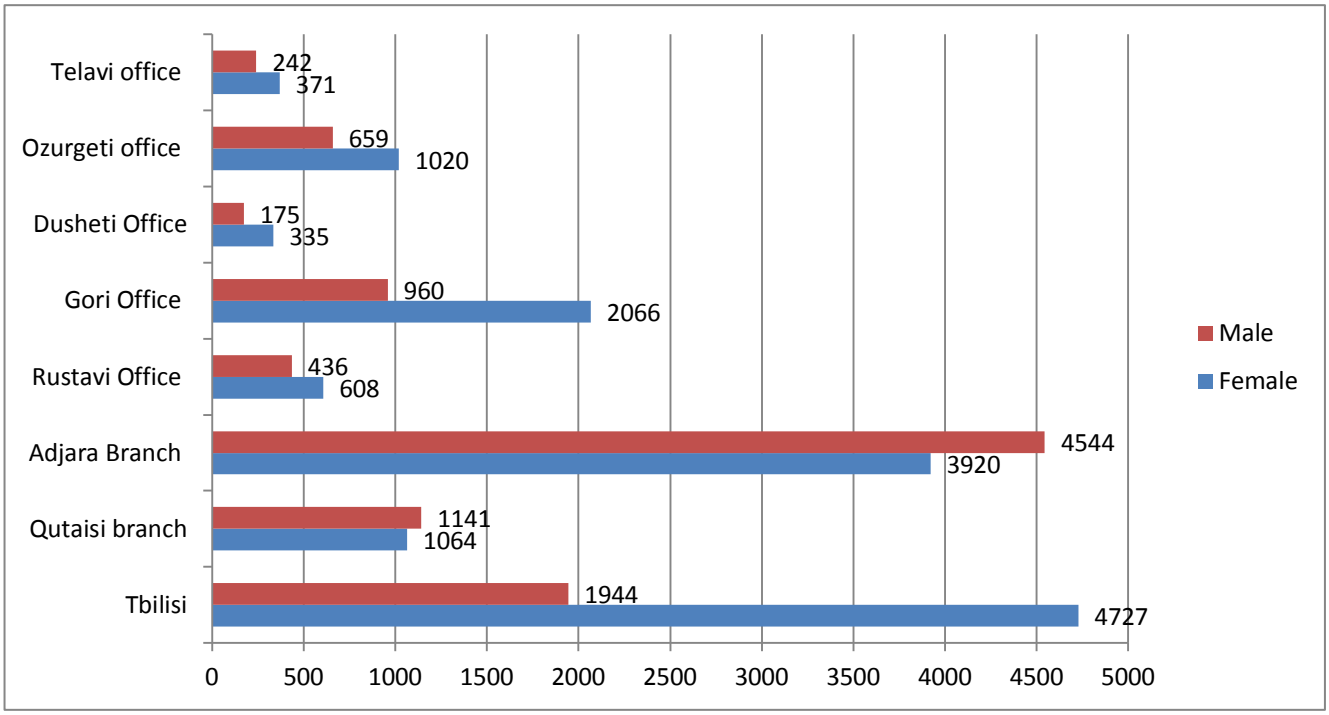
Anticipated Result B: NGOs provide quality legal representation to the public in civil, administrative and criminal matters in order to better protect their rights.

2. Number of persons advised and represented by organizations supported by JILEP:

TI Georgia provided consultations to 53 individuals (24 male, 29 female)

GYLA provided 46,545 consultations. They provided consultations to 24,212 individuals (10,101 male, 14,111 female). (The number of consultations does not match the number of individuals, as in some instances the same individuals were consulted more than once).

GYLA Beneficiaries - Gender Breakdown



B. Key Issues and Challenges

One of the main challenges faced by EPF during the reporting period was the subpar quality of advocacy grant applications submitted by the NGOs. Of the 16 applications received, the Expert Panel recommended only two for funding. EPF's project team also reviewed the applications and agreed with the Experts. Once it became clear that EPF would be unable to award the planned number of grants, the team amended the RFP to provide more specific guidance to applicants and re-issued a new RFP on June 23. At the same time, EPF called an additional Coalition meeting to inform the members of the results of the first RFP and about the expectations held by EPF and EWMI. To ensure better regional representation among the applicants, EPF plans to hold informational meetings in Kutaisi and Batumi in July where they

will explain JILEP's grant-making mechanisms and encourage qualified NGOs to submit proposals.

The CRRC survey effort was challenged by the immense sample size of the survey it is attempting. To ensure quality control, CRRC conducted back-checks of a randomly selected 10 percent of sample clusters (primary sampling units, election districts). According to CRRC, the back-checks revealed a positive picture. It reported that in almost all the clusters, the interviewers had worked according to the instructions given by the CRRC staff, ensured a random selection of households and respondents, and conducted the interviews appropriately. Among the 171 interviewers, only one was not able to conduct interviews, failing to conduct the random walk properly. As a result, two clusters of interviews had to be repeated in Batumi.

In regards to court monitoring, GYLA's monitors encountered difficulties acquiring accurate advance information on court hearings since the timetable of cases published on the special computer screens at court and on the court web-page was constantly changing. This made it difficult for monitors to attend all the hearings they had planned. The startup of TI's monitoring program was negatively impacted by the departure of one of its most experienced Batumi-based lawyers, who left TI to take a job in a state agency.

C. Plans for Next Quarter

The following activities are expected to take place during the next reporting period:

- CRRC will complete its full survey report;
- EPF will organize the first of a series of public forums planned under the Coalition's Civic Initiative for an Independent Judiciary;
- EPF will issue Free Legal Aid Grants;
- EPF will issue Competitive Advocacy Grants;
- EPF will implement Round One of the CMI assessment for the advocacy grant recipients;
- GYLA will continue to provide legal assistance to the indigent in Tbilisi and the seven regions (Imereti, Adjara, Shida Kartli, Kvemo Kartli, Guria, Kakheti, Dusheti);

- TI will continue to provide legal consultations for ALAC clients. In addition, TI will organize mobile legal aid clinics for different regions of Georgia;
- TI will complete a two-month pilot of their court monitoring project and prepare findings;
- GYLA will complete a two-month pilot of their court monitoring project and prepare findings; and
- JILEP, together with other donors (EU HD and OSGF), will continue to push the LAS Monitoring Board to move forward in its development and take concrete actions to fulfill its oversight function.

COMPONENT 3: IMPROVE LEGAL EDUCATION

A. Significant Results, Accomplishments, Activities

Legal Education

National Centers of Learning

JILEP invited all of Georgia's law programs recognized by the National Center for Educational Quality Enhancement (NCEQE) to express interest in creating and operating a National Legal Center of Learning in cooperation with a US law school. Eight schools submitted answers to the questionnaire invitation. After reviewing the responses and discussing them with the two US law schools involved in the project, JILEP invited two Georgian law schools to meet with the US law school partners to discuss terms of agreement. Ivane Javakhishvili Tbilisi State University Faculty of Law met with South Texas College of Law and began negotiations to create a National Center for Alternate Dispute Resolution (NCADR). Free University of Tbilisi met with Washburn University School of Law and began negotiations to create a National Center for Commercial Law (NCCL).

JILEP launched the partnership with a Public Opening of the Law Centers on May 10. At the Opening, USAID Acting Mission Director, Joakim Parker, announced the selection of the two Georgian schools and explained the expectations of the program to a crowd of more than 100 representatives of the law and business communities. Chief Justice of the Georgian Supreme Court, Konstantin Koblashvili, also made opening comments.

The discussions between schools resulted in draft memoranda of understanding, mission statements, activity plans, and invitations for teaching visits between schools. During discussions, the parties agreed that the activities of the National Centers will:

- be open to all Georgian law students and professors;
- focus on improving legal education through curriculum and materials development;
- include courses and activities that will provide skills training to law students;
- encourage the use of progressive and interactive teaching methodologies;
- develop analytical thinking; and
- support clinical legal education.

In addition, the National Centers will contribute to the continued development of Georgian commercial and dispute resolution law and practice.

Discussions between Free University, Washburn, and JILEP

Discussions between Tbilisi State University, South Texas and JILEP

Deans' Roundtable

As part of its on-going efforts to foster discussion between Georgia's law schools, JILEP hosted a Deans' Roundtable, entitled *The Role of Law Schools in Developing the Law and Lawyers*. Thomas Romig, Dean of Washburn University School of Law and former Judge Advocate of the US Army, moderated. The 14 law school Deans attending the event discussed such issues as the role of the lawyer in Georgian society; the role of the law school in the development of Georgian law; and the need for Georgian law schools to develop shared institutional standards. The debate was lively, and JILEP challenged the Deans to continue their exchange of viewpoints at future meetings.

Deans' Roundtable

Master Class on Teaching Methodology

Nearly 60 Georgian law professors from law schools across Georgia participated in a full-day Master Class designed to introduce the use of law practice simulations in a large class setting. U.S. professors from South Texas and Washburn taught the course. The professors shared new teaching theory and demonstrated successful teaching techniques. This event was the first in a series of planned activities that will introduce new teaching approaches and methodologies to Georgian law professors.

Professors from WUSL and STCL teaching a Master Class to Georgian law professors on teaching methodology

Assessment of Live Client Clinics and Delivery of Clinical Legal Education Workshop

Edwin Rekosh, Executive Director of PILnet, a JILEP sub-awardee, met with the Georgian live client legal clinics operating at Kutaisi State University (KSU), Batumi State University (BSU), and Georgian-American University (GAU). Mr. Rekosh's visit was aimed at identifying:

- the current level of the legal clinic activities measured against a "functional" clinic;
- the strengths and weaknesses of the clinic's current activities; and
- the specific technical assistance needed to help move the clinics to the next level of development.

Mr. Rekosh provided pragmatic and wide-ranging recommendations to improve law clinic work in Georgia.

To begin its support for the improvement and expansion of Georgian clinical education, JILEP held a workshop for the three existing live client clinics on May 27-28. This workshop was

designed to improve the teaching skills of law clinic professors, supervising attorneys, and administrators. Fourteen representatives from Kutaisi State University, Batumi State University, and Georgian-American University attended. Professor Phillip Genty, a law clinic expert from Columbia University who is also affiliated with PILnet, facilitated the workshop. Participants discussed the purpose of clinical education, curriculum, and provided examples of classes that might be taught to improve their operations. Bringing all three live-client clinics together for the first time also provided an opportunity for clinic teachers and administrators to learn from each other. All of the participants expressed a desire to continue their collaboration and to learn from clinical experiences outside Georgia.

Columbia University Professor Phillip Genty facilitates the Clinical Education Workshop

Professional Ethics of Lawyers

In June, JILEP and the GBA Ethics Commission sponsored a Training of Trainers (ToT) on legal ethics in Batumi. US law professor James Moliterno returned to Georgia to facilitate. During the program, the prospective trainers developed course material, lesson plans and practiced teaching methodology. In the final session, participants presented their own lessons to the group. Following the Batumi ToT, Professor Moliterno traveled to Tbilisi and joined with Irakli Kordzakhia, the Head of the GBA's Ethics Commission, to lead an ethics workshop especially designed for commercial lawyers working in Georgia's leading law firms. Approximately twenty lawyers participated in the training. The training was customized to address the specific

needs of business lawyers representing foreign clients and large local companies. The session addressed topics including: conflict of interest, particularly in multiple client situations and entity representation; supervising junior lawyers; dealing with trust accounts; and handling referral fees.

GBA Continuing Legal Education

During the reporting period, JILEP met with Mikael Laurens, a European expert supported by the Human Dynamics project, to coordinate positions on the GBA's proposed Continuing Legal Education (CLE) program. Discussions included: the number of CLE credit hours that should be required by GBA members to retain accreditation each year; whether or not CLE training should be free; whether or not CLE training should be provided solely by GBA or also by other training providers; and how previously-received CLE training should be credited to a lawyer for the coming year.

On May 20-22, in cooperation with the Human Dynamics project, JILEP facilitated discussions within the GBA's CLE Committee. During this meeting, JILEP assisted the Committee reach decisions on many of the major problems posed by the creation of a comprehensive CLE program.

JILEP Legal Advisor, Michael Diedring, moderating discussion at the GBA CLE Committee retreat

Monitoring and Evaluation (M & E) Indicator Results

Anticipated Result B: The Georgian Bar Association (GBA) is better equipped to train, monitor and discipline its members.

3. Number of Bar members trained with JILEP assistance – 37 (22 men/ 15 women).

B. Key Issues and Challenges

National Center for Educational Quality Enhancement (NCEQE)

During the reporting period, NCEQE expressed no interest in engaging with JILEP on matters related to the accreditation of universities and law school programs. JILEP continues to monitor the activities of the NCEQE, and remains prepared to provide assistance in any law school-related accreditation matters.

Legal Education/Law Schools

After announcing the establishment of the two National Center law schools, JILEP increased its efforts to identify and provide technical assistance to other Georgian law programs. Several significant discussions took place with GAU, University of Georgia, and Ilia State University.

Now that solid working relationships have been created between all of the schools involved in the National Centers, the challenge will be to implement the activities aimed at achieving the program's main goals.

Georgian Bar Association (GBA)

JILEP established working relations with the EU-funded Rule of Law project managed by Human Dynamics. While the GBA CLE Committee accomplished a significant amount during the reporting period, it has become clear that the GBA currently possesses limited capacity to provide a significant number of CLE courses to its members. JILEP is encouraging the GBA to consider using Georgian law schools, law professors, and practicing lawyers as CLE providers. While it is anticipated that law schools will respond positively, it is too soon to say whether these relationships can be forged quickly enough to assist CLE building for 2012.

With respect to discipline and legal ethics, the GBA leadership and its Ethics Commission continues to express a commitment to self-regulate and to teach legal ethics to GBA members. However, without strong support and a sustainable CLE strategy, it will be difficult to establish a robust ethics training program.

C. Plans for Next Quarter

During the next reporting period, JILEP will:

- Hold two additional Master Classes open to all Georgian law professors and lecturers on "assessing student progress in addition to final examinations," and "introducing US law in Georgian law school courses";
- Support the Constitutional Court Summer School for law students in Batumi;
- Provide a professor to teach and assist TSU professors and lecturers in teaching methodology and supervision of students in clinics during TSU's Summer School;
- Sponsor a meeting of law school administrators to consider greater involvement in international moot court competitions, using the TSU International Vis Moot team as an example;
- Send TSU Professor Sofia Chachava to South Texas for a six-week teaching and study visit;
- Send a group of four Free University professors to Washburn for a two to four-week study visit;
- Introduce a small grants program to assist the continuing development of the live client clinic programs at Batumi State University, Kutaisi State University and GAU;
- Finalize a grant for the Foundation to Support Legal Education (established by GYLA) to administer a West Georgia Masters of Law Scholarship, as well as issue solicitation and select recipients;
- Sign MoUs and start-up the National Centers of Learning;
- Provide assistance to the GBA to plan its nationwide CLE; and
- Help the GBA and Ethics Commission deliver training courses in legal ethics to Bar members.

COMPONENT 4: DEVELOP COMMERCIAL LAW

A. Significant Results, Accomplishments, Activities

Commercial Law Training for Judges

On April 2-3, JILEP organized the third in the series of two-day seminars for Georgian judges on the new Tax Code. The HSOJ Training Center in Tskaltubo (West Georgia) hosted the seminar. 25 judges from the Kutaisi Court of Appeals, and the City and District Courts of West Georgia took part in the training. With the finalization of this seminar, JILEP completed training virtually all of the judges reviewing tax disputes in Georgia (65 in total).

With film from the trainings, JILEP created a Tax Code Training video. JILEP distributed this educational video to participants of the trainings, the HSOJ, and leading Georgian law firms: DLA Piper, BGI Legal, BLC Law Office, Mgaloblishvili Kipiani Dzidziguri – MKD, Asatiani Law Group, Kordzakhia & Jgenti Law Firm and Kordzadze Law Office. JILEP also posted a web version on the JILEP website and YouTube channel. During a two month period, more than 1,500 visitors watched the video trainings on YouTube.

In an effort to build upon the momentum created by the Tax Code training, JILEP offered to develop the following training modules for HSOJ listeners and sitting judges:

- Tax and Economics (including Tax law, IFRS, and Fundamantals of Microreconomics);
- Modern Teaching Methodologies (for HSOJ trainers);
- Legal reasoning and Statutory Interpretation in Judicial Decision-making; and
- Courtroom Communications Skills

Of these topics, HSOJ expressed the greatest interest in the development of *Tax and Economics* and *Legal Reasoning* courses. However, the HSOJ expressed little enthusiasm for incorporating these training modules into the HSOJ listener judge curriculum.

Commercial Law Training for GBA members

As mentioned in discussion of Component Three above, JILEP is assisting the GBA build a viable CLE program. GBA is expected to announce the introduction of CLE requirements for its

members starting from 2012 soon. To promote CLE among Georgian attorneys, JILEP developed a plan to organize a CLE Conference in Commercial Law. The Conference will offer participants the chance to attend various training seminars on commercial law subjects. The GBA would count the hours spent by members at the seminars as credits toward the members' yearly CLE requirement. By attending or teaching at this Conference, GBA members would be able to cover most, if not all, of the mandatory yearly CLE. In addition to immediately benefiting Georgian commercial attorneys, the Conference will also demonstrate an effective delivery system for CLE that can be replicated by the GBA in coming years. The conference will also show how law schools, law firms, NGOs, individual lawyers and professors can be used to provide targeted instruction to GBA members. Even if this delivery system cannot be immediately replicated, the teaching modules developed for the Conference may be used to provide ad hoc training opportunities to GBA members in coming months. The seminars will most likely deal with areas of law under the following topic headings:

- Ethics
- Civil Law
- Company & Insolvency Law
- Tax Law
- Alternate Dispute Resolution (ADR)
- Finance Law (Banking/Insurance/Securities)

Commercial Law Advisory Council (CLAC)

JILEP hosted a second meeting of the CLAC on April 24. Representatives of leading Georgian law firms participated. At the meeting, JILEP discussed the workshop on professional ethics for Georgian commercial lawyers. CLAC provided a list of commercial lawyers that should attend the workshop and assisted greatly in the event planning. For more details on the ethics workshop, please see Component Three.

Commentary on Georgian Tax Legislation

JILEP began efforts to create a practitioners' Commentary on the new Tax Code of Georgia. To assure broad availability, the Commentary is being designed as an open, online, updatable resource. JILEP selected three tax law experts to write the Commentary: Mr. Kakha Rukhadze:

Senior Tax Manager of KPMG Georgia; Dr. Zviad Rogava: Professor at Caucasus School of Law in Tax and Public Law; and Levan Nadaraya: Head of Tax and Legal Department of Alexander Tax Consulting Group. In addition, JILEP arranged for Mr. Bondo Bolkvadze, a tax and customs specialist working for USAID's Economic Prosperity Initiative (EPI), to assist in writing the customs practice portion of the Commentary.

JILEP also reached a preliminary agreement with the HSOJ to organize roundtables with select Georgian judges and Commentary authors. The roundtables will allow the judges to share their experiences implementing the Code with the authors so that these experiences can be reflected in the Commentary. The authors are expected to produce a rough draft of the Commentary within six months.

ADR Development

JILEP drafted a Scope of Work for an international Expert to assist in a comprehensive assessment of ADR in Georgia. JILEP expects the Expert to start work on the assessment in the early fall. The assessment will include an analysis of the Law on Arbitration (June 19, 2009, as amended) and relevant parts of the Civil Procedural Code of Georgia. The assessment will also analyze the existing ADR mechanisms and institutions functioning in Georgia. The assessment will also include in-depth interviews with Georgian commercial lawyers and businessmen. The assessment will result in a *Report on ADR in Georgia*, which will include the following:

- Description and analysis of Georgia's current ADR legal framework;
- Description and analysis of Georgia's current ADR institutional framework;
- Description and analysis of Georgia's current ADR practice; and
- Suggestions to further develop Georgia's ADR legal and institutional framework.

Commercial Law Textbooks Project

There are very few books in the Georgian language on commercial law. Existing materials are either outdated, or obsolete. Since a thorough understanding of domestic commercial law is essential for Georgian lawyers to practice their trade, JILEP began a program to create Georgian language textbooks in commercial law subjects.

JILEP will support the creation of two textbooks: *Law of Obligations and Contracts* and *Law of Property*. On June 7, JILEP announced the competitive selection process for authors. Thus far, nine individuals applied. During the next quarter, JILEP will select textbook authors and oversee the beginning of the drafting process.

Monitoring and Evaluation (M & E) Indicator Results

Anticipated Result A: Increased training available for judges on commercial law topics.

1. Number of judges and lawyers receiving training on commercial law topics with JILEP assistance – 25 (15 men/10 women). Also reported in Component 1 above.

B. Key Issues and Challenges

JILEP hopes to provide additional tax law training at the HSOJ in the fall. The content of the training will be based on feedback provided by judges who participated in the Tax Commentary roundtables. However, the HSOJ needs to articulate a stronger commitment to presenting the commercial law training programs before JILEP can begin planning for these trainings.

With regard to the GBA CLE, JILEP will continue to discuss the possibility of organizing a CLE Conference in Commercial Law with the GBA in the fall. An initial meeting with the GBA CLE Committee is scheduled for July 14. JILEP will include CLAC and the National Center for Commercial Law at the Free University of Tbilisi in the discussion of this event.

C. Plans for Next Quarter

The following activities are expected to take place during the next reporting period:

- Preparation and execution of the ADR assessment;
- Continued drafting of the Tax Law Commentary;
- Organization of further trainings for sitting judges in cooperation with the HSOJ;
- Continued discussion with GBA and prospective trainers on the development of commercial law training modules for GBA CLE;
- Discussions with CLAC on commercial law and legal education-related topics; and
- Selection of authors and drafting of commercial law textbooks.

Annex A. Success Stories

Judicial Selection, Evaluation and Appointment

JILEP was very successful in building relationships with the HCOJ and Supreme Court by providing them with information that could lead to significant improvements in the judicial selection process. From conversations held with members of the Inter-Agency Coordination Council for Criminal Justice Reform (IACC), it appears that the suggestions made by JILEP on the *Rules for Selecting the Judges* will be reflected in the next draft. HCOJ and Supreme Court representatives reacted very positively to the JILEP Judicial Candidates Interview and Evaluation Workshop. It is anticipated that the expert suggestions will be included in an updated selection process.