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JUDICIAL INDEPENDENCE AND LEGAL
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QUARTERLY REPORT

JULY 1, 2011 – SEPTEMBER 30, 2011

JUDICIAL INDEPENDENCE AND LEGAL EMPOWERMENT PROJECT QUARTERLY REPORT JULY 1, 2011 – SEPTEMBER 30, 2011

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Implementer

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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 sets of 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 July to September 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

Over the course of the last nine months, JILEP has built bridges with the HCOJ and Supreme Court with the aim of influencing the development of more fair and transparent selection, evaluation, and appointment processes. This has led the HCOJ to request technical advice and support for activities in these areas that now show the promise of concrete achievement.

Last quarter, JILEP and HCOJ selected the Georgian software company ONYX, Ltd to create a software platform that will be used by the HCOJ to support its judicial examination and judicial candidate interview process. Among other things, the software will provide anonymity and random selection in the grading and interview processes which will reduce the possibility of arbitrary or politically motivated judicial selections. The HCOJ expects to launch the software system in April 2012.

Also connected to the improvement of the judicial selection process, the Inter-Agency Coordination Council for Criminal Justice Reform (IACC) invited JILEP to review draft amendments to the internal rules entitled *Approval of the Rules for Selecting the Judges*. JILEP reviewed the draft amendments and provided suggestions on how to make the appointment process easier to understand and more transparent. As a result of the IACC initiative, the HCOJ plans to continue discussion of the draft amendments with both international donors and local civil society organizations and has asked JILEP's assistance in supporting this effort. JILEP is preparing to provide the HCOJ and the IACC additional advice and to help sponsor a HCOJ-donor forum on the subject next quarter.

In regards to the development of a fair evaluation system for judges, on August 5-7, JILEP helped the HCOJ sponsor a judicial conference in Batumi entitled, "Court Performance, Efficiency, Main

Directions of Development of the Judiciary, and New Legislative Initiatives.” The Supreme Court Chief, Supreme Court staff, the Secretary and staff of HCOJ, and the chief judges of Georgia’s trial level courts participated in the event. The participants reviewed the performance of the trial level courts during 2011, applying the new court performance measurement system developed by HCOJ with the assistance of the USAID JAMR program.



Chief judges and members of the HCOJ discuss judicial evaluations in Batumi

Judicial Discipline

Last quarter, the HCOJ asked JILEP to provide a U.S. expert to give advice on how the HCOJ might improve the judicial disciplinary process. In response, JILEP has arranged for Victoria Henley, the Director and Chief Counsel of the California Commission on Judicial Performance, to come to Georgia in November and provide the HCOJ information on how judicial discipline is handled in the U.S. and other parts of the world. Last quarter, HCOJ began working on draft amendments to legislation with the aim of making the disciplinary process transparent and intends to share the draft with JILEP’s expert to provide her opinion and recommendations.

Mainstreaming ethics and notions of judicial independence - courtroom communications

Last quarter, both the HCOJ and the Supreme Court approached JILEP to assist in the development of a “courtroom communications” course for judges. JILEP saw this invitation 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. JILEP worked with the HCOJ, the HSOJ, the Supreme Court of Georgia, and the USAID-JAMR program to lay the groundwork for the training. JILEP’s expected role in the project is to provide a U.S. judge to help design the course format and content, and to help deliver Train the Trainer courses in cooperation with a Georgian judge. To this end, in July, JILEP brought Carolyn E. Temin, an experienced U.S. state court judge, to Georgia to meet with the HCOJ and the Supreme Court and sketch out a basic training approach. During her stay, Judge Temin met with project partners, observed court hearings at Tbilisi City Court and Tbilisi Court of Appeals, and provided JILEP a suggested course outline. However, shortly after Judge Temin left Georgia, the Supreme Court issued a new document entitled, *General Principles of Courtroom Communications*, which it insisted should be the basis for the communications course. JILEP is studying this document to determine if it provides support for their continued participation in the project.

HCOJ Outreach Capacity Building

Dr. Mark West, EWMI’s judicial outreach and communications expert, provided HCOJ with a first set of recommendations designed to expand HCOJ’s outreach capacity, improve its transparency, and help build public trust in the judiciary. The recommendations were seen by JILEP as a first step in encouraging the design of an HCOJ “*Public Trust and Confidence Plan.*” The HCOJ wasted no time following Dr. West’s recommendations. During the reporting period the HCOJ took the following actions, all in keeping with the recommendations:

- Created a “Public Relations and Quality Management Department” to focus on improvement of HCOJ outreach and relations with the public and media;
- On May 30, hosted TSU law students for an informational tour;

- On July 19, September 22, and September 29, hosted meetings with NGO representatives, journalists, and international donors to exchange opinions and ideas on judicial reform;
- On September 20, held the first known “open” HCOJ meeting and invited media to observe;
- Made plans to outfit the HCOJ meeting room with a live video feed and communications equipment so that media could more easily observe and report on HCOJ activities.



HCOJ Secretary, Valeri Tsertsvadze, leads an international donors meeting at HCOJ

Also during the quarter, JILEP and HCOJ selected Digital Design Studio as the winner of a bidding competition to build a website to help the HCOJ keep the public informed about its makeup, mission, and activities. As was anticipated, a number of Dr. West’s suggestions on layout and content of the website were included in the design. While the website is not yet operational, one extremely positive indication is that the draft layout includes a window dedicated to providing information on judicial disciplinary matters, an area once considered off limits to public observation and scrutiny.

Strengthening the High School of Justice (HSOJ)

While the HSOJ declined JILEP's initial offers to assess the quality of its new judge training program and to assist in the design of its CLE curriculum, JILEP was able to work with the HCOJ and the Supreme Court to identify some course topics of interest to judges. These topics are Courtroom Communications Skills for Judges; Tax Law: Challenging Issues; and Legal Reasoning and Statutory Interpretation. JILEP is working on development of these courses and hopes to conduct trainings in the coming quarter. (See more on this initiative under Component 4.)

B. Key Issues and Challenges

JILEP will need to closely monitor the development of the HCOJ computer software system to help ensure that it will ultimately serve to reduce the opportunity for arbitrary or politically motivated judicial selections. JILEP will continue its involvement in the process of drafting new judicial appointment and disciplinary laws and regulations. The challenge here will be to convince the HCOJ to take the time needed to develop clear, well thought out, regulations that will encourage judicial independence and transparency since the HCOJ is exhibiting a marked inclination to create and push through changes too quickly. JILEP will put its efforts to strengthen the Judges of Association (JAG) on hold, since after a number of approaches and despite last quarter's Poland visit, the JAG leadership shows no inclination to allow the organization to grow into a body with an independent voice. Sponsorship of Courtroom Communication Skills training represents an opportunity to keep some connection with the HSOJ even if the school's leadership remains resistant to accepting JILEP assistance in improving the institution itself.

C. Plans for Next Quarter

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

- Continued assistance to the HCOJ in the reform of the judicial selection process, including improvement of the judicial qualification exam, and the interview and evaluation processes;

- Continued engagement with IACC and HCOJ in the process of amending the *Approval of the Rules for Selecting Judges*;
- Continued assistance to the HCOJ to improve the judicial disciplinary process;
- Continued assistance in creating and launching the new HCOJ website;
- Continuation of HCOJ outreach support, including technical assistance to the Council to adopt and carry out the elements of a *Public Trust and Confidence Plan*;
- Development of a courtroom communications course for judges.

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

A. Significant Results, Accomplishments, Activities

NGO Coalition Building (EPF)

On July 29, EPF sponsored a public forum where for the first time, the NGO community and members of the judiciary came together to openly discuss issues involving judicial transparency. U.S. Ambassador John Bass opened the event entitled, “Working toward Court Transparency.” In the discussions that followed, NGO leaders engaged in very direct and open exchanges with members of the judiciary and Parliament; including Konstantin Kublashvili, Chairman of the Supreme Court of Georgia; and Chiora Taktakishvili, MP and First Deputy of the Legal Committee of the Parliament of Georgia. Participants discussed the need to increase public access to court decisions, and the need for the court to create uniform policies and procedures to guide judges in their determinations of when to allow video and audio recording of court proceedings.



U.S. Ambassador John R. Bass speaks at the Coalition public forum

On September 30, at the HCOJ's invitation, members of the Coalition visited the HCOJ and continued the discussion begun at the public forum. During the meeting, Coalition members provided specific recommendations on how the court should develop its policy related to video and audio recording of court proceedings, as well as other issues related to public access to court information. The discussions held between the Coalition and judiciary on transparency represent a significant step forward in the establishment of dialogue between civil society and the formal justice system.

Legal Advocacy Grants (EPF)

On June 23, EPF re-announced the Advocacy Grants RFP. To ensure better quality of applications and extensive regional coverage, EPF organized an informational tour in Kutaisi and Batumi to explain the JILEP grant-making mechanisms. Together with EWMI and Coalition representatives, EPF was able to provide clear explanations to the local NGO sector about EPF's expectations and procedures.



EPF Country Director Ketevan Vashakidze, EWTI DCOP Giorgi Chkheidze, and the Coalition Steering Committee Chair Tamar Chugoshvili explain the grant competition process

By the July 22 deadline, EPF received 17 grant applications. On July 28, the Expert Panel met to consider the applications. This Panel consisted of the following individuals:

- Nina Khatiskatsi - Transparency International Georgia
- Tamar Chugoshvili - Georgian Young Lawyers' Association
- Tamar Kaldani - Open Society Georgia Foundation
- Zaza Bibilashvili - BGI Advisory Services
- Teona Kuchava - UNICEF

After reviewing the Panel recommendations, after conducting extensive work with the prospective grantees, and after consulting with EWTI and USAID, EPF signed grant agreements with six organizations. (This is addition to the two grant agreements signed after the initial grant competition in June.) EPF awarded the following grants:

1. Civil Development Agency

The grantee aims to consolidate civil society's monitoring of the state Legal Aid Service (LAS) in order to improve the LAS' activities and promote better protection of human rights for Georgia's indigent population.

2. Association "Sachino" for the Struggle against Corruption and for the Protection of Consumers' Rights in Imereti

The grantee aims to wage a targeted advocacy campaign to foster court transparency in the Imereti region and surrounding areas.

3. Georgian Small and Medium Enterprises Association

The grantee will advocate for the development of a business friendly legal framework and improving the administration of justice in the area of tax law in Georgia.

4. American Chamber of Commerce

The grantee seeks to ensure that tax disputes between the government and businesses are resolved in the most transparent, predictable and equitable fashion possible.

5. Institute for Development of Freedom of Information

The grantee aims to promote the transparency and accountability of the Georgian judicial system by assessing and advocating for the comprehensiveness, coherence, and accessibility of websites of Georgian courts.

6. Public Movement Multinational Georgia

The grantee aims to ensure the right to a fair trial for the representatives of ethnic minorities residing in Georgia by reducing language barriers they face in judicial administration.

7. Article 42 of the Constitution

The "Advocate for Improved Commercial Law Framework and Implementation" program will advocate for improvement of commercial law legislation by refining the regulatory framework

governing the commercial law in Georgia and raising public awareness of important commercial law issues.

8. Georgian Lawyers for Independent Profession

The grantee will increase the effectiveness of arbitration as an alternative tool of dispute resolution in the area of private law by analyzing the existing legislation and practice in the area of arbitration; by advocating for the improvement of the legislative framework for arbitration; and increasing public awareness of arbitration.

Legal Aid Grants (EPF)

On July 6, EPF hosted an Expert Panel meeting to review 24 legal aid grant applications. This Panel consisted of the following individuals:

- Irakli Kobidze – State Legal Aid Service
- Tamar Chugoshvili - Georgian Young Lawyers' Association
- Tamar Kaldani -Open Society Georgia Foundation
- Irakli Mzhavanadze - Office of the Public Defender
- Teona Kuchava - UNICEF

After reviewing the Panel recommendations and after doing extensive work with the prospective grantees, 4 grant agreements were signed. These were:

1. Raca-Lechkhumi and Kvemo Svaneto Self-government Resource Center

The project aims to protect human rights and fundamental freedoms of Georgian citizens by providing pro bono legal assistance to the population of one of the most underserved regions of Georgia – Racha-Lechkhumi and Kvemo Svaneti.

2. Non-commercial Legal Entity Tbilisians Lawyer

The goal of the project is to provide free legal assistance and ensure equal access to justice for the most vulnerable residents of Tbilisi, as well as for individual entrepreneurs and limited liability companies that are carrying out business activities at Tbilisi flea markets.

3. Institute of Democracy

The project aims at providing free legal aid to the most vulnerable segments of the population residing in five municipalities of Adjara: Keda, Shuakhevi, Khulo, Khelvachauri, and Kobuleti. Through public outreach efforts, the grantee will increase the local population's awareness of their legal rights and responsibilities, so that they are better able to detect when their rights are being violated and subsequently, seek help.

4. Human Rights House

The grantee aims at protecting human rights and freedoms in Georgia, through providing pro bono legal assistance to the most vulnerable segments of the Georgian society (*e.g.* the IDPs, the elderly, the disabled, etc.) in civil, administrative, and criminal law matters.

Organizational Development of NGO partners (EPF)

During the reporting period, EPF piloted its adapted CMI tool with GYLA and presented the baseline report with recommendations to the management for further organizational development improvements. This was a good opportunity for the EPF staff to hone their interviewing and report writing skills relevant to the CMI tool. At the same time, it allowed the EPF ODI team to discover and address gaps in the CMI tool and its implementation.

EPF ODI staff organized information sessions and individual meetings with applicants to raise their management's awareness of the process of organizational development so that they could make informed decisions about the OD component of EPF's grant making. Of the selected 12 organizations, 11 acknowledged their interest and readiness to engage in organizational development activities and take advantage of the ODI grant support.

CRRC Judicial Independence Study

In this reporting period, CRRC began to analyze the quantitative and qualitative data collected during the previous quarters. In August and September, the CRRC team met with EWMI representatives to discuss the draft report outline. After agreement was reached on the basic

layout of the CRRC report, CRRC began drafting the report itself. The report will be finalized November 2011.

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 seven regional offices continued to provide free legal assistance to citizens, journalists, non-governmental organizations and other persons. GYLA provided legal assistance face-to-face in GYLA's offices, over the telephone, through the drafting of legal documents, and through representing clients in court.

According to information provided by GYLA's legal aid centers, correction of data in identification and other civil documents, inheritance, family issues, and property registration remain the most common areas where citizens seek free legal advice. During the reporting period, GYLA's eight legal aid offices issued 39,319 pieces of legal advice.



GYLA providing legal consultations to citizens in Tbilisi

In addition to the consultation work provided by GYLA's Legal Aid Centers, GYLA continued working on various strategic cases in the courts of general jurisdiction, as well as in the Constitutional Court of Georgia and the European Court of Human Rights.

Transparency International (TI)

During this quarter, TI Georgia continued providing free legal aid as part of its JILEP-supported programming. TI's Advocacy and Legal Advising Centers (ALAC) became fully functional with four full time lawyers and three part-time interns in the Tbilisi office, and two full-time lawyers, one full-time intern and four part-time interns in the Batumi office.

ALAC's workload has grown significantly since the last reporting period. During the period between July 1 and September 30, 184 persons contacted ALAC. TI reports that out of the 184 initial contacts, 135 persons were summoned to the ALAC offices for further consultation and assessment of their documents. The cases of 83 of these persons seemed to be most relevant to the scope and focus of TI's activities and as a result, TI has applied to the court and several administrative bodies on their behalf. As of this writing, there were 6 cases pending in the courts: 2 cases in Tbilisi and 4 in Batumi.

TI Georgia launched the second phase of its publicity campaign designed to raise the profile of its legal aid activities. Because of the slow summer vacation period, the campaign activities were started in mid-September. In preparation for the campaign, TI reprinted 6,000 flyers and 500 posters providing information on free legal consultancy. TI also developed TV advertisements featuring a simple informational video. TI Georgia is currently in the process of negotiating TV advertisement podcasting with the following TV channels: Georgian Public Broadcaster, Maestro, Kavkasia, Rioni TV station in Kutaisi, Gurjaani TV in Kakheti, and Channel 25 in Batumi.

Based on its advocacy strategy aimed at simplifying the requirements for registering land plots in Georgia, TI prepared a blog post on selective recognition of property rights in the Mestia mountainous region of Georgia. The full blog post can be found on TI Georgia's web-page.

Currently, another blog post addressing other property related problems is being developed and will be published soon.

Court Monitoring

During the reporting period, GYLA and TI conducted pilot court monitoring programs and started analyzing data with the aim of assessing the results of the pilot projects. EWMI expert Neil Weinstein traveled to Tbilisi and spent time looking at the data and discussing the methodologies used by the partners. As a result of these discussions GYLA updated its monitoring checklists and developed an amended monitoring plan that it will use to continue its pilot program.

TI finalized its pilot phase of court monitoring. With Mr. Weinstein's input, TI made number of changes to its monitoring process. In particular, TI made changes to its monitoring checklist, making the assessment of cases more flexible and easier for monitors as well as for the lawyers. TI also developed a completely operational digital database and electronic checklist that is in full conformity with the paper version of the checklist. As a result of the pilot monitoring in Batumi and Tbilisi, TI was able to unify its monitoring practice. Remarkably, TI has been able to maintain their core group of monitors; a group that now has a solid working knowledge of court proceedings and has established positive working relationships with the court.

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 184 individuals (80 male, 104 female).

GYLA provided consultations to 22,184 individuals (8,487 male, 13,697 female).

B. Key Issues and Challenges

CRRC's preparation of its report took longer than anticipated and required more JILEP input than expected. The report should be finalized and released next quarter. Since the report

contains findings reflecting some negative public opinion toward some aspects of the judiciary, JILEP's challenge will be to prepare its government stakeholders for its release and then publish the findings in an objective fashion.

One of the main challenges faced by GYLA during the reporting period was developing a proper database to store, collate, and retrieve the data its monitors had gathered. The problem can be overcome with the introduction of new computer software, which might be a time consuming process requiring additional funds. JILEP has encouraged GYLA to start a "new" pilot program which will involve the use of a new data base, and will incorporate the suggestions for improvement made by the JILEP court monitoring expert.

While the NGO Coalition has gotten off to a good start with its sponsorship of the public forum on court transparency, it is has still not organized itself in a fashion where it will be able to formulate and maintain long term advocacy campaigns. A key challenge will be to find a way to share the burden of leadership with various Coalition members; as it stands now, GYLA is shouldering a disproportionate amount of the responsibility.

C. Plans for Next Quarter

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

- CRRC will complete its full report;
- EPF will organize the second of a series of public forums planned under the Coalition's Civic Initiative for an Independent Judiciary;
- EPF will develop a Year 2 work plan;
- EPF will develop and air public service announcement (PSAs) about the project and its grantees;
- EPF will monitor the implementation of legal aid and advocacy grants;
- EPF will engage in OD baseline assessments for the eleven grant recipients that noted their willingness to work on their institutional capacity building;
- 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 start the six-month court monitoring phase of their project;
- GYLA will complete a pilot of their court monitoring and start the main phase of the project; and
- JILEP, together with other donors (EU HD, OSGF) will continue their dialogue with the LAS and its monitoring board with the aim of identifying their development plans and strategy and determining avenues of potential support.

COMPONENT 3: IMPROVE LEGAL EDUCATION

A. Significant Results, Accomplishments, Activities

Legal Education

National Centers of Learning

This component of the project continues to develop quickly with the Free University of Tbilisi (Free Uni)-based, National Center for Commercial Law (NCCL) planning an ambitious list of programs as a direct result of its study visit to Washburn University School of Law (WUSL), and with the Tbilisi State University (TSU)-based, National Center for ADR (NCADR) proposing an impressive list of activities and planning its formal opening for October 3, 2011.

National Center for Commercial Law

In mid-August, the Dean, Vice Rector, and two professors from Free Uni traveled to Topeka, Kansas to visit WUSL. During their visit, they worked with their WUSL counterparts to develop activity plans for the NCCL. The Free Uni team also received a comprehensive introduction to progressive American legal education including effective legal teaching methodologies. They observed classes and met with WUSL faculty members. They participated in teaching workshops in which all members of team made presentations. In addition to their law school activities, WUSL arranged for the Free Uni visitors to hold a private discussion with justices of

the Kansas Supreme Court, observe closing arguments in a murder trial, and they were introduced to the greater law school community at a Dean's reception held in their honor.

One of the Free Uni professors, Ketevan Kobakhidze, remained for an additional two weeks to work with WUSL professors on the development of a contract law course for Georgia. In study related to her field, she attended classes in the *law of contracts* and discussed with professors and students the distinguishing features of contract law as conceived under both civil and common law systems. Professor Kobakhidze then participated in an intensive workshop given by WUSL Professor Michael Hunter Schwartz, an expert in law teaching methodology, to develop her own course design and materials. Professor Kobakhidze reported to her JILEP sponsors that this was the most comprehensive and thorough approach to course design she could have imagined. Professor Kobakhidze is expected to share her experience with her colleagues and work with WUSL in coming months to increase cooperation between the two schools.



Professor Kobakhidze visits with her WUSL law faculty mentor in Topeka

National Center for ADR (NCADR)

STCL, TSU and JILEP were able to finalize the NCADR memorandum of understanding and make plans to formally open the NCADR in early October. In anticipation of the NCADR opening, TSU began its job search for the NCADR executive director. In July, TSU representatives and STCL Professor Cathy Burnett continued discussions on the form and

function of the NCADR during the time Professor Burnett was in Tbilisi delivering “Master Classes” on teaching methodology (see below).

In September, TSU law professor, Sophie Chachava, returned from an intensive six- week study visit to South Texas. Professor Chachava received Texas certification as a mediator through her successful participation in a five-day, skills-based, mediation training. She also attended eight different law courses and met with the professors who taught the courses. The courses were: Legal Research and Writing I; Legal Research and Writing II; Alternative Dispute Resolution; Family Law Clinic; Immigration Clinic; Academic Internships; Criminal Trial Advocacy; and Contract Drafting. Her aim was to identify teaching methodologies and materials for use at the NCADR and for use in teaching legal skills and substantive law courses to Georgian law students. This was the first visit by a TSU representative to STCL; the TSU Dean is scheduled to travel to the US to visit STCL in spring 2012.



Professor Sophie Chachava at South Texas College of Law in Houston

Master Classes on Teaching Methodology

More than 70 law professors from law schools around Georgia participated in a two-day Master Class on teaching methods, entitled “Assessing Beyond the Final Exam,” hosted by Georgian-American University Law School (GAU). Catherine Greene Burnett of STCL led the Master Class. Professor Burnett discussed assessment theory and practice with her Georgian colleagues and demonstrated assessment techniques used in U.S. law schools. The Master Class included a

peer-to-peer exchange of information and participatory exercises involving the Georgian law professors. This event represents the second in a series of planned activities to introduce new teaching approaches and methodologies to Georgian law professors and instructors.



Professor Burnett addresses a Master Class on teaching methodology at GAU

Nearly 60 Georgian law professors from law schools around Georgia participated in another two-day Master Class on teaching methods, entitled *Introducing Students to American Law*, hosted by Ilia State University Law School. In this class, Professor Burnett discussed cultural and contextual challenges with her Georgian colleagues and demonstrated sample lectures for undergraduate and graduate level students that are used in U.S. law schools. The Master Class included a peer-to-peer exchange of information and participatory exercises on maximizing the use of case law. This event represented the third in a series of planned activities to introduce new teaching approaches and methodologies to Georgian law professors and instructors.



Professor Burnett leads class on teaching methodology at Ilia State University

Live Client Legal Clinics

Following up on last quarter's activities, JILEP visited the law clinics at Kutaisi State University, Batumi State University, and Georgian-American University in Tbilisi, to identify areas where JILEP could provide support through targeted grants to develop these clinics. Representatives of the clinics provided detailed information on their plans for the 2011 academic year, and demonstrated a strong interest in receiving JILEP's technical assistance.

Law Schools and Legal Skills Training

JILEP, together with the TSU Faculty of Law and the Tbilisi City Hall project, "Lawyers for Tbilisians," co-sponsored a Summer School on Lawyers' Practical Skills for 20 students from different Georgian universities, held July 18 - 29 in Tbilisi. JILEP expert, Professor Delaine Swenson from the John Paul II Catholic University of Lublin (Poland), led the training. The Summer School program was divided into two parts: in the first part, the students spent a half day in the live-client clinics of the Lawyers for Tbilisians project, working with clients under the supervision of practicing attorneys. The second half of the day was dedicated to conducting interactive training on topics relating to the legal skills needed by a lawyer. These skills included: legal reasoning; client interviewing and counseling skills; professional ethics; legal

writing; legal persuasion; and negotiations. At the end of the program, the law students gave a closing statement in a mock jury trial.

As part of his participation in the Summer School, Professor Swenson led a separate session for TSU's professors on interactive teaching methodology. He also attended and reviewed the Summer School classes taught by TSU's professors.

In order to encourage an increase in the interest among students and faculty in the teaching of legal skills, JILEP conducted two additional activities related to the Willem C. Vis International Commercial Arbitration Moot Competition. The first was a workshop for faculty and administrative representatives of different Georgian universities explaining the details of the international moot competition. The second was a demonstration of the Vis Moot competition for the summer school participants by former members of the TSU Vis Moot team.



Professor Swenson and students at TSU's Summer School on practical legal skills

Constitutional Court of Georgia Summer School

JILEP, along with Ilia State University and the British Council, assisted the Constitutional Court of Georgia support a summer school on "Constitutional and Human Rights Law" in Batumi, July 11- 22. The President of the Constitutional Court of Georgia, Justice Giorgi Papuashvili,

opened the school and Rector Gigi Tevzadze of Ilia State University and Michael Diedring of JILEP, provided their remarks.

Twenty-five students from different Georgian universities attended the school. Lecturers at the summer school included experts such as Gigi Tevzadze, Rector of Ilia State University; Levan Ramishvili, Chair of the Liberty Institute; James P. Kelly III, President of the Solidarity Center for Law and Justice; Dr. Richard Vogler, Senior Lecturer in Law, University of Sussex; and Professors Lori F. Damrosch and Henry L. Moses of Columbia University. This year's school focused on current developments in judicial review, rights and freedoms under different socio-economic systems, and constitutional guarantees provided by criminal procedure legislation in Georgia, Europe and the US. In addition to attending the presentations, students participated in moot court exercises focusing on this year's summer school themes.



Selected students participate in Constitutional Court Summer School in Batumi

Professional Ethics of Lawyers

On July 1, JILEP assisted the Georgian Bar Association (GBA) organize a workshop for commercial lawyers on professional ethics. Professor James Moliterno, a JILEP-sponsored consultant, and Head of the GBA Ethics Commission, Irakli Kordzakhia led the workshop.

In August, JILEP assisted GBA ethics trainers to further develop training materials and improve the general training module they will use to provide professional ethics training to bar members in the coming year. As a result of the assistance, the GBA trainers completed a final version of the module including case studies, which they then presented to GBA's training center for consideration and approval.



Commission Head, Irakli Kordzakhia, and GBA ethics trainer develop ethics course at JILEP office

GBA Continuing Legal Education (CLE)

JILEP continued providing support to the GBA's CLE Commission in its on-going process of developing a CLE framework. On July 4-5, in Kachreti, JILEP representatives participated in a CLE Commission meeting hosted by the EU-funded Human Dynamics project. At the meeting, the CLE Commission formally adopted the framework and agreed to submit its recommendation to the GBA's Governing Board for approval. In addition, representatives of the GBA Training Center presented their plan to provide professional ethics training to GBA members. The plan included using the trainers trained with JILEP support (see above).

Monitoring and Evaluation (M & E) Indicator Results

Anticipated Result B: The GBA is better equipped to train, monitor and discipline its members.

3. Number of Bar members trained with JILEP assistance – 15 (commercial lawyers trained in a July 1 ethics workshop)

B. Key Issues and Challenges

During the reporting period, NCEQE expressed no interest in engaging with JILEP on matters related to the accreditation of universities and law school programs. Furthermore, David Kereselidze, former Director of the NCEQE, was demoted and finally replaced by senior personnel from the Ministry of Education. JILEP continues to monitor the activities of the NCEQE, but it appears unlikely that the NCEQE will have any interest in JILEP's assistance in any law school-related accreditation matters.

The TSU Center has been officially opened and has already sponsored a number of training activities. However, the Center has not yet been equipped with furniture, computers and learning materials. While it has a full set of training activities scheduled for the next quarter, it has not formulated a concise work plan to organize these activities in the coming year. JILEP's challenge will be to motivate TSU to move quickly to make the Center space a learning environment and to create a work plan for the coming year's activities. While Free Uni is further along in the establishment of their workspace, their staffing, and their detailed plan of activities, they too need to complete their grant proposal to receive start-up, and operations funding for 2011-2012.

While the GBA took big steps in the last two quarters toward creating a CLE system for its members, it seems to have lost momentum toward the end of the last quarter and stopped short of creating a comprehensive plan for actually delivering the needed training in 2012. Next quarter, JILEP will help GBA create a year-long, legal ethics training program for most of its membership, as well as a series of commercial law training weekends for hundreds of commercial lawyers. It will also need to find some way to motivate GBA to work with donors, law schools, and other legal experts, to create a training schedule that will provide more of the training credits demanded by the new GBA CLE rules.

C. Plans for Next Quarter

During the next reporting period:

- Formal opening of the NCADR, including a visit by STCL Dean, Donald Guter;
- Through technical assistance and grant giving, JILEP will support activities and the continuing institutional development of the NCCL and NCADR, including the hiring of administrative directors for the centers;
- Completion of the NCCL and NCADR and creation of Boards of Directors and International Advisory Boards;
- Drafting commercial law textbooks for Georgia through the NCCL will begin, partnering law professors from WUSL with law professors from Free Uni;
- Work on the creation of student-run law journals will begin at the NCADR and the NCCL;
- STCL professors will travel to Georgia to provide teaching and training at TSU in the areas of legal writing and reasoning, legal ethics, and mediation skills;
- Delivery of Georgia trial advocacy training and competition for Georgian law students;
- Grant assistance to support the development of live client clinic programs at Batumi State University, Kutaisi State University and GAU;
- Selection of West Georgian Masters of Law Scholarship recipients (provided that BSU and KSU receive timely Master's program accreditation);
- Delivery of first nationwide commercial law CLE conference for commerce lawyers;
- Issuing of grant to GBA to assist GBA training center and ethics commission to delivered training courses in legal ethics to its members as part of the GBA's new annual CLE program;
- Support ongoing reform of the lawyers' Code of Ethics by providing expert advice and recommendations through U.S. expert James Moliterno.

COMPONENT 4: DEVELOP COMMERCIAL LAW

Strengthening commercial law practice is essential to Georgia's sustainable economic development. Commercial law development cross-cuts many of the JILEP activities described above. JILEP anticipates developing commercial law curricula for the universities, HSOJ and the GBA. The National Center of Learning housed at Free Uni and partnered with Washburn Law School will focus on commercial law and practice issues. The Center housed at TSU will focus on ADR development.

A. Significant Results, Accomplishments, Activities

Commercial Law Training for the HSOJ

During the reporting period, JILEP developed a teaching module for HSOJ entitled, "Legal Reasoning and Statutory Interpretation." The course was partly inspired by a course taught at Columbia University Law School and was developed in cooperation with Georgian expert Ekaterine Lomtadze (LLM, Legal Theory and Legal Interpretation, Columbia University School of Law). The materials and cases that will be used in the course are drawn from Georgian, U.S., and European sources in order to give the judges and listeners of the HSOJ the ability to consider the viewpoints of leading U.S. and European judges and legal scholars. In meetings held last quarter, the HSOJ leadership indicated an interest in having such a course delivered at the HSOJ. The next step will be for JILEP to obtain a solid commitment from the HSOJ to place the course in the sitting judge or listener curriculum. The course will be taught by Ms. Lomtadze, possibly with the collaboration of a judge from the Constitutional Court of Georgia.

Commercial Law CLE for the GBA

During the next quarter, the governing board of the GBA plans to adopt regulations developed by the CLE Commission requiring bar members to take a certain number of CLE courses each year. These regulations will come into force in 2012. In an effort to help the GBA build CLE delivery mechanisms, JILEP began working with the CLE Commission of the GBA and National Center

for Commercial Law at Free Uni to organize the first ever CLE conference on commercial law. The conference is now scheduled to take place December. It will be offered to approximately 150 bar members who will pay a fee to attend. The GBA has agreed that the courses taught at the conference will count as credits toward the attending bar members' yearly CLE requirement. This will allow the attendees to fulfill most, if not all, of their mandatory yearly requirement. JILEP helped the GBA establish an organizational board for the conference consisting of JILEP, the NCCL and GBA. Last quarter, the board announced a competition for selection of speakers at the conference and produced flyers announcing the conference which are now being distributed among GBA members.

Commentary on Georgian Tax Code

JILEP is working closely with selected authors to create an online commentary to the new tax code of Georgia. The commentary is being designed to assist Georgian legal practitioners better understand and apply the new code. Combining forces with the USAID Economic Prosperity Initiative (EPI) project, EPI's Bondo Bolkvadze, will write the parts of the commentary pertaining to customs taxation. JILEP Commercial Law Specialist, George Jugeli, is acting as editor and has begun holding regular meetings with the authors to discuss progress made. The first full draft of the commentary is expected to be submitted by the end of January 2012.

ADR Development in Georgia

During the quarter, JILEP began its assessment of the legal and institutional framework for ADR in Georgia. It engaged U.S. lawyer and renowned ADR specialist, Michael Blechman, to conduct field work in Georgia in close cooperation with the JILEP commercial law team. In preparation for the field visit, JILEP organized more than 14 interviews with leading lawyers, judges, academics and businessmen involved in various aspects of Georgian ADR. When the fieldwork is complete, Blechman and the JILEP team will generate a report that will provide an analysis of the legal framework, case law, and practice of ADR in Georgia. It will also provide specific recommendations on how Georgia could go about developing trustworthy and

sustainable ADR systems. The report will help USAID and JILEP define its approach to supporting ADR development in Georgia.

Commercial Law Textbook Creation

JILEP began its development of written teaching materials for Georgian law students and commercial law practitioners. After a competitive selection process, JILEP identified authors who will write two textbooks on Georgian contract law and property law.

JILEP selected Tamar Shotadze to write the textbook on Georgian property law. Ms Shotadze is an Assistant Professor at Tbilisi State University in property law and a former leading member of the legal department of the National Agency of Public Registry at the Ministry of Justice.

JILEP selected a group of six academics and lawyers to write the textbook on Georgian contract law. These individuals are Dr. Zurab Dzierishvili, Full Professor TSU; Dr. Giorgi Tsertsvadze, Associate Professor TSU and lecturer in business law at Free Uni; Dr. Giorgi Svanadze, attorney, Levan Janashia, Assistant Professor TSU and lecturer at Free Uni; Irakli Robakidze, attorney; and Lasha Tsertsvadze, attorney. The authors are being guided in their work by Washburn University School of Law Professor, Michael Schwartz, a leading expert in the fields of textbook design and modern teaching methodology. All materials developed with JILEP support will be published online and be available for law students, practitioners, academics and other interested groups. Work on the books has begun with the anticipated completion date being fall 2012.

B. Key Issues and Challenges

As mentioned in Component 1 above, convincing the HSOJ that cooperating with JILEP is in its best interest continues to be a challenge. The HSOJ leadership has indicated some interest in accepting course offerings from JILEP that meet some narrowly targeted training needs. While there is reason to believe that the HSOJ will accept JILEP's offer to deliver judicial trainings in the areas of tax and legal reasoning, it is not a certainty.

The information gathered so far by the ADR assessment team is indicating that while the legal and business environment may not be right for an effort to expand the use of *arbitration* to

settle commercial disputes in Georgia, there is strong interest from the courts and other actors in developing *mediation* as an alternative to going to court to settle certain types of disputes. JILEP will expend significant energy in coming months developing a pilot mediation project that will hopefully become the first stage in larger scale development of mediation systems for Georgia.

C. Plans for Next Quarter

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

- Completion of ADR assessment report;
- Cooperation with Georgian judiciary on development of ADR court referred mediation;
- Selection and training of a pool of mediators;
- Planning for pilot project on court referred mediation for further integration into the Georgian dispute resolution system;
- Continued drafting of tax law commentary;
- Organization of further trainings for acting Georgian judges in cooperation with HSOJ on legal reasoning and statutory interpretation and tax law;
- Organization and delivery of CLE conference on commercial law, together with NCCL and GBA;
- Signing of authors' agreements on two commercial law textbooks;
- Selection of publishing house to publish tax code commentary;
- Selection of IT company for designing JILEP e-library for online publication of commercial law textbooks and commentaries.

Annex A: Success Story

Following JILEP's advice and recommendations, on September 20, the HCOJ held its very first "open meeting" to which media and other interested actors were invited. During the meeting, the HCOJ announced the creation of its new Public Relations and Quality Management Department -a management innovation suggested by JILEP. It announced the results of the most recent qualification exam for judge candidates. It informed the media that future Council meetings will be open to them and that meeting dates will be published in advance on the HCOJ website. It expressed its intention to create a "press room" at HCOJ that will be outfitted with a live-video feed and other communications equipment.