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JUDICIAL INDEPENDENCE AND LEGAL
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QUARTERLY REPORT
JULY 1, 2012 – SEPTEMBER 30, 2012

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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 1 to September 30, 2012.

EXECUTIVE SUMMARY

Component 1: Strengthen Judicial Independence, Accountability and Professionalism

Many of JILEP's government partners were focused on the election campaign that in October resulted in the formation of a new government and a changed legal reform environment. Nevertheless, cooperation with the High Council of Justice (HCOJ) led to some small steps taken toward a more transparent court system and an improved process of judicial evaluation. JILEP supported a retreat of the judicial leadership entitled, "Judicial Evaluation for the First Six-Month Period" in Batumi. During the retreat, JILEP presented the results of an assessment done by a JILEP-sponsored outside expert of the HCOJ's recently adopted rules of judicial evaluation, which raised questions as to the appropriateness of using rate of reversal as an evaluation criterion, and the need to increase the involvement of individual judges in the evaluation process.

Component 2: Strengthen the Institutional Capacity of Legal Professional Associations, Legal Rights NGOs, and the State Legal Aid System

The Coalition for an Independent and Transparent Judiciary (CITJ, also known as "the Coalition") held its fifth public forum to discuss problematic issues of the Georgian judicial system at which it presented a comprehensive report and engaged in constructive discussions with HCOJ leadership and other representatives of the judiciary. The Coalition also promoted the findings of the report in meetings with some of the political parties in the pre-election period.

The GBA Working Group on the *Law on Advocates* created a package of amendments to the *Law on Advocates* which they will submit to the legislature near the end of 2012 or the beginning of 2013. Among the changes they will recommend are staggered terms for the Executive Board and Ethics Committee and having the Executive Board elect its Chairman rather than leaving it up to the GBA General Assembly. The Group also agreed to change the bar examination system by including analytical questions on the exam and abolishing the practice of publishing the answers to exam questions prior to the date of the exam.

Many of JILEP's grant partners reported significant success over the quarter. For example, in the framework of the memorandum of understanding signed in the previous quarter, the Civil Development Agency (CDA) continued organizing meetings between Legal Aid Service

(LAS) offices and local civil society organizations. The objective of the meetings was to inform local communities about activities of the LAS and encourage broader use of their services. CIDA organized the meetings in Mtskheta, Rustavi, and Akhaltsikhe. As a result of these meetings, LAS and local civil society organizations provided joint, on-site consultations to residents of Gardabani and Gori. A number of JILEP's legal aid grantees and sub-grantees reported on successful cases. GYLA provided representation in 69 new cases many of which were concerned with administrative violations related to the elections. Transparency International (TI) reported on successful representation in a number of property rights cases.

Component 3: Improve Legal Education

In July, the National Center for Alternative Dispute Resolution (NCADR) appointed Natia Chitashvili as its new Executive Director after the former director left the position for government service. During the quarter, the National Center for Commercial Law (NCCL) held a series of public lectures on commercial dispute resolution and organized Georgia's first Commercial Law Moot Court. In cooperation with Washburn University School of Law (WUSL), NCCL held a successful Summer School on Obligations Law.

JILEP intensified its support for the Kutaisi State University (KSU) and Batumi State University (BSU) law clinics. Students in both clinics represented live clients in numerous legal cases. PIL-net clinical expert, Richard Grimes, visited Georgian American University (GAU) in July and assisted them with the development of their clinic handbook. In addition, JILEP organized the first annual law clinic summer school at BSU; over 30 students from schools around the region attended.

JILEP delivered both an advocacy skills training program and an ethics class development program to law professors. It also delivered its second teaching methodology workshop to Tbilisi State University (TSU) professors. This represented the beginning of its assistance to TSU in improving the teaching culture of the school.

JILEP expanded the West Georgian Master Scholarship Program from four students to 12 students. Four additional students were added to the KSU program and four new students to the new BSU Master's Program. The original four KSU students continued to participate in numerous extracurricular activities in Kutaisi which included appearances on local TV talk shows to discuss current legal issues, involvement in youth parliamentary sessions and participation in GYLA's local election observation program.

Component 4: Develop Commercial Law

Within the framework of its Court-Annexed Mediation Pilot Project, a team of trainers from the London-based Center for Effective Dispute Resolution, (CEDR) came to Georgia in July and delivered a basic mediation course to 30 legal and other professionals. CEDR returned in September and delivered advanced training to a group of 18 students selected from the basic training group. Seventeen of these students received international CEDR accreditation and prepared themselves to mediate disputes as part of the upcoming Mediation Pilot. The mediator candidates were further prepared for their new roles when professors Kimberlee K. Kovach and Katherine Greene Burnett from South Texas College of Law (STCL) provided more specialized instruction in the mediation of family and inheritance matters, matters which have become subject to “mandatory mediation” pursuant to the new *Civil Procedure Code* of Georgia. In addition to the training of mediators, Professors Kovach and Burnett delivered a one-day mediation workshop to nine judges of the Tbilisi City Court. The aim of the workshop was to inform these judges of the basic purpose and nature of alternative dispute resolution (ADR) and prepare them to play their roles in the pilot.

JILEP presented the “Commentary on the Tax Code of Georgia” (in two volumes) to the Georgian public at TSU. The event marked completion of the project implemented by JILEP in cooperation with USAID’s Economic Prosperity Initiative (EPI). Representatives of the Georgian legal community, auditors, tax advisers, accountants, state officials, legal scholars, and students attended the event. The Business Ombudsman of Georgia also attended. JILEP provided copies of the Commentary to the Georgian National Library, assorted Georgian law school libraries, the GBA Training Center, the High School of Justice, and various other influential institutions and individuals. The Commentary was also made available online via the Free University National Center for Commercial Law (NCCL) and JILEP websites, as well as the National Library of the Parliament of Georgia.

JILEP supported the Georgian Bar Association (GBA)’s Training Center by helping to deliver the first group of 14 tax law trainings to 420 GBA members. Tax law expert, Dr. Zviad Rogava, of Caucasus University School of Law, conducted the courses which are being delivered both at the GBA Training Center in Tbilisi and at the GBA branch office in Kutaisi. The training series not only deepened the participants’ knowledge of Georgian tax law but provided them credits to meet their continuing legal education (CLE) requirements for 2012.

COMPONENT 1: STRENGTHEN JUDICIAL INDEPENDENCE, ACCOUNTABILITY AND PROFESSIONALISM

A. Significant Results, Accomplishments, Activities

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

Improve the judicial selection process

During the previous quarter, JILEP provided the HCOJ with recommendations for improving its rules guiding judicial appointments and its judicial candidate applications, questionnaires, and other pertinent forms. Many of these recommendations came from JILEP expert, U.S. Judge Timothy Baland. This quarter, JILEP was planning to bring Judge Baland back to Georgia to advise the HCOJ on how they should continue to develop more fair and transparent procedures for appointing judges but Judge Baland's travel was postponed due to a death in his immediate family; then the HCOJ asked to postpone his trip further because of uncertainty over the political environment after Georgia's October 1, 2012 parliamentary election.

On July 6, the NGO Coalition for an Independent and Transparent Judiciary (hereinafter "Coalition") conducted a public forum to discuss the problematic issues of the Georgian judicial system (see Component 2 below). During the forum, the Coalition submitted policy recommendations some of which were aimed at reforming the judicial selection process.

Improve the judicial evaluation system

Last quarter, internationally recognized judicial reform expert, Richard Mohr, submitted a report on Georgia's judicial evaluation system which included an evaluation of the rules guiding judicial evaluation adopted by the HCOJ in December 2011 entitled, "*Evaluation of Efficiency of Judges' Performance.*" The report included recommendations for making the evaluation system more supportive of individual judicial independence. During this quarter, JILEP communicated these recommendations to HCOJ for review and supported a judicial leadership workshop entitled, "Judicial Evaluation for the First Six-Month Period." The Supreme Court Chief and his staff, the HCOJ Secretary and his staff, and all of the chief judges of Georgia's trial and appellate level courts attended the workshop, as did USAID and JILEP representatives. During the workshop, the judge participants reviewed judicial

caseload statistics, clearance rates and case disposition times, as well as evaluations done of individual judges' performances for the 6-month period ending June 30, 2012. The performance evaluations were based on the new rules, "*Evaluation of Efficiency of Judges' Performance.*" JILEP used the workshop as an opportunity to present some of the main findings of the Mohr report to the assembled judges. Among other points, JILEP stressed that "rate of reversal" (number of cases are reversed at the appeal level) was not a particularly useful criteria and could put undue pressure on individual judges to make judgments in cases that were "acceptable" to their superiors rather than making decisions based on their individual interpretation of the law and facts. JILEP reiterated the Mohr report recommendation that the role of the individual judge in the evaluation process should be increased.

Next quarter, JILEP will continue to provide advice aimed at improving the HCOJ system for evaluating judges and developing a mechanism for promotion that is based on the results of an objective, merit-based, evaluation system that is as transparent as possible.



Judicial leadership meets for workshop entitled, "Judicial Evaluation for the First Six-Month Period"

Improve the judicial disciplinary process

Earlier in the year, Victoria Henley, the Director and Chief Counsel of the California Commission on Judicial Performance, returned to Georgia to provide more advice on the reform of the judicial disciplinary process. She counseled HCOJ members and staff on how to assess the *grounds* for disciplinary action, as well as how to improve the HCOJ's internal processes for accepting and investigating complaints. JILEP was planning to send a group of HCOJ representatives to San Francisco to visit the California Commission at the end of Year 2 to study its operation, continue dialogue with Ms. Henley on such topics as how to best conduct disciplinary hearings, and how to draft both decision and closing letters in disciplinary cases. (The other purpose

of the trip to San Francisco was to meet with U.S. judicial ethics experts to plan a judicial ethics course for Georgian judges to be delivered by the High School of Justice (HSOJ) in Year 3.) However, these plans were postponed with the concurrence of the HCOJ, since in the aftermath of the election it was unclear if the HCOJ leadership would remain the same after the new government takes office. JILEP hopes to reschedule the trip for some time in 2013, after the court leadership picture is clearer.

HCOJ Outreach Capacity Building

Last quarter, JILEP helped the HCOJ adopt a “Public Trust and Confidence Action Plan” to guide its public outreach efforts. It also worked with the HCOJ to create the first-ever Golden Gavel Award to recognize products in the media and the arts that demonstrate thoughtful, timely, and accurate coverage of the courts and the judiciary. This quarter, JILEP selected GRAMMA LLC, a local Media Production Team, to create a public service announcement (PSA) for national broadcast to inform the Georgian public about the Golden Gavel Award. The PSA is expected to be aired on the Public Broadcaster. The presentation of the award is now scheduled for October 28, 2012.

Also during the reporting period, at the request of the Supreme Court, JILEP communications expert, Mark West, submitted a revised version of the “Communications Strategy for the Supreme Court of Georgia and other Common Courts” to the Court for its consideration. Dr. West submitted the document to the Supreme Court on July 23 but perhaps because of the impending election, the Court did not provide any feedback on the document nor did it show any enthusiasm for meeting and discussing its contents.

Strengthening the High School of Justice (HSOJ)

During the reporting quarter, JILEP reached an agreement with the HSOJ to develop courses for its 2013 continuing legal education (CLE) training calendar. The HSOJ requested that JILEP develop and deliver courses on the following topics: Legal Method and Legal Reasoning in Civil and Administrative Cases; Judicial Ethics; the Convention on Contracts for the International Sale of Goods (CISG) and Other Sources of International Trade Law; and International Commercial Arbitration. These were all subject areas in which JILEP had offered HSOJ course assistance in the past. Next quarter, JILEP, in consultation with the HSOJ, will identify international and local experts capable of developing and teaching the courses and will start working with them on course creation. Some of the courses will be “team taught” with international and Georgian experts sharing the teaching burden.

With the October 1 election resulting in a change in government, JILEP is hopeful that the HSOJ will be more open to having an assessment done of their training curriculum and teaching methodology. After an appropriate period of time has passed, JILEP will again offer to conduct an assessment of HSOJ curriculum and teaching capacity.

Monitoring and Evaluation (M & E) Indicator Results

Anticipated Result A: The HCOJ appoints, advances, and disciplines judges in a more objective and transparent manner.

Measurements:

Number of policy changes recommended by the project:

For the quarter: 2.

These policy changes were in the following areas: NGO policy recommendations on the administration of justice and gender disparity in the Georgian judiciary.

The number of judges, judge-candidates, and court personnel trained with JILEP assistance:

For the quarter: 30 (1 women and 29 men) were trained in Judicial Performance Evaluation.

B. Key Issues and Challenges

On October 1, 2012, Georgia held parliamentary elections which resulted in the defeat of a government that had been in office since the 2003 “Rose Revolution.” At the time of this writing, the legal reform priorities of the new government which officially took power October 20, 2012, remain unclear. Early indications are positive that the new government plans to pursue a policy of judicial reform that will encourage greater judicial independence. If this turns out to be the case, USAID may decide to adjust its priorities and approaches to keep up with what could be a fast-paced reform environment. JILEP stands ready to assist USAID in the determination of these new priorities and approaches.

In this new political environment, JILEP believes that the HCOJ and Supreme Court will be more open and willing to cooperate to bring about true judicial independence. On the other hand, it is also possible that the changed environment will create feelings of defensiveness and uncertainty within the HCOJ, HSOJ, and Supreme Court leadership, and that they may be more reluctant to collaborate with JILEP and other international donors. With both scenarios possible, JILEP considers it important to encourage the HCOJ, the courts, and other state actors to maintain their cooperation with civil society to bring about additional improvements

to the laws and guidelines aimed at making the judicial selection and evaluation process more fair and transparent. JILEP will continue its involvement in the process of drafting new judicial appointment and disciplinary rules and developing the content of the judicial examination.

C. Plans for Next Quarter

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

- Continue assistance to the HCOJ to reform the judicial selection process, including improvement of the judicial qualification exam and the interview process based upon JILEP expert Judge Timothy Baland's recommendations;
- Continue assistance to the HCOJ in developing the aptitude portion of judicial examination that will help the HCOJ to select more qualified judicial candidates and reduce the opportunity for unfair or arbitrary judicial selection;
- Continue assistance to the HCOJ to improve the judicial disciplinary process following JILEP expert Ms. Victoria Henley's recommendations;
- Continue cooperation with the HCOJ in the area of judicial evaluation following the recommendations provided by Richard Mohr;
- Continue HCOJ outreach support, including technical assistance to implement the Public Trust and Confidence Plan that may include the development of PSAs and short documentary videos.

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

A. Significant Results, Accomplishments, Activities

Strengthening the Georgian Bar Association (GBA)

Working Group on Law on Advocates

JILEP organized a retreat of the GBA Working Group on the *Law on Advocates* to Kobuleti on July 30 to August 1. The Group reviewed the recommendations submitted by JILEP expert Alan Friedman on further amendments and changes needed to the *Law on Advocates*. The Group agreed to change the bar examination system by including analytical questions,

abolishing the preliminary publication of answers and by including professional ethics in the list of exam subjects. With respect to GBA governance, the Group approved staggered terms for the Executive Board and Ethics Committee as well as having the Executive Board elect its Chairman rather than leaving it to the General Assembly. The Group will present the proposed changes next quarter to a broader group of lawyers, NGOs, and international organizations. The GBA expects to submit the package of amendments to the legislature near the end of 2012 or the beginning of 2013.

Ethics Committee Advisory Opinions

JILEP is helping the GBA Ethics Commission create a system for providing advisory opinions on ethics issues. At the request of the Chairman of the GBA Ethics Committee, JILEP organized a retreat of the Ethics Committee on September 8-9, in Tsinandali, to continue working on this issue and to draft related amendments to the GBA's Disciplinary Regulation. The advisory opinions are non-mandatory and designed to help members better understand the provisions of the ethics code, thereby avoiding violations.

The Ethics Committee decided that only active GBA members may request advisory opinions. Advisory opinions will be posted on the GBA website and published in the GBA Journal. The Ethics Committee decided to develop FAQ (frequently asked questions) with regard to procedural questions that may arise concerning advisory opinions and to allow GBA Ethics Committee lawyers to respond to these questions. Questions regarding complex ethical matters that are not regulated by the practice will be provided by the Committee. The Committee will be required to provide members with advisory opinions within 45 days of the initial query.

Ethics Committee Study Visit to the US

JILEP organized a study visit for the Ethics Committee staff attorney and Chairman to the Virginia State Bar in September 19 1. The goal of the study visit was to give an opportunity to the Georgian lawyers to directly observe the functioning of the Virginia State Bar ethics and disciplinary system so that they could share their observations with the entire GBA Ethics Committee upon return. The study visit participants attended a Professional Conduct course for newly admitted lawyers as well as a mandatory CLE course for active members of the Virginia State Bar. The visitors also observed a Standing Committee meeting on legal ethics and heard a case being adjudicated by the bar's disciplinary board. The participants met with the chairman and executive director of the Virginia State Bar, lawyers from the

professional regulation department, Supreme Court justices, and lawyers from the leading law firms.

Cooperation with GBA Thematic Committees

JILEP is planning to provide technical support to the GBA thematic committees on civil, criminal and administrative law. The thematic committees will establish their own expert working groups in order to analyze the laws of in their relevant fields and prepare recommendations for legislative amendments. In addition, each committee will conduct a study of court decisions with the purpose of determining the most common problems in their relevant field of law. Each committee will travel to the GBA branch offices (Kutaisi and Telavi) to share their findings with the members and will organize a conference where the findings will be presented. These meetings will be CLE accredited events. The work of thematic committees will be supported through the GBA grant.

CLE Committee Meeting

JILEP supported a retreat of the GBA CLE Committee which took place in Kobuleti, July 27-29. Acting on recommendations of JILEP CLE expert Antony Fisser, the CLE Committee approved the use of a self-certification form which will be posted on the GBA website starting from September 2012, and adopted a pathway for bar members to receive CLE credits for publishing articles in reputable law journals. Also during the retreat, the Director of the GBA Training Center presented the results of the recently completed GBA training needs assessment. Based upon the results of this assessment, the CLE Committee decided to focus their resources on providing training to bar members in tax law, civil law and administrative law.

GBA Public Relations Consultant

In July, JILEP, in cooperation with GBA representatives, selected a public relations expert to draft a public relations and communication strategy to help the GBA better communicate with its members, the public, and with governmental and non-governmental institutions. The public relations expert, Vladimer Mkervalishvili, attended the GBA Executive Board meeting on July 25. Based on a review of the GBA related laws and regulations, the GBA website, GBA press releases, in-depth interviews with the executive director, questionnaires completed by the GBA governing bodies and members, and the results of focus groups with lawyers and journalists, the expert prepared the a draft "Communications and Public

Relations Strategy.” This draft is currently under review by JILEP.

GBA Staff Training

After consulting with the GBA leadership to determine the training needs of its staff members, JILEP determined that the GBA staff could greatly benefit from receiving training in effective communication and conflict resolution. JILEP then contracted “Partners Georgia,” a respected Georgian consulting group, to provide training in these areas in July and September. During the training, participants learned that there are separate and distinct stages of communication; they practiced effective questioning techniques which included active and passive listening skills, and they were made aware of the importance of non-verbal communication in human interaction. On September 14-16, in Kachreti, JILEP conducted a second round of skills-oriented training for GBA staff members aimed at improving their negotiation, conflict resolution, and management skills. Fifteen GBA staff members and interns participated in the training.

State Legal Aid Service

JILEP, in cooperation with UNDP and the Legal Aid Service of Georgia (LAS), delivered a conference on July 19, to discuss the role of the LAS Monitoring Board in safeguarding the labor rights of LAS lawyers. The conference was also designed to encourage the LAS to find ways to make their lawyers feel more independent in their work, to evaluate the quality of legal services rendered, and to improve the management of the LAS. USAID Regional Legal Adviser Peter Young, Deputy Minister of the Ministry of Corrections and Legal Assistance of Georgia (MCLA), Giorgi Arsoshvili, and UNDP Resident Representative in Georgia Jamie McGoldrick, opened the conference.

In addition, acting upon the request of the LAS Director, JILEP organized a workshop to train LAS lawyers more effective ways of communicating with their clients. JILEP organized two, three-day training programs for 35 LAS lawyers. The training focused on improving such skills as expressing a positive attitude, establishing of trust and credibility with clients, and active listening and resolution of conflict.

NGO Coalition Building (Eurasia Partner Foundation (EPF))

In this quarter, the Coalition for an Independent and Transparent Judiciary (CITJ, previously referred to as “the Coalition,”) continued its activities from the previous period. Some of the highlights of its work are as follows:

a. The Coalition’s Court Administration Working Group organized a public forum to discuss the most critical issues facing the Georgian judicial system which they had identified in their recently published report, “Judicial System in Georgia.” Mr. Stephen M. Haykin, Mission Director for USAID programs in Georgia, and Mr. Konstantine Kublashvili, Chairman of the Supreme Court of Georgia, opened the event. During the forum, GYLA representatives presented specific recommendations aimed at empowering individual judges by increasing their role in the administration of the judicial system. They made clear that their recommendations were also designed to increase transparency of the disciplinary proceedings, the promotion process, and the court proceedings themselves. At the end of the event, the participants agreed to organize a series of working meetings that would include the leadership of the judiciary to discuss the recommendations in more detail.



Speakers panel at Coalition Forum from left: Ketevan Vashakidze EPF; Stephen M. Haykin USAID; Valeri Tsertsvadze HCOJ; Tamar Chugoshvili GYLA; David Asatiani CITJ

b. The Coalition Criminal Law Working Group was also very active during this period. The group closely followed the drafting of the new *Code of Administrative Violations* by the government and prepared comments on the shared draft. The Group also organized several

internal discussions as well as meetings with representatives of the Ministry of Justice, the GBA, the Prosecutor's Office, and the High Council of Justice to discuss problems with the way pre-trial detention is being applied in Georgia.

c. Keeping in mind the opportunities for advocacy opened by the upcoming Parliamentary election, the Coalition Steering Committee met with representatives of the leading political parties to familiarize them with problems existing within the judicial system and to convince them to give judicial reform high priority in their party platform. The Coalition advertised this initiative at a press conference, then presentations to two separate political parties. Mr. Nikoloz Laliashvili of the Christian Democratic Party attended the first presentation; Ms. Manana Kobakhidze, of the Georgian Dream Coalition attended the second. Both the party leaders promised that they would make judicial independence a top priority for their reform agendas.

d. The Coalition continued to explain and promote its work through tactical use of the media. The Coalition aired three PSA prepared in the previous quarter. The first PSA was designed to raise awareness of the problems of administrative detention and imprisonment. The second encouraged representatives of the media to exercise the right to audio record court proceedings. The third publicized the map created by the Coalition to show locations and contact information of legal aid providers throughout the country. The PSAs were broadcast by the Georgian Public Broadcaster.

Grant-supported Legal Advocacy

In addition to Coalition-led advocacy work, two JILEP grantees and eight sub grantees receiving EPF grants continued their advocacy activities aimed at improving the law and practice in such areas as administrative imprisonment; plea bargaining; tax dispute resolution; alternative dispute resolution; legal aid; and court transparency.

Georgian Young Lawyers' Association (GYLA)

During the reporting period, GYLA's Parliamentary Secretary prepared an analysis of the *Law on State Procurements*. GYLA's aim is to bring the existing law in line with international standards in order to minimize the possibility of corruption. GYLA also played a role in the Coalition Criminal Law Working Group. It led the process of developing the Coalition's commentary on the new draft of the *Code of Administrative Violations*.

Transparency International (TI)

TI carries out advocacy work promoting greater independence and transparency of the judicial system. The focal area of TI's activities is property rights. While TI did not report on any new initiatives in this area during the quarter, it continued to promote awareness of property rights violations through its property rights related blogs.

Monitoring the HCOJ (GYLA, TI)

During the reporting period, GYLA and TI monitored a number of HCOJ activities. They attended the HCOJ meeting on July 3 and observed the HCOJ discuss such topics as the procedure being used to handle disciplinary complaints, the development of application forms for individuals interested in entering the HSOJ, and various regulatory issues flowing from recent changes made to the *Law on Common Courts and Disciplinary Proceedings*. GYLA and TI also continued to analyze HCOJ's remuneration policies.

Court Monitoring (GYLA, TI)

GYLA and TI continued their monitoring efforts during this quarter using the amended methodology developed with the assistance of JILEP advisor, Neil Weinstein, during his visit in April 2012. TI also expanded its monitoring effort to include the Telavi and Gori City Courts. JILEP considered TI's request to monitor election-related cases but ultimately decided that the capacity of the TI monitoring program was not yet advanced enough to take on this additional, high profile monitoring. TI expressed disappointment in not being able to expand its monitoring to election-related cases. Currently GYLA and TI are working on their mid-term reports which will be discussed with Mr. Weinstein when he returns in October.

EPF Legal Advocacy Grants

Georgian civil society's advocacy efforts were supported not only by direct grants to GYLA and TI but also by grants made to local NGOs by EPF with JILEP funds. In the last quarter, EPF carried out an open grants competition to support local civil society's advocacy efforts to promote transparency and independence of the judiciary. The decision on the winning projects will be made in the next quarter. In addition, EPF monitored eight advocacy grants issued in September and October 2011; these grants generated the following results during the last quarter:

1) Civil Development Agency (CDA)

CDA aims to improve the quality of services provided by the Legal Aid Service (LAS) and protect the rights of Georgia's economically disadvantaged populations through civil society monitoring of the LAS.

This quarter, CDA continued organizing meetings between LAS offices and local civil society organizations that provide legal aid to citizens. The meetings were organized in Mtskheta, Rustavi, and Akhaltsikhe. As a result, LAS and a number of local civil society groups agreed to organize joint, on-site consultations for citizens with legal problems. The LAS and the local legal aid groups followed up on this agreement by delivering consultations to residents of Gardabani and Gori. Further CDA achievements were getting the LAS to agree that the LAS Monitoring Council should have a secretariat; that any Council members should be able to call a meeting; and the LAS should be required to present its budget to the Council for review.

2) Article 42 of the Constitution (Article 42)

The project aims to improve the business environment in Georgia by advocating for amendments to the Tax Code and other regulations that impact commerce. It also hopes to raise public awareness about important commercial law issues and provide access to justice for economically disadvantaged citizens involved in commercial and tax law disputes with government entities.

In this quarter, Article 42 organized training seminars in Kutaisi, Batumi, Tbilisi, and Akhaltsikhe, to provide needed instruction to lawyers on the Tax Code. In total, 65 lawyers received training. Article 42 also continued advising citizens who came to them with questions and problems related to commercial law. During the quarter, they provided consultations to 23 individuals and represented 12 individuals in cases before courts or administrative bodies.

Article 42 continued to maintain the web portal <http://www.commerciallaw.ge> where it posts current corporate and tax legislation, including general legal information useful for small and medium-sized businesses. The web portal is interactive. Interested parties are able to post questions and receive answers via the portal. In this quarter Article 42 posted an electronic bulletin, which summarized the results of the project. Article 42 also recorded and

transmitted four radio talk shows focusing on problematic issues in tax administration and tax dispute resolution. These shows were broadcast on the Georgian Public Broadcaster and Radio 1.

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

Sachino is conducting a campaign for greater court transparency in the Imereti region and surrounding areas. During this quarter, Sachino organized a roundtable discussion involving journalists and representatives of the judiciary in the town of Khoni. A meeting was also organized in Samtredia but the local judiciary refrained from taking part due to the busy pre-election period. Despite this, local journalists attended. Sachino also took part in a television program on court transparency broadcast by the local television company-Representatives of the Georgian Media Legal Defense Center, a project run by GYLA and a representative of the Kutaisi City Court.

4) Georgian Small and Medium Enterprises Association (GSMEA)

GSMEA advocates for the development of a business friendly legal framework and improvement of the administration of justice in the area of tax law. GSMEA continued organizing public meetings to discuss two studies completed in the previous quarter. The first report included a comparative study of the local and international legislation and practice of criminal sanctions for tax evasion. The second report compared the feasibility of creating specialized tax courts in Georgia. GSMEA organized four meetings with entrepreneurs and other members of the public to receive feedback on both documents. This quarter, the meetings were held in the regions Telavi, Marneuli, Gori, and Kutaisi. In addition, GSMEA organized a larger business forum in Tbilisi, which attracted businessmen, representatives of the government and civil society. GSMEA continued to advocate for the creation of a special tax court. GSMEA arranged for two radio programs to be aired on Palitra Radio Station and four newspaper articles to be published on issues of tax reform.

5) American Chamber of Commerce (AmCham)

AmCham seeks to ensure that tax disputes between government and business are resolved in the most transparent, predictable and equitable way possible. In previous quarters, AmCham established a working relationship with the Revenue Service. As a result of this cooperation, the Revenue Service addressed the problem of accessibility to Revenue Service regulations which affect Georgian taxpayers and by establishing an online service which provides

information on all taxation-related regulations. The Revenue Service asked AmCham to review the site and provide its recommendations. Also during this quarter, AmCham studied tax regulations which are particularly ambiguous and controversial in the business community and then asked the Revenue Service to clarify these regulations. The Revenue Service accepted AmCham's request and agreed to provide such clarifications.

6) Institute for the Development of Freedom of Information (IDFI)

IDFI aims to promote the transparency and accountability of the Georgian judicial system by advocating for the creation and maintenance of comprehensive, coherent, and accessible court websites. During this quarter, IDFI completed its review of Tbilisi and Batumi City Courts, the Kutaisi Court of Appeal, the Tbilisi Court of Appeal, the Constitutional Court, and the Supreme Court websites and provided recommendations to all of the courts on how they should improve these websites. IDFI also prepared a final report summarizing their major findings and giving recommendations. IDFI plans to make a public presentation of their report findings in October.

7) Public Movement Multinational Georgia (PMMG)

PMMG seeks to ensure the right to a fair trial for members of the Armenian and Azeri ethnic minorities residing in Georgia by reducing the language barriers they face in judicial proceedings. PMMG continued distribution of the Georgian-Armenian and Georgian-Azeri legal dictionaries developed through the project. The dictionaries were circulated among the major stakeholders, High Council of Justice, High School of Justice, Supreme Court, Ministry of Justice, and the Ombudsman's Office. PMMG also distributed the dictionaries among interested citizens in areas populated by Armenian and Azeri speaking minorities. PMMG discussed the problems that ethnic minorities face in court proceedings in a TV program transmitted by Marneuli TV Company and developed a TV program together with the Akhaltsikhe TV Company which will be aired in October.

8) Georgian Lawyers for Independent Profession (GLIP)

GLIP hopes to increase the effectiveness of arbitration as a form of dispute resolution in the area of private law. It is doing this by analyzing the legislation and practice in the area of arbitration and by advocating for the improvement of the legislative framework for arbitration. During the quarter, GLIP further developed its draft report on arbitration legislation and practice in Georgia by including an analysis of some of the deficiencies of the current regulatory framework. The report is still to be finalized.

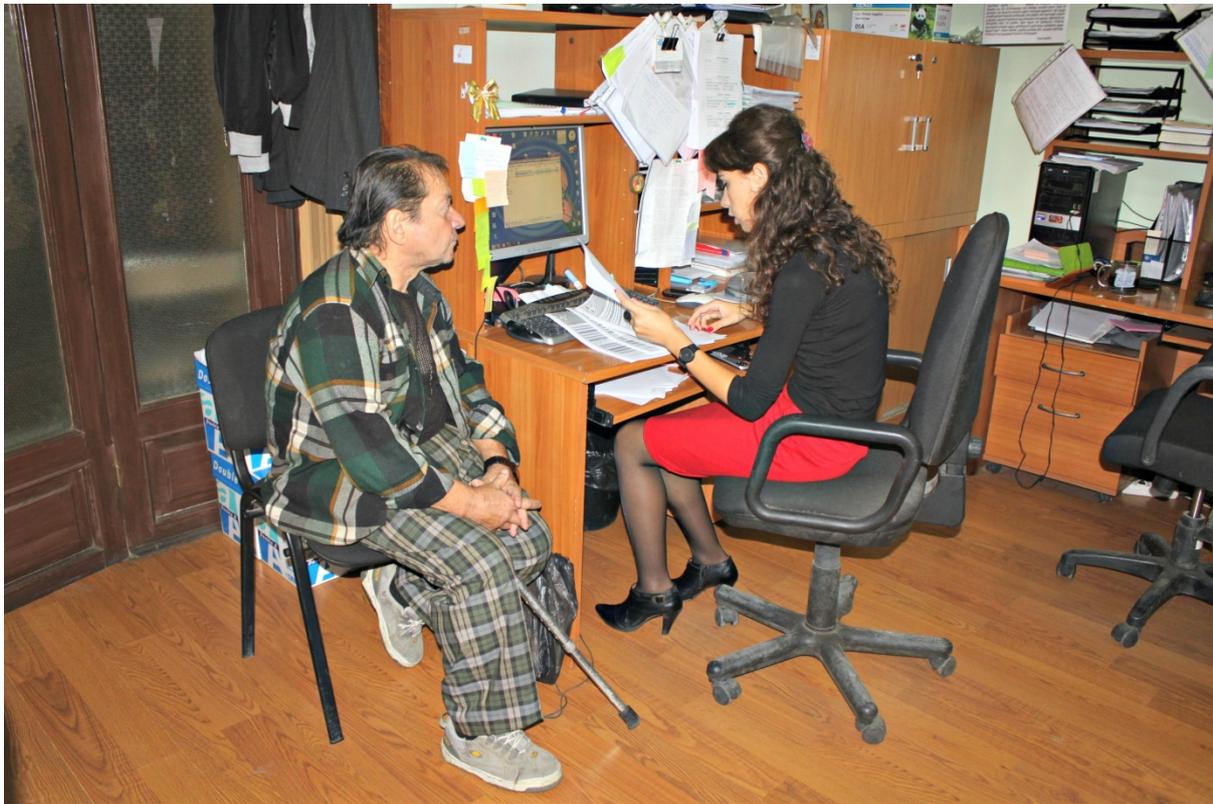
GLIP lawyers also represented clients pro bono in two arbitration cases. In both cases they represented borrowers in disputes with Privatbank. In the first case, their client lost. GLIP is planning to assist him in lodging an appeal at the Tbilisi Court of Appeals. In the second case, GLIP helped its client reach a settlement with the bank.

Grant-supported Legal Aid

JILEP supports the provision of legal aid through direct grants to TI and GYLA and through five sub grants awarded to local NGOs through EPF. Free legal aid, which includes giving consultations and providing representation in courts and administrative bodies, mainly assists those citizens whose rights are violated by state bodies or private organizations with a dominant market share. The issues covered by legal aid grantees include human rights, property rights, labor rights, and violations in tax administration.

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 in GYLA's offices through face-to-face consultations, over the telephone consultations, through the drafting of legal documents, and by representing clients in the courts. The consultations were mostly concerned with problems correcting civil registration documents, registering property, inheritance, family, and labor law issues. During the reporting period, GYLA issued 20,329 pieces of legal advice. 30% of the costs associated with this assistance (therefore 6,099 pieces of legal advice) were funded by JILEP.



GYLA lawyer provides legal consultations to a client

In addition to doing consultations, GYLA represented clients in 195 pending cases. GYLA took on 69 new cases, some of which involved the defense of individuals charged with administrative violations in the pre-election period. GYLA also continued to represent Georgian Dream Coalition activists accused of bribing voters.

GYLA reported on a number of illustrative cases, some of which could be labeled successes. GYLA successfully defended a member of the Georgian Dream Coalition who was also a member of the local Election Commission. In the case, the Sagarejo regional police stopped and detained the client who they then brought him to the Sagarejo Court. The court immediately rendered an unreasoned decision and sentenced the client to 40 days of administrative custody. GYLA filed an appeal to the Appellate Court, which partially satisfied the appeal by reducing the client's sentence to time already served. GYLA also achieved success in disputes related to labor contracts. In one of such cases, Tbilisi Appellate Court satisfied the claim for outstanding salary GYLA helped a client file against the Ministry of Defense.

GYLA also litigated cases at the Constitutional Court of Georgia and the European Court of Human Rights. GYLA took three new cases to the Constitutional Court. One of these cases challenged the legal definition of the term "internally displaced person" in the *Law of*

Georgia on Internally Displaced Persons. Another challenged the constitutionality of certain norms contained in the *Law on Basic Education*. Yet a third challenged provisions of the *Criminal Procedure Code* which deny an individual the opportunity to appeal the decision of the first instance court when it attaches the property of person not party to the proceedings. At present, GYLA has nine cases pending at the Constitutional Court.

GYLA took one case to the European Court of Human Rights during the reporting period. GYLA asserted in the case that the rights of an individual arrested during the dispersal of the opposition rally held on May 26, 2011 were violated by the Georgian government.

Transparency International (TI)

During the quarter, 81 individuals contacted TI's Advocacy and Legal Advising Centers (ALAC) in Tbilisi and Batumi. Of this number, 51 individuals received one-on-one consultations. TI represented 15 individuals before courts or administrative bodies. These cases involved property right disputes between citizens and government entities including the Ministry of Economy, Public Registry, and the Property Rights Declaration Commission. The majority of the disputes involved situations in which government entities carrying out major infrastructure projects refused to recognize the ownership rights of citizens who had not registered their property with the Public Registry.

TI reported a number of successful outcomes in cases concerning property rights. For example, TI assisted two owners of property in Piazza Square in Batumi. They both transferred their property to Batumi Local Government in return for a promise to give them similar property after the construction of Piazza Square. ALAC initiated negotiations with the City Council and assisted these individuals in receiving compensation in the form of alternative apartments in a residential building in the center of the city. TI also helped a client establish his property right in a homestead which was initially rejected by the Property Recognition Commission and Public Registry. TI helped him in collect and submit additional evidence supporting his ownership of the land in question.

TI was also engaged in several cases involving the notorious Center Point Construction Company. Forty individuals applied to Batumi ALAC seeking help to pursue compensation for losses they incurred when Center Point failed to complete construction of their residential homes. ALAC got involved as a representative of the clients and helped them negotiation with

Dexus, Center Point's successor company. As a result of TI's intervention, Dexus began negotiations with the affected individuals and made several offers to compensate them.

TI used its mobile clinics to assist citizens in a number of regions of Georgia where major infrastructure projects are being carried out. TI assisted the villagers of Gvara and Alambari in Kobuleti Municipality affected by the privatization process. The Ministry of Economy and Sustainable Development sold land which had belonged to these families for several years. The Ministry sold the land despite the fact that the majority of owners had officially registered their property at the Public Registry. TI submitted an application to the local municipality and the Ministry of Economy on behalf of this group of citizens. TI is planning to follow up on this issue with the new leadership of the Ministry.

In addition to GYLA and TI, the following EPF grantees carried out legal aid activities with JILEP funds:

- 1) Non-commercial Legal Entity Tbilisians' Lawyer (TL)

The goal of this 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.

In this quarter, TL continued to organize regular meetings with representatives of small and medium businesses at Tbilisi flea markets. During these meetings, 79 individuals (48 male and 31 female) received legal consultations. The topics of these consultations included registration of business enterprises and other corporate law related issues; use of cash registers; tax law issues; and customs applications.

In addition, TL held meetings with citizens and provided consultations at the TL offices and at other spaces provided by Tbilisi City Hall. TL organized six public meetings to explain its services. 546 individuals (205 male and 341 female) came to these meetings to receive legal consultation during the quarter. Of all the consultations, 95 of these individuals were below the poverty line; 129 were retired; 3 were disabled; and 14 were IDPs.

- 2) Institute of Democracy (ID)

ID provides free legal aid to the most vulnerable segments of the population residing in the five municipalities of Adjara - Keda, Shuakhevi, Khulo, Khelvachauri, and Kobuleti. ID also has offices in Batumi and Keda. This quarter, the ID Keda office provided legal

consultations to 21 individuals (11 male and 10 female) on cases involving family law, social benefits, and property registration. They represented 15 clients in court. The ID Batumi office provided consultations to 27 individuals (9 male and 18 female) and continued to work on 23 court cases from the previous period. Furthermore, ID visited 34 Kobuleti-Khelvachauri area residents residing en route or in close proximity to the planned Choloki-Sarpi highway to prepare these citizens to negotiate with the government for fair compensation for the possible eminent domain acquisition of their property. In addition, ID organized six meetings in different parts of Adjara to inform citizens about the project and provide them with legal consultations. As a result, 146 individuals (85 male and 61 female) received legal consultations.

3) Human Rights House (HRH)

HRH aims to protect human rights and freedoms in Georgia by providing free legal assistance to the most vulnerable segments of the Georgian society: IDPs, the elderly, the disabled, and the poor.

In this quarter, HRH provided 284 legal consultations of which 239 were in the area of criminal law and 45 in the area of civil and administrative law. HRH provided free legal representation in 35 criminal cases and eight civil law cases, of which 18 were new cases and the remaining 17 were carried over from the previous quarter. HRH attorneys also conducted 7 prison visits and consulted 16 prisoners. In one case, HRH filed an appeal to the Criminal Law Chamber of the Tbilisi Court of Appeals seeking a release of one of its clients. HRH based its appeal on recent amendments to the *Law on Drugs, Psychotropic Materials, and Drug Aid*, which reduced the punitive measures for certain drug related crimes. The Court partially satisfied the claim by reducing the sentence from 1 year to 6 months.

4) Racha-Lechkhumi and Kvemo Svaneti Self-government Resource Center (Racha)

Racha aims to protect the human rights and fundamental freedoms of Georgian citizens by providing free legal assistance to the populations of the most underserved regions of Georgia – Racha-Lechkhumi and Kvemo Svaneti. This quarter, Racha consulted 178 individuals (87 male and 91 female) at its Ambrolauri office and 125 individuals (58 male and 67 female) at its Tsageri office. Racha provided representation in 94 cases. In addition, Racha organized group meetings in the region to inform local citizens about the services they provide. Racha provided consultations to 27 individuals (20 male and 7 female) through these meetings.

Racha reported on one case in which it represented a small business in a dispute with the Ministry of Finance. The latter claimed the VAT tax in the amount of GEL 41,168. With Racha's support the entrepreneur won the dispute and was freed from paying this tax.

5) Justice and Liberty Association (JLA)

JLA protects the rights and advocates for the interests of the security sector and law enforcement personnel, current and former military servicemen, patrol officers, and cadets in Georgia by providing free legal advice to those who need representation in relevant administrative bodies or in the courts. The implementation of the project started in March 2012. In the reporting period, JLA consulted 262 clients (228 male and 34 female) through its Tbilisi and Kutaisi offices. JLA represented eight clients before the court and administrative bodies. One case was criminal in nature; the other seven cases were administrative law cases. JLA reported on the case of 4 veterans charged with conversion of property. JLA successfully represented the veterans in court with the court finding them not guilty of the charges.

Organizational Development of NGO partners (EPF)

EPF uses its Capacity Mapping Initiative (CMI) to promote organizational development of its advocacy and legal aid grantees. The CMI consists of a detailed set of questions designed to assess organizational capacity in six areas: governance, financial management, human resources, program management, communications, and fundraising. After conducting extensive interviews with a grantee, EPF generates a report that demonstrates standings in the above mentioned areas and offers concrete recommendations for addressing institutional shortcomings. EPF then encourages the grantee to create a strategic development plan based on this report and to submit a proposal to EPF aimed at improving organizational capacity.

During the reporting period, nine organizations out of 11 began implementation of strategic plans for their organizational development based on the CMI reports completed by the EPF organizational development team. (An additional two organizations were added this quarter.) Some of the activities they carried out are as follows: Article 42 updated its bylaws, developed its human resource policy, and revised the organization's communication materials including its web-site. GLIP participated in trainings in human resource management, program management and fundraising and started to develop a Policies and Procedures

Manual. AmCham surveyed its members and introduced new client management software. CDA updated its Policies and Procedures Handbook and developed its long term program strategy.

Advocacy Skills Training for NGO Partners

JILEP continued its efforts to strengthen the advocacy skills of its legal aid NGO partners. As a follow-up to a written communications skills training provided in the previous quarter, JILEP delivered a verbal communication skills training to 10 representatives of seven Georgian human rights organizations, including two participants from outside Tbilisi. The training was tailored for mid-level staff lawyers with the specific aim of improving their media and public relations skills. During the course of the workshop, the participants learned how to deliver their core messages in interviews and press conferences and how to overcome anxiety when faced with cameras and large audiences. During the workshop, the participants were required to learn-by-doing, practicing the new skills by giving oral presentations and mock interviews to the “media” in front of their colleagues.

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:

For quarter: 6,458 individuals (2,911 male, 3,544 female)

TI Georgia provided consultations or representation to 81 individuals (36male, 42 female, 3 gender unidentified).

GYLA provided consultations or representation to 4,675 individuals (1,964 male, 2711 female) and 292 legal persons.

EPF grantees provided consultations or representations to 1,702 individuals (911 male, 791 female).

B. Key Issues and Challenges

GBA is now actively and successfully providing mandatory CLE on legal ethics to its members. ABA/ROLI has been providing the GBA CLE training in criminal procedure. This leaves the vast area of civil law mostly not covered. JILEP needs to find ways to help

the GBA address this gap. The GBA also needs to do a better job of advertising and promoting the positive developments it has made as association over the course of the last year. JILEP hopes to help them do a better job of this in coming quarters.

This quarter's EPF advocacy grants competition did not attract many fundable proposals (at the time of this writing, only three proposals were considered worthy of consideration.) In fact, only eight organizations submitted proposals. This could have been explained by the uncertainty caused by the October 1 election and EPF is considering re-announcing the competition to attract more potentially fundable proposals. During the quarter, EPF also struggled to meet its commitment to develop a television program on the problems of the judicial system. The competition for television companies with national coverage generated only one project proposal from the Georgian Public Broadcaster (GPB) and negotiations over this project are deadlocked. EPF may re-announce this competition as well.

C. Plans for Next Quarter

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

- GBA will continue training on legal ethics – October 16, 17, 18, 19 23 in Tbilisi, October 18 and 19 in Kutaisi, November 1, 2, 6,7, 8 in Tbilisi, and November 9 in Kutaisi;
- Visit of JILEP CLE Expert – Late October 2012;
- Visit of JILEP Ethics Expert – Late November 2012;
- EPF will organize the sixth public forum on a topic yet to be decided;
- EPF will continue to monitor the implementation of its advocacy and legal aid grants, as well as work with the grantees to draft organizational development plans and monitor the implementation of organizational development activities;
- EPF will continue to implement the project outreach campaign, including the transmission of PSAs and printing of posters with messages and images from the PSAs;
- GYLA will continue to provide legal assistance to the indigent population in Tbilisi and the seven regions (Imereti, Adjara, Shida Kartli, Kvemo Kartli, Guria, Kakheti, Dusheti);
- TI will continue to provide legal consultations to ALAC clients. In addition, TI will organize mobile legal aid clinics visiting more remote regions in Georgia;
- TI and GYLA will continue court monitoring;

- TI and GYLA will continue monitoring the HCOJ; and
- JILEP will organize a workshop on client counseling for its partner legal aid organizations.

COMPONENT 3: IMPROVE LEGAL EDUCATION

A. Significant Results, Accomplishments, Activities

National Centers of Learning

JILEP continued providing technical assistance to the National Center for Alternative Dispute Resolution (NCADR) and the National Center for Commercial Law (NCCL) to help in the professional development of law professors and the creation of new courses and teaching materials.

National Center for ADR (NCADR)

In July, NCADR Executive Director, Tea Imedadze, announced that she would be resigning from her position to work at the Georgian Prime Minister's office. As a result, the NCADR Board appointed Natia Chitashvili as Interim Executive Director so that the Center's activities could continue. NCADR advertised for the permanent position and began receiving CVs in August. In September, the NCADR Board interviewed the applicants and determined that Mrs. Chitashvili should be hired as permanent Executive Director.

NCADR engaged in the following activities during the quarter:

1) Writing Competition for NCADR Journal

On July 14, NCADR held a presentation to announce the creation of a first-of-its-kind ADR Journal. Fifteen students and professors from TSU and other universities attended the presentation. NCADR presented its guidelines for authors, its conceptual and technical demands for the articles, its submission and editing procedures, and its citation and footnote rules. NCADR encouraged authors to submit articles in English but articles in Georgian would be considered and, if approved by the Editorial Board, would be translated into English. October 31, 2012 is the submission deadline. The submitted articles will be reviewed by the NCADR Editorial Board and prepared for publication during the next two reporting periods. This is the first initiative in ADR of its kind in Georgia and although the

development will be slow, it should help contribute to academic interest in ADR. It will also help the NCADR maintain its position as a knowledge center.

On September 15, the NCADR organized a roundtable event bringing together 15 TSU students. The purpose of the roundtable was to define the role of the students and merits of their involvement in the ADR Journal. The roundtable also aimed to advise students in their research process and preparation of articles for the ADR Journal. All the students were given instruction on research techniques and methods of obtaining information from various internet resources.

2) NCADR Website

In this quarter, the NCADR continued development of its bilingual English-Georgian website. NCADR submitted the website format to JILEP for approval and expects to launch the website in October, 2012. The NCADR website will serve as the Center's primary public relations tool. Visitors can use the website to subscribe to the NCADR newsletter and obtain useful information about the NCADR activities. Visitors will also have the option to register online in order to participate in trainings, workshops, roundtables, public lectures, and other events. It will also contain a forum where registered guests will be able to run discussions on any ADR related topics. The forum will include contributions by Georgian and U.S. professors. The online ADR Journal and online catalogue for the NCADR library will also be available on the web page in the future.



Screenshot of NCADR website

3) Mediation Summer School and National Mediation Competition

The NCADR sponsored its first “Mediation Summer School” in early September to introduce students and professors to important mediation skills and prepare them for Georgia’s first National Mediation Competition. The Summer School was held at Bazaleti over a three-day period. Approximately 30 students and professors participated. For the professors, this was a follow-on activity to the NCADR's June training on mediation.

Immediately following the September workshop, NCADR sponsored the first National Mediation Competition in Tbilisi. The competition was held over two days at Tbilisi State University. Eight teams from five universities participated: Kutaisi State University, Tbilisi State University, Free University, University of Caucasus and Georgian American University. The competition challenged students in two or three-person teams to participate in a 90 minute mediation session in which an outside expert served as mediator and two or three professionals served as judges. The judge scored the teams’ performances in such areas as problem-solving, think creative thinking, effective communication and success in representing their clients’ interests. The competition took place in the English language. This

was necessary because the winning team will be sent to Paris by JILEP to represent Georgia in the ICC international mediation competition, in February 2013, which is in English. The NCADR will continue to facilitate preparation for the winning team in the following quarter as it prepares for the ICC competition.

4) NCADR involvement in Mediation Pilot Project

NCADR continues its active involvement in the “Court-annexed Mediation Pilot Project.” As members of the working group of the project, the NCADR, HCOJ, JILEP and GIZ participated in the selection process for mediators. The working group selected 30 candidates who were enrolled in an intensive mediation training program. NCADR provided a venue for the mediation training. (See Component 4 for more details).

National Center for Commercial Law (NCCL) at Free University

The NCCL engaged in the following activities during the third quarter:

1) Public Lecture Series

NCCL member Mr. Levan Svimonishvili, an alumnus of the Muskie program at Washington University in Saint Louis, obtained funding from the Muskie MAX Mentor/Advisor Exchange Grant to bring Mrs. C. J. Larking, Professor of Washington University in Saint Louis, to Georgia to deliver a series of public lectures on commercial mediation for students and practitioners. The first lecture on Commercial Mediation Theory and Practice was held at the NCCL on June 30-July 1 and about 40 practicing lawyers and students attended. The second lecture on commercial mediation was delivered on July 2-3 and 35 students and practitioners attended. Mr. Giorgi Tsertsvadze, a lecturer at Free University, was also involved in the public seminar as a co-speaker.



Participants in the public lecture on mediation working on an assignment

2) Commercial Law Moot Courts

In September, thirty two teams from twelve Georgian universities submitted initial applications to compete in NCCL's Commercial Law Moot Court competition. The final number of participating teams will be determined after completion of the registration process and the submission of written applications based on a case prepared by the NCCL team for the competition.

3) CLE Conference

In August, the NCCL announced a call for applications for speakers for its upcoming Commercial Law CLE Conference that will take place in November-December 2012. Twenty applications were submitted during the quarter. Eight speakers will be selected.

4) Commercial Law Textbook

Initially, NCCL planned to develop a Georgian textbook on Legal Drafting. After consultations with WUSL professors, they agreed that a one-year-program in legal drafting for Georgian law professors would be more useful. This program started in spring 2012 and will be completed in March 2013. As a result of this decision, the NCCL decided to postpone the development of a legal writing textbook and identified a different subject for its textbook creation efforts - the Law on Obligations (see sub-section 6 below).

5) Writing Competition in Business Law for Georgian Business Law Review

The NCCL is continuing to work on the first issue of the Georgian Business Law Review. As previously reported, the first issue will include the winning articles of the Writing Competition in Business Law for Students and Legal Practitioners held by the NCCL in March 2012. The Editorial Board submitted comments and recommendations to the authors during the last quarter and the final drafts of the articles were to be resubmitted during this reporting period. However, some of the authors failed to revise their articles on time and as a consequence, NCCL decided to postpone publication of the Law Journal until the end of 2012.

6) Summer School in Commercial Law

On July 13-19, at the Free University training center in Bazaleti, the NCCL delivered its Commercial Law Summer School to 34 Georgian students. The Summer School focused on the most relevant topics of contract and tort law for Georgian practitioners. The trainers were practicing lawyers and judges of the Supreme Court and the Tbilisi Appellate Court. The training materials included 90 cases from the Georgian Supreme Court which increased the practical significance of the program and made it unique in the history of Georgian legal education. Based on the success of the program, the NCCL team decided to develop a textbook on problematic issues in the Georgian Law of Obligations. The textbook will make use of the “case method” approach to legal instruction. NCCL has developed the outline and will start to negotiate with potential authors in the coming quarter.



Supreme Court Judge Nunu Kvantaliani delivers lecture on contracts

Clinical Education Development

JILEP, in cooperation with the Public Interest Law Network (PIL-net), provides technical and grant support to three live-client clinics: Batumi State University (BSU), Kutaisi State University (KSU) and the Georgian-American University (GAU).

1) KSU. During the quarter, KSU legal clinic students provided 39 legal consultations on administrative and civil law matters. Clinic professors conducted seminars for clinic students on the following topics: right of ownership of agricultural lands by private persons and private law entities; legalization of property; transfer of buildings owned by the State; and mortgages. The students also took part moot courts in criminal and civil justice. In July, the legal clinic students organized a training session entitled “Jury Trial and Society” for 25 students of the faculty of Social Sciences at KSU. In September, the students cooperated with the Ministry of Science and Education of Georgia to conduct a workshop on “Rights of Children and Schools” for local school teachers in Kutaisi.

2) BSU. BSU legal clinic students attended a seminar on “Principles and Skills of Client Interviewing,” conducted by JILEP. In September, new clinical students were selected and trained by clinic professors on client counseling and legal clinic procedures. This summer, the BSU legal clinic worked on two family law and one inheritance cases.



JILEP delivering the client counseling workshop at BSU

3) GAU. In May 2012, JILEP awarded GAU a grant to create a legal clinic textbook in Georgian. In the previous quarter, GAU submitted the first draft of the textbook, which was then reviewed by PIL-net clinical expert, Professor Richard Grimes of the York Law School, University of York (UK). Professor Grimes visited the GAU law clinic in July to discuss the textbook with clinic staff in detail. Although GAU had committed to finishing the textbook in September, it was unable to do so. As a result, JILEP agreed to extend the GAU grant (no cost) through the end of the calendar year, December 31, 2012.

General Technical Assistance to Live Client Clinics

In this quarter, JILEP organized its first annual Law Clinic Summer School. The school was held during the last week of September at BSU. Over 30 students and clinical professors attended. The program was designed and delivered by two PIL-net experts, Richard Grimes, and Lucine Hovhannisian, as well as JILEP expert Delaine Swenson. The program focused on law clinic administration and live-client file management procedures. Because GAU had the greatest experience with live client clinic management, they were able to provide more informed perspectives and assistance to the other clinics. One result of this collaboration was the signing of an MOU between the GAU clinic and the BSU clinic which laid out the basic elements for their future collaboration. In addition to the three grant-supported clinics, representatives from the Free-Uni and TSU clinics attended. While JILEP does not offer

stand-alone clinical grants to these two schools, it does provide some general assistance through its university partner grants (see NCADR and NCCL sections above).

Practical Legal Skills Training

Trial Advocacy and Legal Ethics Programs

One of JILEP's goals in the educational field is to expand the use of skills-oriented instruction in Georgian law schools. In 2011, JILEP worked toward this goal by sponsoring numerous classes and workshops that included skills elements. In 2012, JILEP is increasing its effort in this area by providing training to Georgian law professors that will prepare them to develop and teach their own trial advocacy and legal ethics courses. Nine law schools are participating in this effort.

On July 6-8, JILEP delivered an advocacy skills workshop to seven Georgian law professors from five universities around the country. JILEP trained the law professors in important advocacy skills such as adversarial trial models, witness examination, building a theory of the case, exhibit usage and closing arguments. On July 13-16, JILEP delivered a legal ethics workshop to 10 Georgian law professors from eight universities around the country. A leading U.S. legal ethics expert, Professor James Alfini, from STCL, discussed important issues in professional ethics such as client relationships, conflict of interest and the principle of confidentiality. Two Georgian experts in Georgian advocate ethics - Eka Gasitashvilisi, the Chair of Ethics Commission of Georgian Bar Association (GBA), and Irakli Kordzakhia, the former chair of GBA Ethics Commission, also participated in the workshop and provided the participants with insight into the relevant case law of the Ethics Commission. The next workshop will take place in the fall and will include course development assistance.



Professors attend an ethics workshop run by Professor Alfini

TSU Instructional Development Program

In June, JILEP launched a one-year instructional development program at TSU. The program seeks to assess the teaching methods currently used by law professors at TSU and assist those law professors develop and implement new teaching approaches. On June 25, JILEP delivered training in modern teaching methodology to seven TSU law professors. JILEP delivered a second workshop for 22 professors in July.

West Georgian Master's Scholarship

In this quarter, four scholarship recipients ("Fellows") completed the first year of their Master's program at Kutaisi State University (KSU). Because of the success of the program and the high level of interest from students, JILEP and KSU agreed to continue the scholarship program for the Fellows' second year as well as hold a competitive application process for four additional scholarships. JILEP worked with the Georgian Foundation for the Support of Legal Education (GFSLE) and KSU to complete the competition. Early in the next quarter, JILEP, GYLA and KSU will choose the four new award recipients. The four new scholarships at KSU will begin in October, 2012.

This quarter, Batumi State University (BSU) received formal approval to begin its own Masters of Law program in the fall of 2012. As a result, JILEP and BSU initiate the delayed Masters Scholarship program at BSU. Similar to the program created at KSU, JILEP worked with GFSLE and BSU to create a competitive application process for scholarships to Masters of Law candidates. The scholarship recipients will be chosen in October and begin their studies immediately.

During this quarter, all four original KSU Fellows continued to participate in activities designed to augment the education they receive at the university. One of the Fellows participated in sessions of the Georgian Youth Parliament as Chairman of the Committee of Justice in Kutaisi and Samtredia. He also participated twice in the TV show “In The Name of People” broadcast on the Georgian TV channel “Rioni.” The show is in the format of a moot court and aims to increase awareness of the Georgian court system in general and jury trials in particular. Another Fellow, an IDP (internally displaced person), was chosen to take an internship at the Committee of Restoration of Territorial Integrity of Georgia in the Parliament of Georgia. The internship, which will commence in October, is in recognition of his service and hard work. All of the Fellows were actively involved in the monitoring of the Georgian Parliamentary elections by serving as observers at local polling stations.

Summer School on Constitutional and Human Rights Law

On July 17 -28, JILEP, together with the Constitutional Court of Georgia and Ilia State University, co-sponsored the Summer School on Constitutional and Human Rights Law in Batumi. This year’s Summer School focused on current constitutional developments in criminal procedure and upon freedom of expression and religion. Lectures were given by local and international experts, including some from the UK and the U.S. A total of 29 students from different Georgian universities attended the sessions. The highlight of the school were the moot court hearings held in the main courtroom of the Constitutional Court. Most of the hypothetical cases given to the students were based on real cases recently adjudicated by the Court. The Summer School participants who took the final exam and passed were awarded certificates by the Constitutional Court of Georgia.



Constitutional Court President, Giorgi Papuashvili, addresses students

GBA Continuing Legal Education (CLE) and Mandatory Training on Professional Ethics

During the reporting period, the GBA Training Center conducted 26 training sessions on professional legal ethics: 18 in Tbilisi and 8 in Kutaisi. 606 lawyers attended the training (201 female and 405 male). By the end of this quarter, 2,350 lawyers had attended professional ethics training for lawyers. The participants' evaluations indicate 97.6% of participants thought that the knowledge received at the training will be useful in their professional work; 93.2% of participants gave a positive evaluation to the training; and 79.1% said that they had not received training on professional legal ethics before.

Monitoring & Evaluation

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

3. Number of bar members trained with JILEP assistance – 606 (ethics trainings; 201 female and 405 male)

B. Key Issues and Challenges

The current lack of a Clinical Practice Manual for law school clinics is a significant obstacle to sustainable development of the clinics. Such a manual is needed to ensure quality control and provide guidance to clinic lawyers and students. GAU missed its September completion

deadline and it is hoped that the manual will be completed and printed by the end of the next quarter. Another continuing issue is that neither the BSU nor the KSU clinics have a substantial client base. While JILEP is working with the clinics to address this problem, it still remains unclear whether or not the live-client clinic experiment will ultimately be successful.

C. Plans for Next Quarter

During the next reporting period:

- JILEP will continue the instructional development program at TSU;
- NCCL and experts from WUSL will deliver a legal writing workshop for professionals;
- NCCL and experts from WUSL will deliver a teaching methodology workshop for law professors in the TM master's program;
- NCCL will develop a curriculum for its executive certificate program "Commercial Law for SMIs";
- NCCL will continue its public lectures series (possible fields of discussion: Investment Law, Tax Law);
- NCCL will begin development of the casebook on the Georgian Law of Obligations;
- NCCL will launch the Commercial Law Clinic for Free University students;
- NCCL will publish articles in the first issue of the *Georgian Business Law Review*;
- NCCL will begin its CISG program with a legal English workshop;
- NCADR will launch its website;
- NCADR will start developing a mediation clinic;
- NCADR will deliver a national conference on mediation at TSU;
- NCADR will begin work on its ADR journal
- NCADR will support at least one public lecture on ADR;
- Foreign experts, together with Georgian experts, will deliver a training in trial advocacy skills for the participants in the trial advocacy program;
- Foreign experts, together with Georgian experts, will deliver training in legal ethics for the participants in the legal ethics program;
- Prof. Delaine Swenson and other experts will deliver a teaching methodology workshop for TSU professors;

- JILEP will deliver the Second Annual Trial Advocacy Workshop and Competition for Georgian law students;
- The GAU clinic will submit a final draft of the clinical textbook;
- The West Georgia Masters Scholarship Program will be launched at Batumi State University and four BSU students will receive a scholarship; and
- The West Georgia Masters Scholarship Program will be expanded at Kutaisi State University to include four new scholarships in addition to the four current scholarships.

COMPONENT 4: DEVELOP COMMERCIAL LAW

Commercial law development is an essential element of many of the JILEP activities described above. Beyond these activities, JILEP is currently engaged in developing commercial law curricula for the universities, the HSOJ, and the GBA. As mentioned above, the National Center of Learning, which is housed at Free University and partnered with Washburn University School of Law, is focusing on commercial law and practice issues. The National Center housed at TSU in partnership with South Texas College of Law is focusing on ADR development.

A. Significant Results, Accomplishments, Activities

Court-Annexed Mediation Pilot

JILEP, within the framework of the Court-annexed Mediation Pilot Project, carried out a number of workshops during this quarter which are discussed below.

JILEP organized a five-day, foundational training in July for 26 mediator candidates chosen in a two-stage selection process during the previous quarter, as well as four representatives of the judiciary. The training was conducted by trainers from CEDR (Center for Effective Dispute Resolution), a UK-based international organization providing expertise in training and coaching of mediation. The NCADR hosted the training at TSU. In the course of this foundational training, the CEDR experts identified 18 candidates who continued on to an advanced assessment and accreditation course CEDR delivered September 1-4. Seventeen of the 18 candidates who attended the advanced course received CEDR international

accreditation and will serve as mediators in the play a role in the JILEP-sponsored pilot project set to begin during the next quarter.



Georgian delegates practice managing parties' emotions in mediation role-play with CEDR faculty members

On September 10-11, JILEP delivered a training course for 19 mediator-candidates that focused on best approaches to mediating family and inheritance matters. JILEP's efforts in this area are especially needed since amendments to Georgia's *Civil Procedure Code* enacted last year, make mediation of inheritance and neighborhood disputes brought to Georgia's courts mandatory. A large proportion of the cases in the pilot project are expected to be inheritance and neighborhood disputes.

On September 12, JILEP delivered a mediation workshop to nine judges of the Tbilisi City Court. The aim of the workshop was to inform these judges of the nature of alternative dispute resolution (ADR) and prepare them for their roles in the pilot project. The workshop was hosted by the HSOJ and was led by Professors Kimberlee K. Kovach and Katherine Greene Burnett, of South Texas College of Law.

Material Development in Commercial Law

Commentary on the Georgian Tax Code

On July 5, JILEP presented the Commentary on the Tax Code of Georgia (book in two volumes) to the Georgian public. The event marked completion of the project implemented in cooperation with USAID's Economic Prosperity Initiative (EPI) aimed at creating a detailed commentary on the new Georgian Tax Code. Representatives of the Georgian legal community and other relevant professions (auditors, tax advisers, and accountants) as well as state officials and academics were invited to the event. The Business Ombudsman of Georgia also attended. Around 80 of the 300 printed copies of the commentary were distributed among the guests during the presentation.

Remaining copies were distributed among leading Georgian law firms, lawyers, universities, NGOs, and professional organizations. An online version of the Commentary is also available on the websites of JILEP, the National Centre for Commercial Law (NCCL) and on the electronic collection of the National Library of the Georgian Parliament. The online version of the commentary was also advertised on Facebook.



Commentary on the Georgian Tax Code

Commercial Law Textbook Creation; training for textbook authors in teaching methodologies and textbook development

JILEP continued its development of written teaching materials for Georgian law students and commercial law practitioners, specifically textbooks on contracts and property law. During the reporting period, the authors for these two textbooks have been providing pieces of their work to JILEP for editing. So far, editing suggestions have been well-received by the authors. The writing and editing process will be finalized and the texts will be prepared for publication during the next quarter.

Commercial Law Training GBA members

Tax Law

Earlier in the year, JILEP assisted the GBA conduct a profession-wide needs survey to determine the greatest training needs of Georgian lawyers. The survey identified tax law as a priority subject. In response to that need, JILEP is supporting the GBA's Training Center deliver 14 tax law trainings to 400 GBA members. Tax law expert, Dr. Zviad Rogava, of Caucasus University School of Law, is teaching the course which is taking place both at the GBA Training Center in Tbilisi and at the GBA branch office in Kutaisi. The training series, which began in September and continue into October, will not only deepen the participants' knowledge of Georgian tax law but provide them credits to meet their continuing legal education (CLE) requirements for 2012.



Prof. Dr. Zviad Rogava conducting tax law trainings at GBA Training Centre (Tbilisi)

Monitoring and Evaluation 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:

For quarter: 331

Breakdown:

299 - Tax law training for GBA members (female 119, male 180);

23 – Mediation training (female 10, male 13);

9 – Mediation workshop for judges (female 5, male 4)

B. Key Issues and Challenges

JILEP's cooperation with key stakeholders, including TSU and GIZ within the HCOJ Mediation Working Group, has been essential to moving the court-annexed mediation pilot project forward. There is much to do in coming months by every member of the Working Group to produce a successful pilot. The pilot must identify and prepare court staff involved in the management of the mediation center at Tbilisi City Court. It must prepare operational guidelines and forms; launch and publicize the pilot project; and develop a monitoring and evaluation plan for the pilot. All of the stakeholders will be needed to assist the Tbilisi City Court find a way to smoothly manage the new mediation process.

C. Plans for Next Quarter

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

- Assist the HCOJ and Tbilisi City Court in launch and operation of mediation pilot project.
- Monitor the results of the pilot project;
- Support public outreach and awareness raising endeavors regarding mediation and the pilot project;
- Finalize writing and editing of textbooks in contract and property law and prepare them for publication;
- Continue tax law trainings for GBA members;

- Prepare the second CLE conference in commercial law in cooperation with NCCL, including selecting and contracting speakers; assisting speakers in preparation of materials for the conference; launching registration process; organizing conference logistics;
- Finalize selection of trainers for HSOJ training courses in CISG, Commercial Arbitration and legal reasoning and interpretation and assist selected trainers with preparation of materials;
- Assist NCADR and NCCL in planning and preparation of the 2nd Tbilisi Vis Pre-Moot and the related conference; and
- Plan and coordinate translation of the ICCA's (International Council for Commercial Arbitration) Guide to the interpretation of New York Convention into Georgian language.

ANNEX A SUCCESS STORIES

JILEP Completes Training of Mediators for Court-annexed Mediation Pilot

Within the framework of the court-annexed mediation pilot, and in collaboration with the High Council of Justice of Georgia, the High School of Justice, Tbilisi City Court, Tbilisi State University National Center for ADR and the German Society for International Cooperation (GIZ), and the Frank Evans Center for Conflict Resolution (FECCR) at South Texas School of Law, JILEP organized a visit of five trainers from CEDR (Center for Effective Dispute Resolution) - a UK based international organization which provides mediation consulting, training, and coaching around the world. CEDR trained 26 carefully selected, judges, lawyers and other professional in the basics commercial, family, neighborhood and inheritance dispute mediation. In the course of the foundational training, the CEDR experts selected 18 finalist-candidates from the original 26 to continue on to the advanced assessment and accreditation course held September 1-4. Most of the mediator-candidates demonstrated exceptional aptitude, interest and commitment towards this novel and extremely demanding training. This commitment was illustrated by the high number of candidates the CEDR team was willing to provide international mediation accreditation - 17 out of the 18 candidates. The participants are now looking forward to putting their skills into practice by mediating actual disputes as part of the Court-annexed Pilot Project.

JILEP Publishes Commentary on Georgian Tax Code

On July 5, JILEP presented the Commentary on Tax Code of Georgia (book in two volumes) to the Georgian public. The presentation took place in the event hall of Tbilisi State University. The event marked completion of the project implemented by JILEP in cooperation with the USAID - Economic Prosperity Initiative (EPI). Representatives of the Georgian legal community and other relevant professions (auditors, tax advisers, and accountants), state officials attended the event, as did the Business Ombudsman of Georgia. JILEP distributed copies of the Commentary among leading Georgian law firms, lawyers, universities, NGOs, and professional organizations. An online version of the Commentary is also available on websites of JILEP, the National Centre for Commercial Law (NCCL) and on the electronic collection of the National Library of the Georgian Parliament. The online version of the commentary was advertised on Facebook.

West Georgia Fellow Featured on Local TV Justice Program

West Georgia Master's Fellow Kutaisi Levan Vefkhvadze from Kutaisi, was featured in the TV program "In the People's Name," which was broadcast on the local Kutaisi "Rioni" television station. The show aimed to increase citizen understanding of how the Georgian court system was supposed to work, specifically when it comes to implementing jury trials. The program used a moot court format with Levan Vefkhvadze playing the role of prosecutor. In October 2012, Levan Vefkhvadze will continue his successful internship at the Committee of Human Rights and Civic Integration at the Georgian Parliament. These activities are designed to enhance the Masters Fellows' experiences and promote bonding with the local community.