

***NATIONAL CENTER FOR STATE COURTS***

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Haiti-Training and Support for Judges and Prosecutors

First Quarter FY 2005  
(October – December 2004)

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Indefinite Quantity Contract No. AEP-I-00-00-00011-00  
Task Order No. 812

Date: January 24, 2005

USAID M/OAA/DHCA/DOFDA  
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Washington, D.C. 20523-7100



**Quarterly Report No. 1**  
**Reporting period: October 1 through December 31, 2004**  
**IQC No. AEP-I-00-00-00011-00**

**A. PROGRESS SUMMARY**

This report outlines the work conducted by the National Center for State Courts (NCSC) on the Haiti Rule of Law Assistance Project in its first quarter of activities. The purpose of this one year project is to conduct two types of activities: 1) training of court clerks, prosecutors and judges and 2) technical support to judges and prosecutors.

With significant input from stakeholders, and providing clear linkage to the GOH “Cadre de Cooperation Interimaire” (CCI), NCSC has identified four components in which it is providing training and technical assistance: 1) enhance organization and operation of Justice of the Peace Courts; 2) strengthening local capacity to manage and administer the courts and the Parquets; 3) conduct field workshops to facilitate uniform application of the laws of Haiti; and 4) provide four grants to various legal organizations and institutions in order to strengthen and broaden the previous three project components, and further ensure their sustainability.

**B. TASK SPECIFIC ACCOMPLISHMENTS DURING THE REPORTING PERIOD**

The following highlights were accomplished during our first quarter of activities:

- The project office opened, and staff were hired: a COP, two local technical advisers, an accountant/office manager, an administrative assistant, and a driver.
- The COP and the two technical advisors conducted broad consultations with Haitian counterparts representing the formal institutions of justice, as well as the legal community and interested non-governmental and civil society organizations in order to design the work plan.
- With the assistance of two Rule of Law experts, the NCSC/Haiti team drafted the work plan and a calendar of activities. Both documents were presented to USAID and the MOJ.
- NCSC began the implementation of the workplan by convening a workshop on standard rules of practice with Justices of the Peace (JP) from selected courts in Port-au-Prince (PAP). For the first time in Haiti, JP courts will be governed by a set of rules aimed at improving court management, finance, and various other aspects related to the good functioning of the court.

**1. Overall Project Development.**

- Setting-up office/staffing

In early October, NCSC consultant Joe Trincellito, NCSC manager Radomir Djuric, and COP Philippe Lamarche arrived in Haiti to open an office, and recruit the required staff. A decision was made to rent an office in a safe area, with some training spaces midway between the Magistrates School and the MOJ.

Henry Dorleans (a well respected lawyer and human right activist), and Jacques Miguel Sanon (an experienced USAID-funded project consultant) were selected to team up with COP Lamarche. To complete the team, a qualified accountant who spent most of his career in USAID-funded projects was hired, as well as an administrative assistant and a driver.

- Preparation of the Workplan

The COP and the two Haitian technical advisors immediately began conducting broad consultations with Haitian counterparts representing the formal institutions of justice, as well as the legal community and interested non-governmental and civil society organizations in order to design the work plan. The team met among others, with representatives from the Haitian Judges Associations (ANAMAH), the Women Judges Associations, the Bar of PAP, the association of young lawyers of Haiti, representatives from the MOJ, the Magistrates School, the State Law School, the Supreme Court, the PAP first instance Courts, several JPs, clerks, and prosecutors. The team also met with international counterparts, including the French and Canadian Cooperation, representatives from various UN agencies, particularly the UNDP.

In addition to the consultations made with local stakeholders, the work of Ministry of Justice in developing the Cadre Cooperation Interimaire (CCI) was taken into account in the preparation of this plan, as was the fact that the project needs to establish a solid foundation upon which future USAID rule of law programs might be developed.

From November 20-23, 2004 Rule of Law specialist Christie Warren and Jan Stromsen (NCSC), came to Haiti to help refine the workplan. On Wednesday November 23 the NCSC team presented an overview of the workplan to USAID/Haiti/JDG. The final version was provided as scheduled on December 1. Likewise, presentation of the workplan was made to the Minister of Justice and his Cabinet members on Tuesday December 14.

Four guiding principles have governed design of the workplan. First, priority would be given to improvement of the administration of justice, particularly court management. Second, activities would support formal institutions of training, whether at the level of the State Law School or the Magistrate's School.<sup>1</sup> Third, all training and technical assistance would be consistent with Haitian law and field realities, and must comprise a strategy for on site follow-up. Finally, the program would build upon the very substantial efforts carried out by civil society organizations that have been evolving over the past year to support justice reform in Haiti, and engage with these organizations constructively to develop internal capacity and ensuring sustainability of reforms.

- Work Plan Components

Therefore, with significant input from stakeholders, and providing clear linkage to the CCI, NCSC has identified four components for this workplan, around which strategies and activities will be developed in order to generate the greatest impact in the shortest period of time. All activities will be carried out with the support of the Ministry of Justice.

## **1. Enhance Organization and Operation of Justice of the Peace Courts**

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<sup>1</sup> The MOJ is presently redrafting the statutes and rethinking the role of the Magistrate's School that is anticipated to be fully operational again in the coming months. Thus, at this time, NCSC cannot specify the exact nature of the assistance until the Ministry determines the program of training.

NCSC's assessment team and in-country staff have met with JPs in several different locations and asked them to identify the most critical problems in their courts. Four common themes emerged from discussions with the JPs: the need for improved case management; judicious application of basic rules of ethics; the need for improved skills in dealing with mediation and conciliation (required for all JP level cases); and the need to bring general order to the JP courts.

During the first year of implementation, it will be impossible to address all four topics. Thus NCSC recommends focusing on the area that will bring the greatest impact during the shortest period of time, that is, on improved and more orderly operations within selected pilot JP courts in key jurisdictions: PAP, Petit-Goave and St-Marc

NCSC will help the JPs establish standard rules of practice for the Courts. The set of rules will include guidelines for the judiciary as well as extra-judicial work, especially court management and finance.

Initially, additional on-the-job training and mentoring will be provided by NCSC staff and consultants, who will visit courts to ensure that methods of applying the new rules are clearly understood and that their application in fact results in improved operations.

Over time, responsibility for follow-up guidance and mentoring will be provided by a "groupe dynamique," whose members will be elected from among the JPs themselves to serve for two to three months.

## *2. Strengthening Local Capacity to Manage and Administer the Courts and the Parquets*

Strengthening the management and administrative capacities of judges, prosecutors, and court personnel has been identified as a priority by both the MOJ and the judges themselves. At the current time, judges, prosecutors, and clerks lack sufficient professional training to manage courts and parquets efficiently and effectively. Standards and criteria relating to administrative systems and processes are inadequate or absent altogether; statistical and other objective data on which to base management and financial decisions are unreliable; and uniformity of practice between courts and Parquets is also lacking.

To address these needs, NCSC will convene two three-day training sessions for deans, prosecutors, and chief clerks from the entire country to discuss a variety of issues relating to managing and administering courts and parquets.

The results from these training sessions will lay the groundwork for further development and training within the State Law School and the Magistrate's School, and NCSC staff will provide copies of work products emerging from the meetings.

## *3. Conduct Field Workshops to Facilitate Uniform Application of the Laws of Haiti*

During consultations with members of Judges' Associations, concerns were voiced about disparities in the interpretation and application of many laws in courts throughout the country. Judges, prosecutors, and other court employees expressed frustration that past classroom training sessions have not responded to the realities of the current situation in the courts, and at times have not even complied with Haitian law. In many courts throughout Haiti, judges are still not familiar with the law and do not even have copies of the codes they need to do their work.

Counterparts also state that a lack of communication between courts, as well as among judicial sector participants, including prosecutors and police, leads to inconsistent application of laws

during many court proceedings, including the investigation and prosecution of criminal offenses. Sentencing in similar criminal cases is also often grossly inconsistent throughout the country.

To facilitate the efforts of the Judges' Associations to obtain broad consensus as to realistic uniform interpretation and application of the laws of Haiti, a series of regional and workshops and national conference will be held. Documents and materials produced during the national conference will ultimately be provided to the Judges' Associations for use during follow-up activities in the field and will also be provided to training institutions, including the State Law School and the Magistrate's School, for possible inclusion in future courses and training programs.

#### **4. Grants to Selected Specific Groups**

Four grants will be provided to various legal organizations and institutions in order to strengthen and broaden the previous three project components, and further ensure their sustainability. In each case, NCSC will work with individual grantees to develop methodology and corresponding activities to achieve stated goals and objectives.

##### **-State Law School**

Most efforts to provide long lasting solutions to recurrent problems of court management in Haiti, such as pretrial detention hearings, have failed to achieve desired and sustainable results. Internationals specialists often are not in tune with the Haitian reality, while Haitians lack technical expertise in this field. Developing local skills and capacities in court management is therefore necessary. An NCSC court management and administration specialist will provide two introductory courses on court management at the State Law School within the master degree program in "Etudes Judiciaires". Topics to be covered will correlate directly with those described under component II above, specifically: basic principles of developing a needs-based budget, preparing financial records and reports of expenditures, case filing and tracking, and staffing and managing human resources.

##### **-Magistrates School**

The MOJ is presently redrafting the statutes and rethinking the role of the Magistrate's School that is anticipated to be again fully operational in the coming months. Thus, for the time being, NCSC cannot specify the exact nature of the assistance until the program of training has been determined by the Ministry. NCSC proposes to reserve \$10,000 to support current re-engineering efforts or/and the designated programs of the School of Magistracy, after consultation with the Ministry of Justice and USAID.

##### **-Judges' Association (ANAMAH)**

Over the past few years, civil society organizations, especially in the field of justice, have emerged as a strong force for change and reform of the justice system. Originally driven by the desire for an independent judiciary, these organizations are now turning their attention to new challenges, and are motivated to develop their own institutional capacity. The work of these organizations has also propelled judges to band together "tet kole" to find common solutions to their problems. As a result, the Judges' Associations propose opening a "Maison des Magistrats," where all magistrates could meet regularly to discuss problems and issues, hold conferences and training programs, and use a legal reference library (or conduct on-line research). Such a building could also serve as an office for the Judges' Associations.

In the event that "La Maison des Magistrats" is granted by the State to judges, NCSC proposes to provide up to \$10,000 in grant assistance to permit purchase of equipment for general office use, as well as research tools for the library.

-APFEC/Cour de Cassation

As an important step towards an independent judiciary, the Government of Haiti recently agreed to provide budgetary autonomy to the Supreme Court. The budget is to be prepared by the Supreme Court itself and presented directly to the Minister of Finance.

Under this new organizational structure (organigram), the clerk of the court will act as a financial manager in the preparation and management of the Court's budget. His new responsibilities will require technical skills and abilities that he and his staff do not currently possess. Developing an efficient and transparent management system for the Court will be critical to maintain this new independent status, and it will serve as an important model for all other courts in Haiti.

NCSC proposes to assist the Court clerk to set up a finance unit (UGCC) within the Court and create the necessary systems and procedures to develop a needs-based budget, present it to the Legislature and, and administer the Court's budget in a professional and transparent manner. To maximize the impact of the project, the Clerk of the PAP Court of Appeal and First Instance Court will also be invited to take part in some of the activities.

- *Calendar of Activities*

Along with the workplan, NCSC has developed a comprehensive calendar of activities to ensure that activities will be carried out efficiently and in a timely matter.

- *First activities: Workshop on standard rules of practice with PAP JPs*

On Wednesday December 22, 2004 we conducted our first activity, "Convene meetings on standard rules of practice with JPs from selected courts in PAP." Justices of the Peace, clerks, the Dean of the PAP first Instance Courts, and a key member of the MOJ cabinet all attended this very dynamic event.

All 30 participants agree on the necessity to move forward with the establishment of such rules in order to bring efficiency and transparency in the courts' activities. This is particularly true with regard to budgetary and finance matters. As an example, we found out that only one court out of the ten represented is preparing a monthly budget and has a bank account.

The emphasis of the discussion focused on finding solutions and, thus we ended up with a series of recommendations on all aspect related to the functioning of the court: rules for judiciary including addressing extra-judicial work. These recommendations will be gathered in a draft document prepared by our consultant, Monferrier Dorval, a key cabinet member at the MOJ. On January 26, two representatives of each courts (a clerk and a JP) will meet to study the draft prepared by the consultant. Then, on February 2, a general meeting will be held to adopt the final set of rules. As explained above, following the implementation phase, a mechanism will then be put in place to ensure that methods of applying the new rules are clearly understood and that their application in fact results in improved operations.

### **C. DIFFICULTIES ENCOUNTERED AND ACTIONS TAKEN TO RESOLVE THEM**

Despite the political turmoil and several security incidents during the report period, the work and the planning of the team were not disrupted. The decision to locate the office in a safe and dynamic part of the town is certainly helping in that regard. However, work in the provinces has yet to take place because of the significant instability in those areas.

Despite tensions others have encountered in working with the MOJ, we have not encountered any difficulties working with the MOJ. We have adopted a collaborative, open, and transparent approach to avoid any problems.