

PD-ABK-476

ADMINISTRATION OF JUSTICE

USAID/HAITI

7/8/93

| | | |
|---------|---|----|
| I. | EXECUTIVE SUMMARY | 1 |
| | A. Overview | 1 |
| | B. The Project | 2 |
| II. | BACKGROUND AND RATIONALE | 5 |
| | A. Historical Perspective | 5 |
| | B. Overview of The Haitian Judiciary | 7 |
| | C. Problem Statement and Relationship to AID Strategy | 12 |
| | D. Relationship to Other Mission Projects | 13 |
| | E. AID Experience with Justice Activities | 14 |
| | F. Donor Coordination | 15 |
| III. | PROJECT DESCRIPTION | 15 |
| | A. Baseline Considerations | 15 |
| | B. Project Description | 17 |
| | C. Areas of Project Concentration | 21 |
| | D. Sustainability | 23 |
| IV. | IMPLEMENTATION PLAN | 24 |
| | A. Authorization and Obligation Arrangements | 24 |
| | B. Roles and Responsibilities | 25 |
| | C. Procurement Plan | 27 |
| | D. Monitoring and Evaluation | 28 |
| V. | COST ESTIMATE AND FINANCING PLAN | 29 |
| | A. Methods of Implementation | 29 |
| | B. Cost Estimate and Financial Plan | 29 |
| | C. Audit | 31 |
| VI. | PROGRESS BENCHMARKS, CONDITIONS PRECEDENT, COVENANTS, WAIVERS AND STATUS OF NEGOTIATIONS | 31 |
| | A. Progress Benchmarks | 32 |
| | B. Covenants | 33 |
| | C. Waivers | 33 |
| | D. Negotiation Issues | 33 |
| Annexes | | 34 |
| | A. Logical Framework | |
| | B. NPD Approval Cable | |
| | C. Section 614(a) Determination | |
| | D. Initial Environmental Examination | |
| | E. Statutory Checklist | |
| | F. Napoleonic Code and Civil Law | |
| | G. Selected Bibliography | |

-a-

PROJECT AUTHORIZATION

NAME OF COUNTRY: The Republic of Haiti
TITLE OF PROJECT: Administration of Justice
NUMBER OF PROJECT: 521-0238

1. Pursuant to Chapter 1, Part 1 of the Foreign Assistance Act of 1961, as amended, I hereby authorize the Administration of Justice Project (the "Project") for Haiti. The Project involves planned obligations not-to-exceed Eighteen Million Dollars (\$18,000,000) in grant funds over a five-year period from the date of initial authorization, subject to the availability of funds in accordance with the A.I.D. OYB/allotment process, to help in financing foreign exchange and local currency costs of the project. The planned life of the project is approximately five years from the date of authorization, or until September 30, 1998.

2. The goal of the project is to promote more effective and enduring democratic institutions that respond to the needs of the Haitian people, reinforce the rule of law, and foster respect for human rights. The purpose of the project is to improve the effectiveness, accessibility, and transparency of the Haitian justice system.

3. Goods and services financed by A.I.D. under the Project shall have their source and origin in A.I.D. Geographic Code 941, except as A.I.D. may otherwise agree in writing.

4. The project agreements, which may be negotiated and executed by the officers to whom such authority is delegated in accordance with A.I.D. regulations and Delegations of Authority, shall be subject to such terms and conditional as A.I.D. may deem appropriate.

W. Stacy Rhodes
A-AA/LAC

Date

b

Clearances:

| | | | |
|---------------------|-------|--------------|-------|
| RLA:EDragon | _____ | date: | _____ |
| PDI:GSpence | _____ | date: | _____ |
| PO:CHorning | _____ | date: | _____ |
| GDO:KPoe | _____ | date: | _____ |
| CO:RBurkhart | _____ | date: | _____ |
| OD:GBowers | _____ | date: | _____ |

LIST OF ABBREVIATIONS AND ACRONYMS

ABA American Bar Association
ADF America's Development Foundation
ADR Alternative Dispute Resolution
AID/W Agency for International Development, Washington, D.C.
AIFLD American Institute for Free Labor Development
AOJ Administration of Justice Project
Cps Conditions Precedent
DEP Democracy Enhancement Project (521-0236)
DOJ U.S. Department of Justice
EEC European Economic Community
ESF Economic Support Fund
FSN Foreign Service National (employee)
FY Fiscal Year
Gd. Haitian Gourde (official monetary unit)
GDO General Development Office, USAID/Haiti
GOH Government of Haiti (constitutional GOH)
ICITAP International Criminal Investigative Training Assistance Program, U.S. Department of Justice
LAC Bureau for Latin American and Caribbean Affairs, AID/W
LDC Less Developed Country
LOP Life of Project
MOJ Ministry of Justice
NGOs Non-governmental organizations
NICEL National Institute for Citizen Education in the Law
OAS Organization of American States
OPDAT Office of Professional Development and Training, U.S. Department of Justice
OYB Operational Year Budget
PACD Project Activity Completion Date
PAR Policy and Administrative Reform Project (521-0222)
PDI The Office of Project Development and Implementation, USAID/Haiti
PIC Project Implementation Committee, USAID
PIU Project Implementation Unit, General Development Office
PSC Personal Services Contractor
PVOs Private Voluntary Organizations
UN United Nations
UNDP United Nations Development Programme
USDH U.S. Direct Hire (employee)
USAID U.S. Agency for International Development, Haiti
U.S.G. United States Government



I. EXECUTIVE SUMMARY

A. Overview

Since the *coup d'etat* of September 1991, the international community has worked for the return of constitutional rule in Haiti. Recent intense negotiations to achieve this goal by the United Nations and the Organization of American States have raised hopes that a political resolution may be near.

The United States and other donor countries are working closely together to find ways to support the anticipated transition to democratic rule and strengthen key institutions which will be vital for sustaining democracy. One of the major areas for attention is the justice system. Prior to the coup, some reform efforts were initiated by the Aristide Administration to put in place a system for providing fair, equitable justice, based on the rule of law. This effort was aborted by the coup. Since then, military and political cronyism have dominated the system, with the military providing police services throughout the country, staffing positions (e.g. the rural section chiefs, who prosecute and adjudicate criminal and civil cases), and influencing appointments of judges and the decisions made by them.

Haiti has little experience with either justice or democracy. Its military, police, justice system and democratic institutions are highly centralized, extractive, abusive of basic citizen rights and accountable only to the individual strong men who run them. For democracy to succeed, legal, military and democratic institutions must be made responsive to the needs of the people, who in turn, must demand accountability for performance and resources.

A major topic of the current negotiations, and one which will demand high priority after political resolution, is the immunization of the justice system from military and political interference. This process would begin with separation of the police from the military and placing the police under the authority and control of civilian government. Concurrently, major changes in civilian justice institutions would demand and use police services for investigation and adjudication of cases and provide reliable, fair, accessible justice to all citizens.

The successful separation and professional growth of the Haitian police can be sustained only if a well-functioning justice system is in place. A reliable justice system is not only important to the basic security of the people, but also is key to economic development. At all levels of society, people must feel confident that the law will protect them from arbitrary treatment. Only then will they be willing to take the economic risks

necessary to create the jobs and income necessary to the future well-being of the country.

Haiti's institutions and processes for administering justice are extremely weak, and fail to generate confidence in the general population. The country's numerous regimes generally have been governments of men, not laws. As a result, popular expectations for justice are virtually non-existent, and its application is frequently haphazard and corrupt.

Assistance provided to the police, justice system, and the various democratic institutions must be carefully timed and balanced, and delivered with a good understanding of the unique features of Haitian history, culture and social organization. Improving police efficiency without appropriate, concomitant increases in accountability, responsiveness, and civilian control is more likely to harm basic human rights than improve them.

B. The Project

The five year, \$18 million, Administration of Justice project is will be the principal U.S. Government vehicle for providing assistance to the constitutional Government of Haiti in strengthening its justice system. The goal of this project is to establish more effective and enduring democratic institutions that are able to respond to the needs of the Haitian people, reinforce the rule of law, and foster respect for human rights. The purpose of the project is to improve the effectiveness, accessibility, and accountability of the Haitian justice system. An effective system is one that is operational and capable of meeting the requirements of the Haitian constitution and law. An accessible system is one that is not only physically available to all citizens, but also does not inhibit or discourage use due to economic, social, or political barriers. An accountable system is one that is held responsible to the public for the quality and integrity of its performance.

It is broadly understood and accepted by all parties that one of the highest priority tasks to be undertaken following the restoration of democracy is the separation of the police force from the Haitian military and the placement of that police force under civilian control. This process must begin within the first weeks of the restored democracy. To facilitate this action, the International Criminal Training and Assistance Program (ICITAP) of the U.S. Department of Justice will provide aid, under a separately funded and administered activity, to facilitate the separation process and to help professionalize the newly established police force.

Assistance to the justice system must parallel that provided to the police. Strengthening the effectiveness of the police in the absence of a functional justice system could, in fact, have a

dangerously negative impact. Without a functioning justice system, the police force would not only have the responsibility of enforcing laws, but would also be at risk of filling the vacuum and taking on the role of administering justice. Such a scenario could result in a serious threat to the sustainability of democracy and a positive human rights environment.

Because of the pre-crisis resolution environment, neither this Administration of Justice project nor the ICITAP program could be negotiated with the Haitian Government. Other than President Aristide himself, it is impossible at this time to know which persons will have justice sector responsibilities once democracy is restored.

The pre-project absence of a negotiating partner for USAID has resulted in a rather unorthodox design structure for this AOJ project. Many of the details of the activities to be undertaken by the project cannot be specified until a legitimate Government of Haiti (GOH) is in place to negotiate and approve such actions. Accordingly, this paper includes illustrative descriptions of the probable types of activities needed to address the problems of the Haitian justice system.

The project is designed to provide the U.S. with a responsive, flexible capacity to begin strengthening the justice system. It includes two phases:

- Immediate response: PHASE I begins at political resolution and will last until such time as the preparations for implementation of Phase II are completed. It is estimated that Phase I will last from six to nine months, and will help to establish the necessary environment to facilitate the separation of the police from the military and enable the Ministry of Justice (MOJ) to undertake its new responsibilities. It will also provide other short-term, low-cost inputs (e.g. equipment, training) to help the justice system respond to the new environment. During this short initial phase, negotiations will be completed with the GOH to tighten the focus of the remaining project.
- Longer-term assistance needs: Phase II will mark the beginning of full-scale, more focused project implementation in the areas identified during Phase I.

Conditions necessary to enter Phase II of the project would include: 1) agreement with the GOH on the 2-3 priority focus areas for long-term assistance under the project, and 2) agreement and coordination with other interested donors concerning their involvement in the justice sector.

No assistance under this project would begin prior to the internationally-acknowledged resolution of Haiti's political crisis (i.e. the restoration of a democratic government).

II. BACKGROUND AND RATIONALE

A. Historical Perspective

Claimed for Spain by Christopher Columbus in 1492, the present territory of Haiti was transferred to France in 1697 under terms of the Ryswick Treaty. Large-scale, slave-based sugar and coffee plantations rapidly made Haiti France's richest colony. In 1779, French revolutionary ideology began to influence the colony with settlers adopting a "revolutionary constitution" and slaves revolting against settlers. The new revolutionary French government sent a commissioner to study the situation. This resulted in a decision, against the will of colonists, to end slavery. Many former slaves became members of the French colonial army. When Spain and England invaded the island in 1793, the essentially native army headed by former slave Toussaint L'Ouverture drove out the invaders. When L'Ouverture subsequently declared himself Governor General-for-life, Napoleon Bonaparte sought to regain control. After a series of battles, and despite the capture of L'Ouverture, France lost the war, and independence was declared in 1804. Jean-Jacques Dessalines, another former slave who replaced Toussaint L'Ouverture as head of the revolutionary army, was enthroned as Emperor Jacques I. Haiti became the second country in the western hemisphere to gain independence and remains the only example in recorded history of a successful slave rebellion. This path to independence established the army as the predominant and most prestigious national institution. Despite the colonial experience, a strong link was maintained with France due in significant part to its role as the source of liberation ideology. This paved the way for adoption of French legal institutions.

The Haitian constitution of 1806 created the three independent branches of government, executive, legislative and judicial. This structure has been maintained to this day, although successive constitutions altered the relative balance of power among the three branches.

The Napoleonic Code¹, established in France in 1804 to implement the revolutionary ideals of liberty, equality, and fraternity, was adopted in Haiti in 1825 with a few minor changes. Related French legal codes, covering commercial and criminal law and corresponding institutional structures and procedures, were adopted shortly afterwards. The Napoleonic Code established freedom and equality of all citizens, separation of church and state, inviolability of private property and freedom to contract. It replaced earlier laws which allocated differential rights and

¹ For an understanding of how the Napoleonic Code differs from Common Law see Annex G to this paper.

obligations based on an aristocratic system of social class. Its introduction in Haiti marked the beginning of Romano-Germanic or civil law influence in the Western Hemisphere. The Napoleonic Code was also adopted in the Dominican Republic where it is still in force. In the mid-19th century, Bolivia, Chile, Colombia, Ecuador, Uruguay and Argentina established codes which followed closely the principles of the Napoleonic Code and borrowed much of its substance. In Louisiana, the only civil law state in the U.S., the civil code of 1825 (revised in 1870 and still in force) is also closely connected to the Napoleonic Code.

Unfortunately, the ideals embodied in the legal code of Haiti did not mesh well with the power structure that developed after independence. Officers of the revolutionary army were rewarded with lands confiscated from colonists. These newly wealthy former slaves, along with previously freed slaves and mulattos, became part of a new social class which assumed the economic and social role of the former colonists. Until 1915, politics was dominated by successive conflicts for power between various regional elites. The revolutionary army disintegrated into a variety of more or less autonomous groups which supported the political and economic interests of particular landowning generals or urban politicians. Recruitment was a haphazard system of forced induction managed by regional commanders and *Chefs de Section* (Section Chiefs, or the Haitian equivalent of a sheriff). Recruits from the peasant class essentially functioned as mercenaries for the elite. Thus, the army did not function, as in some ex-colonies, as the guarantor of freedom and order, nor did it fall under the control of one political faction. The large-scale illiteracy and lack of experience of former slaves with participatory processes and institutions made it easy for the elite to apply selectively the laws that suited them. Law was what the most powerful local elite said it was, and a system of legal apartheid was established where formal justice was largely limited to the elite class.

Under the moral imperative of restoring order after years of increasingly bloody factional fighting, concerns for the security of the approaches to the just-opened Panama Canal and the fear of increasing German influence in the Haitian economy (German interests controlled the wholesale and retail trade in Haiti), the U.S. military intervened, and Haiti became a U.S. protectorate from 1915 until 1934. The U.S. Marine Corps disarmed and disbanded the existing army and related armed groups and assumed the role of civil defense for the country. It went on to create an entirely new Haitian armed force which was charged with policing the population, developing roads and other infrastructure and providing primary education in rural areas. The decision to withdraw in 1934 was spurred by increasing anti-American protests in Haiti and as a goodwill gesture in support of the U.S. Good Neighbor policy toward Latin America. The Haitian

armed forces, structured for a police function under U.S. occupation, assumed the role of national defense. The current structure of the Haitian military remains essentially unchanged since that period. What did change is that the new, modern and unified military institution became a key instrument for establishing and maintaining political power. Except for the Duvalier period, between 1957 and 1986, the military has played a greater role in installing and maintaining various presidents in office than any civilian institution. Seeking a counterbalance to this military influence, Francois Duvalier created a parallel para-military force known as the *Tontons Macoutes*. The brutal violence of the *Macoutes* combined with Duvalier's manipulation of factions within the military kept the Duvalier father-and-son dynasty in place for nearly three decades. Had the military not been a unified institution, it is likely that Francois Duvalier would not have been able to monopolize and neutralize competing political interests. The Duvalier period is one of the few in Haiti's history where power was concentrated in the hands of one dominant faction rather than being shared by successive arrangements of interlocking cliques.

In February 1991, following the first free-and-fair elections in the country's history, Jean Bertrand Aristide was named President of Haiti. This election was the culmination of a post-Duvalier political movement aimed at establishing democracy and the rule of law. President Aristide remained in office only eight months before he was overthrown by the military. Since the military coup of September 1991, various Haitian political organizations, both in and out of the country, with considerable support from the international community, have sought ways and means to pursue the goal of re-establishing democracy in Haiti. All agree that establishing a functioning system of justice is essential to that effort.

B. Overview of The Haitian Judiciary

The Haitian legal community considers the underlying structure of the justice system to be generally workable as a basis for effective justice. The civil law system, with less extensive adjudication procedures, and separation of judicial interpretation from law-making functions, may arguably be better suited for a resource poor country such as Haiti than a common law system. Decades of neglect, however, have left many laws outdated or not properly codified. Updating codes, such as the code of criminal procedures and various enabling legislation, are clearly needed. These legislative improvements are minor compared to the gaping institutional problems. These problems relate to the independence of the judicial branch, weak institutional capacity, and lack of access by the majority of the population.

The Creole proverb "Law is paper; bayonet is steel" aptly summarizes the current situation. By any measure, Haitians do not enjoy the fundamental rights and freedoms proclaimed in the Constitution and legal codes. Military and political interference and intimidation, combined with poorly trained and motivated personnel, no enforcement capability and a serious lack of resources, renders the judiciary incapable of protecting rights or punishing violators. This has led to recurrent waves of mob violence and vigilante actions in which people take justice into their own hands.

1. Lack of Judicial Independence

The lack of judicial independence stems principally from formal and informal military and executive branch control and influence over judicial institutions. Although the military is constitutionally part of the executive branch and under Presidential authority, its power and activism since 1934 have made it a virtual fourth branch of government. While control of the police function and prisons is perhaps the most visible aspect of military control, generals also exercise considerable influence in the selection and appointment of judges and the decisions they make. A distinct police corps of about 1,000 men exists in Port-au-Prince. Throughout the rest of the country, there is no visible distinction between military personnel who fulfill police functions and those with national defense responsibilities. In rural areas, which includes 75 percent of the population, the military have total control over governance and many basic judicial functions thanks to the Section Chief system which dates back to the 19th century.

For administrative purposes, rural Haiti is divided into 565 *sections communales*, while smaller cities and towns are designated as communes. The Section Chiefs are appointed by the military and rule their territory with the help of officially sanctioned *adjoints* (deputies) and unofficial groups of armed assistants said to number as many as one hundred per section. These Section Chiefs are virtually the sole representatives of the state. They collect taxes and market fees, provide official legal documents, mediate land and inheritance disputes and regulate land and livestock sales. The Section Chiefs' immediate superior is the commander of the military subdistrict. The Section Chief is officially paid about Gd.600 a month², or about the same as a teacher. His deputies and "assistants", who in practice pay the Chef for their positions, receive no salary, and are thus entirely dependent for their income on what they can extract from the population. They also typically provide a portion of their

² Throughout this paper, the Haitian Gourde (Gd.) has an equivalent value of approximately US\$.07, or US\$1=Gd.15.

income to the Section Chief, and if experience of a similar nature in other countries is a reliable guide, a portion of that likely goes up the chain of command. During the Duvalier years, the Section Chiefs and their deputies, while technically members of the army, were frequently also *de facto* members of the *Tontons Macoutes* militia. After Jean-Claude Duvalier's downfall in 1986, conditions in the rural sections changed only marginally. The *Macoutes* were officially disbanded, but the Section Chiefs, now totally under the control of the Army, often took on former *Macoutes* as additional deputies.

Under the 1987 Constitution, the civilian courts have jurisdiction over cases involving alleged abuses committed by military personnel against civilians. It is commonly recognized, however, that intimidation and intervention by the military, combined with the general weakness of the judicial system, make it impossible for a Haitian whose rights are violated to seek relief in civilian courts. The vast majority of judges and court officials are not selected for their knowledge or ability to apply the law, and they receive no training after they have been appointed. Most have depended on support from political and military patronage or military officers to obtain and keep their government appointments. Not surprisingly, judges are reluctant to take actions contrary to the interests of their political or military patrons. The existing criminal procedures code is complex when it comes to establishing responsibility for investigating, prosecuting and adjudicating criminal violations. This complexity further obscures the assignment of clear responsibility.

The civilian side of the executive branch has been as interventionist in the functioning of the judiciary and abusive of legal limits as the military. The President appoints judges for terms fixed by the Constitution. Many Haitian leaders, including Aristide, have ignored the un-removability principle; they have dismissed judges at will and without due cause³. Executive branch abuse of law and justice peaked during the brutal Duvalier years when the judiciary was deliberately rendered powerless and under the president's control. All governments since 1986 have continued efforts to influence the judicial branch via appointments, illegal removal of judges and by exerting political influence on the judicial process. No government

³ It should be noted that Article 295 of the 1987 Constitution gave power to the first elected President for six months to proceed unilaterally to make changes "...deemed necessary in the civil service and in the judiciary." President Aristide's action was an apparent attempt at removing undesirable elements left over from previous administrations.

since the Magloire Regime in 1949 has made serious efforts to strengthen the judicial branch.

In reaction, the 1987 Constitution sought to increase protection of individual liberties by adding several new provisions. No person is to be prosecuted, arrested or detained unless pursuant to law; no one may be detained without a warrant unless caught in the act of committing a crime; no arrest may occur between 6:00 p.m. and 6:00 a.m.; and, no one may be kept under arrest for more than 48 hours unless he has been brought before a judge who rules on the legality of the arrest and detention. These provisions have not been implemented. Arbitrary arrests and detention, often for extortion purposes, remain among the most common abuse of human rights. A huge backlog of cases means that prisoners frequently spend long periods, sometimes years, in jail waiting for a court date.

The penal system, like the police, is totally controlled by the military. There is no system of detainee registry, and wardens are typically unaware of who their prisoners are. Health conditions are abysmal, and prisoners have been found in various states of nutritional deprivation. It is not unusual to find children among the prison population. In addition to recognized prisons, the military detains prisoners in various barracks and other facilities which are not known as prisons. The number of such facilities and the number of prisoners they contain are difficult to establish.

2. Weaknesses in the Court System

The court system and procedures suffer from a number of major deficiencies. Many of the weaknesses are a direct result of chronically inadequate budgetary allocations for the judicial branch and MOJ. The absence of adequate physical facilities and equipment is a fundamental problem affecting the functioning and efficiency of all courts. Sites for many local courts were destroyed during uprisings against the Duvalier regime. Remaining courthouses are decaying structures that are indistinguishable from the surrounding small stores and workshops. Simple equipment, such as telephones, typewriters, file cabinets and photocopying machines, is typically absent. Standard forms and documentation are often unavailable, making basic functions such as maintenance of civil and land registries impossible. Legal reference texts are a rarity. The civil code is treated as a rare book and can be found in locked compartments in Port-au-Prince bookstores. The MOJ and most courts have no law library.

Recruitment of qualified, reliable staff is greatly hampered by the inadequacy of salaries. The typical civil court judge makes Gd.2,500 a month; a judge at the lowest level trial court receives Gd.1,000 monthly. This compares to monthly salaries of Gd.15,000 paid to members of the National Assembly. Most judges

take on extra jobs despite a constitutional prohibition. Too often, judges decide a case not on its merits, but on the basis of the parties' relative political importance, ability or willingness to pay. As long as salaries remain low, corruption will continue to undermine the integrity of the entire legal system. Furthermore, the total number of established positions is inadequate to meet the needs of the country, and the selection of judges and other staff is done without regard for technical expertise or experience.

3. Barriers to Public Access

Most of the limited resources of the justice system are geared to address the needs of an elite urban, French-speaking clientele. Approximately 85 percent of the population speaks only Creole, and as many as 77 percent are illiterate -- to what degree rural judges fall within these categories is not known. As the language of justice is French and decisions are based on written laws and rendered in written documentation, most rural peasants are unaware of their rights under the law and are effectively precluded from using the formal system.

Traditional pre-colonial methods of conflict resolution found in other societies never existed in Haiti. Nevertheless, a number of informal systems of dispute-resolution have developed. These, however, tend to be limited to conflicts within extended families. Cases which cannot be resolved within the family may be referred to a locally respected or powerful individual such as the Section Chiefs; but individuals will go to extreme lengths to avoid involvement with the authorities. The most difficult and intractable legal disputes in rural areas typically involve land ownership which can only be resolved through the formal system. The lack of a functioning registry system to record births and land ownership, as well as a basic ignorance of constitutional rights, has been used by the elite since the beginning of Haitian independence to expropriate land from the less powerful and accentuate the economic polarization of the society.

4. Recent Justice System Reform Efforts

The fall of the Duvalier regime unleashed a groundswell of support for the establishment of democracy and judicial reform. The high point of this period for justice was the adoption of a new constitution in 1987. Aimed at addressing key weaknesses in the justice system, this constitution requires shifting of the police and prison functions from the military to the MOJ, as well as establishing police and judicial training academies under the MOJ. Another major constitutional change is the abolition of the Section Chiefs in favor of locally-elected councils charged with supervising an Agent Rural who is responsible for maintaining order. President Aristide began the implementation of these

provisions by dismissing the Section Chiefs, who were later reinstated by the *de facto* government. Although contrary to the un-removability provision of the Constitution, he also dismissed 60 of 450 judges, some on corruption charges, though many of these were also reinstated by the *de facto* government. A detailed plan for transferring the police to the MOJ was also developed though never formally approved.

President Aristide's Presidential Commission has drafted plans for judicial improvements for eventual discussion with prospective donors. The Commission's report indicates a focus on the following areas: reform of the legal code reform, reform and strengthening of the judiciary, the establishment of a civilian police force, prison reform, improvement of court facilities, and the assurance of human rights and political freedom.

The key issue in any future effort to strengthen the judiciary is the degree and sustainability of political will to see the process through. Resistance to change has already been expressed by the suspension of elections by the military in 1987 and the 1991 coup. It is unlikely that this resistance will diminish when elites who benefit from the *status quo* watch traditional mechanisms of power decline, as legal rights become more enforceable and some power shifts to previously disenfranchised groups. Similarly, reformists will be tempted to take extra-constitutional measures, if available, to preempt conservative resistance. The risks of an incomplete and unbalanced effort include the possibility that the newly re-organized and strengthened police could become a new tool for repression.

C. Problem Statement and Relationship to AID Strategy

1. Problem Statement

Haiti's current justice system is inadequate to sustain democratic processes. The procedures for administering justice fail to generate confidence in government and the rule of law. Progress in Haitian society, including protection of basic human rights, equitable economic growth and long-term political stability, cannot take place without a functioning, competent and responsive justice system. At all levels of society, people must feel confident that laws serve as protection from unpredictable, arbitrary treatment. Only then will they be willing to take the economic risks necessary to make investments which create the jobs and income necessary for national progress. This project will seek to promote and encourage the institutional, legal and policy changes necessary to establish an equitable, transparent and effective system of justice in Haiti.

2. Relationship to LAC Bureau and Mission Strategy

Since the 1986 departure of Jean-Claude Duvalier, the primary objective of U.S. foreign policy in Haiti has been the establishment of a stable democratic government which respects and protects the basic rights of the people and provides a positive environment for economic growth and development. USAID's primary country objective is to promote more effective and enduring democratic institutions that respond to the needs of the Haitian people, reinforce the rule of law, and foster respect for human rights. This objective directly supports the Latin American and Caribbean (LAC) Bureau's strategic objective to promote democracy and the development of democratic institutions. By strengthening Haiti's justice system, this project will directly support U.S.G. objectives.

D. Relationship to Other Mission Projects

The USAID project portfolio includes the following two projects whose complementarity to this project is particularly relevant.

Democracy Enhancement Project (DEP) FY 1992-FY 1995: This \$24.45 million project (\$11 million in dollars and \$13.45 million in local currency) was developed to expand and strengthen constitutional and autonomous private institutions which facilitate broad-based participation in democratic decision-making and respect for the constitution. The project includes support to (1) the legislature; (2) the electoral system; (3) civil society (i.e., citizen interest groups, including human rights, labor, the press and women's groups); (4) political parties; and (5) local government bodies. With the post-coup suspension of AID's government-to-government program in Haiti, only the civil society component remains active. Two activities are currently under implementation:

- America's Development Foundation (ADF): ADF has established an in-country unit which provides grants to Haitian NGOs to support their efforts to restore democracy in Haiti. Up to \$5 million in Development Assistance and local currency are available for these grants.
- American Institute for Free Labor Development (AIFLD): AIFLD supports the institutional development of the four largest labor unions, which are based in Port-au-Prince and have affiliates throughout the country.

Together the DEP and AOJ projects will promote support for the rule of law, with particular emphasis on protection of individual liberties. DEP represents a very flexible and responsive instrument which can provide technical assistance, equipment and training on relatively short notice within the five broad categories noted earlier.

Policy and Administrative Reform Project (PAR) FY 1992-FY 1996: This \$13 million project (\$9 million in dollars and \$4 million in local currency) will assist the GOH to (a) formulate and implement appropriate economic policies, and (b) strengthen institutions, procedures and processes to facilitate balanced, sustainable economic growth. It foresees providing technical assistance, training, and limited commodities to a number of public sector organizations, primarily in the executive branch of the government, focusing on two themes: economic policy analysis and administrative strengthening. Upon resolution of the current constitutional crisis, the project could assist a number of analyses and activities on topics which relate to justice administration in Haiti. This could include: civil service reform, methods of financing capital and recurrent costs of justice institutions, land tenure and land reform, customs administration improvements and strengthening of the *Cour Supérieure des Comptes et du Contentieux Administratif*, the rough, but largely ineffectual, equivalent of the U.S. General Accounting Office.

E. AID Experience with Justice Activities

Since 1978, AID has sought to strengthen various aspects of the justice system in Haiti. A project was developed in 1978 to provide legal assistance for the poor through the Port-au-Prince Bar Association. The project was never implemented due to resistance from the Duvalier regime. In 1986, approximately \$200,000 in local currency was provided to the MOJ to finance materials necessary for the civil registry. In 1988, experts from the University of Wisconsin's Land Tenure Center undertook a review of land, tree and water legislation and administration. A subsequent proposal to support a special land tribunal in St. Marc, near the rich farmlands of the Artibonite Valley, did not receive funding due to the difficult political environment of the time. In 1990-91, under the Development of Democracy Project, grant funding was provided to non-governmental organizations for work in human rights education and monitoring (*Centre Haitien des Droits et Libertés - CHADEL*, and the Haitian Lawyers Committee), paralegal training (*Amicale des Juristes*), and a pilot-level training of rural judicial personnel (*Institut International d'Haiti de la Recherche et du Développement - IHRED*)⁴. *Amicale des Juristes*, the primary *pro bono* legal assistance agency in the country, currently receives DEP funding for its core program and a special legal aid program for people arrested without due cause. A pilot program for a national network of paralegals is also being established. Another recent DEP-funded grant with the Ecumenical Center for Human Rights supports a program of human rights monitoring and protection and will establish a voluntary

⁴ AID assistance is no longer provided to either CHADEL or IHRED.

prison monitoring program at the national level for 15 rural prisons.

In Latin America, AID is currently implementing significant judicial reform programs in several countries which, like Haiti, adopted the Napoleonic Code. These include a \$13 million project in Bolivia where poverty levels, literacy rates and language barriers are close to those of Haiti; a \$36 million project in Colombia; and smaller but influential programs in Uruguay and Chile. A new project is also planned to start this year in Ecuador. In addition to these Napoleonic Code countries, AID judicial reform programs are active in several Central American countries whose legal traditions are derived from Spanish models.

F. Donor Coordination

In anticipation of potential opportunities for major activities to strengthen the justice system once a restored constitutional government is in place, the UNDP has organized a democracy/justice donor coordination group to exchange information and coordinate various potential assistance efforts. In this group, USAID, France, Canada, the United Nations Development Program (UNDP), the European Economic Community (EEC) and others are examining specific complementary activities which could be initiated during the period which would coincide with Phase II of the USAID AOJ project. The needs of the sector are great, and other donors may have particular comparative advantages in providing certain types of assistance. USAID will work with these other donors to identify areas of interest and mutual advantage in order to encourage as wide an involvement as possible. Possible areas for other activities include: revamping the prison system, building court facilities and other major infrastructure, upgrading court libraries, revision and updating of legal codes, improving the professional status and remuneration of judges, etc., will be the subject of discussions with other interested donors to ascertain their potential for financing such activities.

III. PROJECT DESCRIPTION

A. Baseline Considerations

Since the end of the Duvalier dictatorship in 1986, the primary objective of U.S. policy in Haiti has been the establishment of a stable constitutional democracy and the equitable rule of law. Once this is achieved, the highest USG policy goal in Haiti will be to help ensure that this situation endures. The achievement of this goal is *sine qua non* to the attainment of any other social and economic development objectives in Haiti.

It is broadly understood, however, that the highest priority task to be undertaken following the restoration of democracy is the separation from the Haitian military of a civilian-controlled police force. This process must begin within the first weeks of the restored democracy. Under a separately-funded and administered activity, ICITAP has proposed an assistance program to facilitate this separation process and to help professionalize the newly-established police force.

Assistance to strengthen the effectiveness of the police in the absence of a functional justice system could, however, have a negative impact. That is, the police force would not only have the responsibility of enforcing laws, but there is a very real risk that it could also take on the role of administering justice. Such a scenario would result in a serious threat to Haiti's democratic stability. It is therefore particularly important that there be parallel efforts to the strengthening of the police and the justice system.

Based on interviews with Haitian jurists, there appears to be general agreement that the underlying structure of Haiti's justice system does not present a major problem to be addressed under the project. The larger concern is with the functioning of the existing system and the actual application of the law. The justice system is not independent; judges are not knowledgeable of the law; court management is non-existent; Haitians are not aware of their basic rights; and corruption is widespread. Therefore, the primary objective of the project -- increasing the effectiveness of the justice system -- will be achieved by actions within three areas of project concentration: the courts, strengthening the administrative capacity of the MOJ and increasing public access to the legal system.

Experience in administration of justice efforts elsewhere has shown that sustainability of institutional and policy reform programs of this type is only feasible where there is both political will on the part of decision-makers and ownership of the process by the individuals and organizations responsible for implementation. It is a critical assumption of this project that a restored, democratic Haitian Government will be fully committed to the establishment of an efficient, fair, and equitable justice system. While political will is clearly expected after restoration of the constitutional government, the current political crisis has precluded the level of consultation and dialogue necessary to identify the specific elements of a comprehensive program to strengthen the justice system. Neither this Administration of Justice project nor the proposed ICITAP program could be negotiated with Haitian Government counterparts prior to authorization.

In cases such as Haiti, where virtually the entire justice system is dysfunctional, the tendency is to attempt to solve all

problems simultaneously. Experience with other AOJ projects has shown this is a recipe for failure. Initial project activities will therefore be limited to those likely to support a negotiated settlement, will contribute most directly to the attainment of project objectives, and which fall within USAID's capacity to manage.

USAID will also explore cross-cutting policy dialogue issues as appropriate with both the GOH and other donors throughout the project period, but will not necessarily provide project funds to address these issues. Topics could include the establishment of minimum budgetary resources for the judiciary; instituting fast-track legal procedures to streamline the justice system while adhering to due process; examining human rights issues such as penal reform; and institutionalizing judicial improvements through increased contact, dialogue, and support to Haitian judicial leaders, heads of Bar associations and lawyers, among others.

B. Project Description

1. Critical Assumptions

The Administration of Justice Project is designed to provide the United States with a rapid and flexible response capacity to begin to strengthen the justice system immediately after political settlement. The project supports immediate and long-term efforts to increase judicial independence and to improve the efficiency of the Haitian justice system in a coordinated and logical manner.

Critical assumptions of the AOJ design include:

- The constitutional Government of Haiti will be fully committed to the equitable rule of law and respect for human rights.
- The restored constitutional GOH will want assistance to strengthen its police and justice system and will seek and accept such assistance from the United States.
- The USG must be ready to assist the GOH in the separation of the police from the military and strengthening of the justice system immediately following political resolution. Accordingly, a project mechanism must be in place when resolution occurs.
- The absence of prompt assistance to the police and the justice system could jeopardize Haiti's long-term future as a democracy.

- Discussions with the GOH cannot take place regarding project assistance until there is a constitutional government in office.
- Other bilateral and international donors are also interested in providing assistance to strengthen the Haitian justice system, but will not be able to provide such assistance for at least six to twelve months following the restoration of constitutional government. Such assistance will be desired by the GOH.
- There are some areas where it will be clear that assistance will be needed and desirable; for example, basic training for judges and technical assistance to the Ministry of Justice in the areas of administration and management.
- The underlying structure of the Haitian justice system is less of an urgent concern than deficiencies in the application of the law.
- USAID will consider itself the donor-of-last-resort for AOJ activities; that is, USAID will defer to other donors who (with the concurrence of the GOH) are interested and have a comparative advantage in undertaking specific AOJ activities.
- No project activity will begin implementation before there is an internationally-recognized resolution of Haiti's political crisis.

2. Project Goal and Purpose

The goal of this project is to establish more effective and enduring democratic institutions that are able to respond to the needs of the Haitian people, reinforce the rule of law, and foster respect for human rights.

The purpose of the project is to improve the effectiveness, accessibility, and accountability of the Haitian justice system. An effective system is one that is operational and capable of meeting the requirements of the Haitian constitution and law. An accessible system is one that is not only physically available to all citizens, but also does not inhibit or discourage use due to economic, social, or political barriers. An accountable system is one that is held responsible to the public for the quality and integrity of its performance.

3. Project Phasing

Given the above assumptions, a phased project design has been developed. This design permits a politically-responsive

mechanism to operate during the months immediately following the restoration of constitutional government (Phase I), and subsequent implementation of focussed, longer-term activities (Phase II):

- Immediate response: Phase I begins at political resolution and will last until such time as the preparations for implementation of Phase II are completed. It is estimated that Phase I will last from six to nine months, and will emphasize helping to establish the necessary environment to facilitate the separation of the police from the military and enable the Ministry of Justice (MOJ) to undertake its new responsibilities. It will also provide other short-term, low cost inputs (e.g. equipment, training) to help the justice system respond to the new environment. During this brief initial phase, negotiations on tighter focusing of the remaining project will be completed with the GOH.
- Longer-term assistance needs: Phase II will mark the beginning of full-scale, more focused project implementation in the areas identified during Phase I.

Conditions necessary to enter Phase II of the project would include: 1) agreement with the GOH on the 2-3 priority focus areas for long term assistance, and 2) agreement and coordination with other interested donors concerning their involvement in the justice sector.

a. Phase I

It will be important during Phase I for the United States to demonstrate immediate, unambiguous support for the restoration of constitutional government and improvement in the equitable application of justice. Early discussions will take place with the newly-established GOH. Based on the results of ongoing pre-project assessments, the GOH will be given for its consideration a list of possible immediate-impact activities, such as the provision of short-term training, technical assistance and equipment. The GOH will indicate which activities should begin immediately. Such activities would most likely be directed at helping to facilitate the administrative and legal aspects of separating the police from the military, providing aid and encouragement to the largely dormant justice system, and demonstrating tangible U.S. support for the firm establishment of democracy and justice in Haiti. When areas of focus are determined in Phase I, specific benchmarks and measures to verify their achievement will be established for the remainder of the project.

Phase I assistance would include:

- assistance in forming the legislative/legal/administrative basis for the separation of the police from the military;
- technical assistance to better enable the MOJ to assume its new roles and promote accountability; and
- short-term, low-cost inputs (e.g., equipment and training) to help meet the immediate transition requirements of the justice system to increase public confidence in, and access to, justice.

In addition to the above immediate impact activities, through additional assessment and negotiation with the GOH, agreement will be reached on a tighter, more focused group of activities to be carried out during the remaining four plus years of the project (Phase II). In making this determination with the GOH, coordinated efforts with other donors will identify areas on which they will focus.

Although not directly funded under this project, ICITAP will implement complementary activities in support of increased judicial independence. For example, ICITAP proposes to assist in police training which could include the development of operations and investigative procedures and manuals to guide a police investigation. Such manuals would provide a guide for newly independent and presently discredited police to more competently manage the criminal investigation process.

Before Phase II begins, the GOH will sign a Project Agreement with USAID detailing focused, mutually-agreed upon objectives of the project. The GOH will designate one of its senior officials who will have the authority to make decisions regarding the project on behalf of the GOH.

b. Phase II

Encompassing the start-up of the major project activities fully defined earlier, Phase II will focus on providing long-term assistance to enable justice institutions to adjust to and manage the transition to civilian control. This phase also will include assistance to initiate consensus building efforts interrupted by the coup, which will be needed to continue longer-term strengthening of the justice system.

Phase II will begin full-scale, more focused project implementation in the areas identified during Phase I. However, this phase will also retain a degree of flexibility to respond to limited-scale, high priority shorter-term needs. Implementation under Phase II will pursue three main areas of concentration: the court system; administrative assistance to the MOJ; and increased public access to the legal system.

Illustrative activities under Phase II could include support for MOJ structural, administrative and procedural improvements; expanded in-service training for judges and prosecutors; improvements in court management; alternative dispute resolution mechanisms and justice advocacy.

C. Areas of Project Concentration

The project seeks to address long-term critical needs in three main areas of concentration:

- the court system;
- the administrative capacity of the Ministry of Justice;
- public access to the legal system.

CONCENTRATION ONE: THE COURT SYSTEM

This area of concentration recognizes a need to restore and strengthen the courts as the basic instrument of justice in Haiti, now and for the future. The courts need to have certain powers and responsibilities, distinct from the legislative and executive branches of government. It is often said that the quality of the bench reflects the quality of the bar, for which continuing legal education and training of judges is a fundamental part. The challenge to restoring Haiti's court system is to marshal the intellectual and material resources to fulfill the promise of a state which promotes and defends the rule of law. With this as background, illustrative AOJ activities in this area include:

- **Training**

Training for Haitian judges will be a key ingredient of any program leading to a strengthened judiciary. Judges' training needs at several levels of the judiciary should be evaluated in the early months of the project prior to the development of comprehensive training curricula and teaching methodology. Actual short-term training of judges at several levels will commence early in the project to complement the police training provided by ICITAP. Other in-service training under this component may involve court and MOJ officials.

- **Improve Court Management**

The project will enhance the effectiveness of the judicial process by instituting procedures to improve judicial efficiency and accessibility. Such procedures may include the use of weighted case assignments, case tracking systems, centralized notification of cases, and improved court exhibits and records management.

- **Making Courts Operational**

Many courts are not operational due to a lack of the most basic resources. In circumstances where other donor funding would not be available, this project could finance the procurement of desks, files, reference books, office supplies and related equipment to expedite the process of putting the courts into a reasonable management mode and made operational. Infrastructure needs, such as small repairs to masonry and wood, electrical repairs, and painting could be addressed under the proposed Job Creation component of the Enhancing Food Security Project.

- **Enhancing the Effectiveness of the Judiciary**

Critical needs of the judiciary and the legal basis for undertaking necessary changes in the justice system will need to be identified. Pending agreement with the GOH, support for implementation of new or modified court organizational structures would follow. Such organizational and procedural changes may, in many cases, involve less the development of new mechanisms than the adoption and application of non-implemented measures described in the Constitution of 1987. An example is the *Conseil Supérieur de la Magistrature*, which is presently mandated by law and could be activated in such a way as to provide independent oversight and administration of courts and discipline of judges. The *Conseil* could be a key ingredient for operating an independent judiciary.

CONCENTRATION TWO: ADMINISTRATIVE CAPACITY OF THE MOJ

This area of concentration will be addressed by supporting the process of separating the police and the prison system from the Haitian military, as well as helping to improve coordination among police, prosecutors and judges. Illustrative activities addressing this objective could include:

- **Technical Assistance for the Ministry of Justice**

Improved administrative procedures could be introduced that would help the MOJ to manage its new responsibilities for administering the police and prisons. These could include a revamping of the personnel system, a review of training requirements, the installation of better communication and feedback systems, and the introduction of computer-based systems to assist in the tracking of documents, decisions

and information management. Technical assistance could help develop immediate (the first six-nine months following a political settlement) and longer-term recommendations for changes in the Ministry's organizational structure to enable it to efficiently and effectively administer the two new systems.

CONCENTRATION THREE: PUBLIC ACCESS TO THE LEGAL SYSTEM

Illustrative activities to help establish public confidence in and access to the justice system include:

- **Justice Advocacy**

USAID experience in other countries has demonstrated that justice advocacy activities can mobilize public opinion to produce positive changes in the workings of a justice system. Examples include civic information programs on justice and judicial procedures, and a "court watch" system where the conduct of judges and the general management of the courts could be reviewed and reported. Subjects could include how an independent court system works, how civil disputes may be addressed, and information on basic individual rights under a democratic system -- subjects largely outside the Haitian experience.

- **Alternative Dispute Resolution**

Assistance could be provided in the development of mechanisms to promote conciliation, improvements in criminal procedure, and arbitration in order to increase the accessibility of the public either to government sanctioned forums of justice or to more informal, non-governmental means of conflict resolution. Access to alternative forms of conflict resolution must be appropriate to conditions in Haiti and be particularly suited to the country's culture and low literacy rate.

- **Other Activities**

Other complementary activities that could be considered include development of a public defender program and a street law activity.

D. Sustainability

Legal systems and efforts to strengthen the Haitian justice system can only be sustained if they are genuinely supported -- politically, financially and institutionally -- by a favorable political environment. Equally important to political will is ownership of the process to improve the structure and functioning

of this system by the individuals and organizations responsible for implementing them. Efforts will be made to strengthen institutions responsible for implementing improvements in judicial procedures and processes so as to sustain impact beyond the period of the project. In addition, the GOH may develop the legal foundations needed to sustain an effective and accountable judiciary. Further, policy dialogue would continue to emphasize the importance of a strong, independent justice system.

IV. IMPLEMENTATION PLAN

A. Authorization and Obligation Arrangements

The Administration of Justice Project will be authorized for a term of five years and a budget of \$18 million. Implementation of the project will not begin until after an internationally-recognized political resolution of Haiti's ongoing political crisis. The largest portion of project funds will be obligated pursuant to a Project Agreement with the restored constitutional government. This Agreement will describe the essential components of the project and define the nature of the relationship and responsibilities of the participating counterpart organizations. Smaller grants or cooperative agreements, may be negotiated directly by USAID through a variety of institutional arrangements. The obligation and expenditure of funds are authorized pursuant to a Section 614(a) Presidential Determination (Annex C) which waives a variety of legal constraints to the provision of this assistance.

Expenditures during Phase I will be for:

- mobilization of personnel, equipment and other inputs to rapidly initiate selected project activities soon after political resolution; and
- selected technical assistance, planning, immediate impact and assessment activities as described in Section III. B.3., "Project Phases", of this project paper.

The Project Agreement with the GOH will not obligate funds for ICITAP's proposed program for Haiti. These funds would be outside of both the Grant Agreement and the authorized LOP funding level.

B. Roles and Responsibilities

1. GOH

The Ministry of Justice will be primarily responsible for efforts to strengthen the GOH justice system. A number of ministries could take leading roles for different aspects of the program. The resolution of this issue, along with the designation by the GOH of a senior-level person responsible for the project, will be a priority objective during the early implementation phase.

2. U.S.G.

The project will receive input from four distinct USG groups.

a. Interagency Democracy/AOJ Committee

The U.S. Embassy Democracy/AOJ Committee, under the direction of the Ambassador, will provide the principal forum for establishing overall U.S.G. policies and strategies relevant to improving the judiciary. The Democracy/AOJ Committee includes representatives from the Political Office of the Embassy, the Military Attache, ICITAP, United States Information Service, and USAID.

The principal objective of this committee will be to ensure close coordination among all U.S.G. entities involved with project implementation. This will be essential to ensure policy consistency and compatibility of action in democracy, AOJ, and ICITAP activities.

b. USAID Project Implementation Committee (PIC)

Overall management control of the project will be the responsibility of the USAID PIC in close coordination with the Interagency Democracy/AOJ Committee. Because of the nature of the project, the PIC will take a particularly active role during the early period of implementation. The PIC will be chaired by the USAID Director or his designee and will include representatives from the General Development Office (GDO), Project Development and Implementation Office (PDI), Program Office, Controller's Office, ICITAP and the Political Section of the Embassy. The PIC will plan to meet monthly, play a direct role in reviewing all proposed project activities and provide advice and direction to the Project Implementation Unit (see below).

c. USAID Project Implementation Unit (PIU)

The PIU within the GDO Office will manage day-to-day project activities and be responsible for developing or reviewing detailed implementation plans with the PIC, or as appropriate, the Democracy/AOJ Committee. The PIU will be headed by a USDH Project Officer and be supported by a Personal Services Contractor (PSC) and a part-time FSN program assistant. AOJ staffing needs will be reviewed as the needs of project implementation dictate.

d. Other U.S.G. Entities

Although not directly a part of this project, it is important that ICITAP activities be fully integrated into the overall conceptual framework of the project to assure that they are consistent with, and supportive of, activities to improve justice and judicial process. Accordingly, the proposed ICITAP activities should be fully reviewed and coordinated in advance by the Democracy/AOJ Committee. This coordination will continue to be required during the course of project implementation. Experience has shown that best and most sustainable results are obtained when ICITAP strategy and workplans are worked out in cooperation with the other involved U.S. agencies in advance of project approval and prior to commencement of any ICITAP activity in country. Such coordination is necessary to ensure that police training proceeds at a pace and scale consistent and complementary with other training and development efforts to improve the justice system.

3. Personal Services Contractor (PSC)

Given current demands on Mission staff, it is anticipated that a PSC will be recruited to support overall project implementation and put into place project monitoring and performance tracking systems. This person will work in the GDO and will be responsible for overseeing project implementation including identifying and scheduling technical assistance advisors, preparing implementation and monitoring reports, analyzing completed assessments and proposing actions to address implementation problems, etc.

4. NGOs and PVOs

Grants will be negotiated with indigenous and U.S. NGOs and PVOs to provide services related to specific assessments and evaluations undertaken under the project. NGOs/PVOs may also participate directly in training services envisioned under the project and play a role in consensus building and advocacy efforts.

5. Universities and Other Contractors

Universities and short-term contractors may also provide services related to the conduct of workshops and seminars, short-term training, the completion and analyses of needed assessments, non-federal audit services and in the monitoring and evaluation of the project.

C. Procurement Plan

The GDO will administer project funds through contracts, cooperative agreements, grants, and buy-ins to AID centrally-administered contracts or similar instruments. Funds will be administered according to AID procurement standards and procedures. Competitive procedures will be followed wherever possible.

Assessments preparatory to longer-term project activities could be undertaken via a buy-in with the National Center for State Courts. The American Bar Association (ABA) may also provide some services under the project. The ABA has created a special task force to study means by which their organization could support efforts to strengthen the justice system in Haiti. Possible areas of ABA participation include promoting the independence of the judiciary; assisting the drafting and implementing of laws and regulations to separate the police from the military; and helping to create a regional forum to discuss and debate issues involving the role and responsibilities of the Haitian judiciary under the constitution. Another possible source of services is the National Institute for Citizen Education in the Law (NICEL). NICEL has carried out public legal education programs in places as diverse as Southern Africa, Europe, and South America. Finally, the Department of Justice's Office of Professional Development and Training (OPDAT) is assisting AID-financed AOJ projects elsewhere in the hemisphere and is capable of providing both long- and short-term technical assistance to support in-service training programs for prosecutors, similar to those contemplated under this project.

Training needs will be coordinated by GDO with the AID/W Office of International Training, where appropriate. Some training may be provided under the central training project, REACH.

Commodities will be procured through contracts or other procurement instruments. While many of the items will be sourced from the U.S., reference books and a limited amount of office supplies may be procured from 941 countries. Some short-term training and technical assistance services will likely be procured from third countries, and may require appropriate waivers.

D. Monitoring and Evaluation

1. Monitoring System

Monitoring will be carried out at the project management level by the GDO. The type of data to be collected, reports to be developed and structure of the monitoring and evaluation systems to be employed under the project will be developed by the GDO, PDI and project contractor to ensure that systems are in place to gather, analyze, report, and distribute project data related to implementation progress. Periodic data on implementation progress would be received from the GOH, NGOS/PVOs and ICITAP. Benchmarks described during the PP design process are necessarily illustrative and will be refined by the Mission during project implementation.

2. Evaluation and Reviews

One short-term internal progress review will be held during the first year of implementation. This review will involve a two- to three-week level of effort by AID, STATE, and ICITAP staff, possibly supplemented by outside specialists such as from a non-ICITAP branch of the DOJ. The review will gauge project progress and provide the data needed to determine whether project implementation should proceed into Phase II. Once a decision to proceed is made, project implementation plans will be adjusted based on the review's findings.

An in-depth, external evaluation may be undertaken approximately 30 months into project implementation. This evaluation would assess progress toward achieving project objectives. It would also revalidate the design feasibility of Phase II activities and the need for continuing, expanding, re-directing or curtailing training programs as well as pilot programs begun under the project. The quality of technical assistance and project management may also be assessed as well as the performance of counterpart institutions.

A final external evaluation will be undertaken approximately six months prior to the Project Activity Completion Date (PACD) to assess overall performance in meeting project objectives. Special attention will be paid to the project's performance in contributing to the creation of sustainable democratic institutions in the Haitian justice system.

V. COST ESTIMATE AND FINANCING PLAN

A. Methods of Implementation

USAID will execute contracts, grants, cooperative agreements, buy-ins and purchase orders, as appropriate, to implement the project. Methods of payments will be determined on an agreement-by-agreement basis prior to issuance. The financial management capability of each recipient will be determined prior to the execution of any agreement.

B. Cost Estimate and Financial Plan

The project will provide \$18 million in Economic Support Funds over the five-year life of the project, subject to the availability of funds and to the commitment of the GOH to enter into Phase II (see discussion on Conditions and Covenants).

The \$18 million cost of the project is realistic, given the current state of the justice system in Haiti. The in-depth assessments and policy dialogue process scheduled to take place during Phase I will identify a select number of Phase II assistance activities which will have significant cost implications for the project. Institutional strengthening of the Justice Ministry, for example, will require significant investments in technical assistance, training and commodities. Inputs of a similar scale and variety will be required to effectively address the needs of Haiti's virtually inoperative court system. At least one preliminary review of justice sector requirements has indicated a priority need to establish a training academy for judges and magistrates, with consequent cost implications for physical plant, equipment, faculty training and operational support. The project budget identified herein is necessarily preliminary; but it has been established at a relatively high level in order to 1) accommodate key initiatives which may emerge from Phase I deliberations; and 2) fully alert AID/W to the full cost burden which the project may represent on USG assistance resources.

Table I
Illustrative Project Budget Summary
By Project Element
(US\$000's)

| <u>Project Elements</u> | <u>Estimated Cost</u> |
|-------------------------|-----------------------|
| TECHNICAL ASSISTANCE | \$7,450 |
| ASSESSMENTS | 1,500 |
| COMMODITIES | 2,750 |
| TRAINING | 3,900 |
| PROJECT MANAGEMENT* | 1,200 |
| MONITORING/EVALUATION | 1,000 |
| AUDIT | 200 |
| TOTAL | \$18,000 |

* Includes costs of a Personal Services Contractor

Table II
Planned Annual Obligations By Project Element
(US\$000's)

| <u>Project Elements</u> | <u>Fiscal Year</u> | | | | |
|-------------------------|--------------------|----------------|----------------|----------------|-------------|
| | <u>1993</u> | <u>1994</u> | <u>1995</u> | <u>1996</u> | <u>1997</u> |
| TECHNICAL ASSISTANCE | \$1,600 | \$3,000 | \$2,250 | \$ 600 | -0- |
| ASSESSMENTS | 450 | 400 | 450 | 200 | -0- |
| COMMODITIES | 100 | 750 | 1,250 | 650 | -0- |
| TRAINING | 550 | 1,500 | 950 | 900 | -0- |
| PROJECT MANAGEMENT | 350 | 450 | 400 | -0- | -0- |
| MONITORING/EVALUATION | 100 | 250 | 450 | -0- | 200 |
| AUDIT | 25 | 25 | 50 | -0- | 100 |
| TOTALS | \$3,175* | \$6,375 | \$5,800 | \$2,350 | 300 |

* Given the delays in resolution of the current political crisis, the actual date of obligation for a portion of these funds may be delayed until FY 94.

Table III
Methods of Implementation and Financing
By Project Element
(US\$000's)

| <u>Project Elements</u> | <u>Method of Implementation</u> | <u>Method of Financing</u> | <u>Amount</u> |
|---------------------------|--|----------------------------|-----------------|
| TECHNICAL ASSISTANCE | AID Grant/Contract/ Coop Agreement/ Buy-in | Direct Payment | \$7,450 |
| ASSESSMENTS | AID Grant/Contract | Direct Payment | 1,500 |
| COMMODITIES | AID Contract | Direct Payment | 2,750 |
| TRAINING | AID Grant/Buy-in | Direct Payment | 3,900 |
| PROJECT MANAGEMENT | AID Contract | Direct Payment | 1,200 |
| MONITORING/ EVALUATION | AID Contract | Direct Payment | 1,000 |
| AUDIT | AID Contract | Direct Payment | 200 |
| TOTALS | | | \$18,000 |

As Haiti is recognized as an Relatively Least Developed Country (RLDC), the GOH will not be required to contribute a minimum of 25 percent to overall project costs. A Section 110(a) waiver will be sought. Efforts, however, will be made to ensure that the GOH commits resources, principally in terms of "in-kind" contributions, to meet some local cost needs of the project such as salaries of personnel involved with assessments, research, training, and limited transportation needs on occasion.

C. Audit

Audits of the dollar-funded and local currency counterpart funds of the project will be made in accordance with U.S. Government standards and supervised by RIG. Funds for pre-award surveys, audits and financial assessments will be budgeted in each individual agreement. Public accounting firms will be used for auditing local grants and cooperative agreements. The terms of reference for audits and the audit firm(s) selected will be subject to RIG approval. USAID will assure the quality of the audits and compliance with the aforementioned standards.

VI. PROGRESS BENCHMARKS, CONDITIONS PRECEDENT, COVENANTS, WAIVERS AND STATUS OF NEGOTIATIONS

Because of the political situation of Haiti at the time of the preparation of this project, it is not possible to fully describe conditions precedent to disbursement and covenants. It

is, however, practical and necessary to identify progress benchmarks which need to be evident before project implementation begins or proceeds from Phase I to Phase II.

A. Progress Benchmarks

The following are progress benchmarks which are critical:

For Phase I Implementation:

- **The Return of Constitutional Government**

The restoration of constitutional government would presumably enable the UN and the OAS to reverse resolutions prohibiting assistance to the GOH; and would enable the U.S.G. to lift Section 513 prohibitions imposed as a consequence of the September 1991 coup.

Prior to Phase II Implementation:

- **GOH Commitment**

This would take various forms: (1) signature of a Project Agreement with the constitutional GOH; (2) a covenant that the GOH will endeavor to carry-out the constitutional mandate to strengthen the justice system and remove military influence; (3) the naming of a senior-level individual, with appropriate powers to act as overall counterpart for project implementation; (4) the submission of a national budget which addresses the needs of the MOJ to strengthen the justice system; and (5) the identification of "in-kind" counterpart contributions.

- **Project Coordination**

The need for all parties to coordinate activities, plans, schedules, assessments and results so that scarce resources are expended expeditiously and wisely. This includes a clear determination of other donor interest in, and commitment to, support for the specific needs of the Haitian justice system.

- **Establish/Negotiate Phase II Priorities**

Drawing on information gathered/analyzed during Phase I, identify, prioritize and agree with appropriate GOH counterparts on focussed project activities to be implemented during Phase II and establish suitable progress output indicators.

B. Covenants

Along with the general covenants covering taxation, refunds, publicity, communications, termination and representatives, it is expected that the Parties will agree on the importance of periodic consultations in order to discuss progress under the Project, and agree to meet whenever either Party considers consultation with the other necessary with respect to the project. Also, project covenants may require that:

- The GOH will review, advise, and approve of matters of joint undertaking related to the development of institutionalized training, procedural and administrative improvements of courts and the MOJ, and other matters critical to meeting project objectives.
- The Parties agree to undertake evaluations as part of the project. Except as the Parties otherwise agree in writing, the project will include, during the implementation of the Project and at one or more points thereafter:
 - ✓ Evaluation of progress toward attainment of the objectives of the Project;
 - ✓ Identification and evaluation of problem areas or constraints which may inhibit such attainment;
 - ✓ Assessment of how such information may be used to help overcome such problems; and
 - ✓ Evaluation, to the degree feasible, of the overall development impact of the Project.

C. Waivers

As stated earlier, a Section 614(a) Presidential Determination required prior to any expenditure of funds under the project was signed on June 25, 1993 (Annex C). As Haiti is recognized as an RLDC a Section 110(a) waiver of the 25 percent contribution to overall project costs will be sought. Other waivers of contracting and procurement procedures may be sought as implementation needs arise.

D. Negotiation Issues

The above possible conditions and covenants have not been discussed with nor agreed upon by the GOH for obvious reasons. During Project Agreement negotiations, USAID will incorporate into the Agreement appropriate language to cover their concerns, if any.

Annexes

- A. Logical Framework**
- B. NPD Approval Cable**
- C. Section 614(a) Determination**
- D. Initial Environmental Examination**
- E. Statutory Checklist**
- F. Napoleonic Code and Civil Law**
- G. Selected Bibliography**

A. LOGICAL FRAMEWORK

LOGICAL FRAMEWORK MATRIX
ADMINISTRATION OF JUSTICE PROJECT (521-0238)

| NARRATIVE SUMMARY | GOAL INDICATORS | MEANS OF VERIFICATION | IMPORTANT ASSUMPTIONS |
|--|---|---|--|
| <p>Goal:</p> <p>To establish more effective and enduring democratic institutions that are able to respond to the needs of the Haitian people, reinforce the rule of law, and foster respect for human rights.</p> | <p>The provisions of the 1987 Constitution are progressively implemented, with specific attention to basic rights and duties of the citizen, civilian control of the military and separation of the police from the military.</p> | <p>USAID and Embassy monitoring; mid-term and final evaluations; media reports.</p> | <p>An internationally recognized resolution of Haiti's political crisis results in the restoration of democratic constitutional government.</p> <p>The constitutional government will be fully committed to the equitable rule of law, respect for human rights, and the reform of the Haitian judicial system.</p> <p>The restored constitutional GOH will seek assistance to strengthen its justice system and will seek and accept such assistance from the U.S.</p> <p>An AOJ project of the kind being recommended will make a difference to the durability and effectiveness of the country's evolving democracy.</p> <p>The Haitian Parliament will pass the enabling legislation needed to execute the transfer of the police from military to civilian control.</p> |

| | | | |
|--|---|---|--|
| <p>Purpose:</p> <p>To improve the effectiveness, accessibility, and accountability of the Haitian justice system.</p> | <p>End of Project Status:</p> <ol style="list-style-type: none"> 1. The Ministry of Justice and the Haitian judiciary will have increased their capacity and effectiveness in carrying out its functions in accordance with the 1987 Constitution. 2. An increased number of Haitian citizens will have obtained access to Haiti's legal system. 3. Public confidence is increased in a Haitian justice system that is more responsive and accountable to all Haitians. 4. Haitian's political and basic human rights are respected. | <p>Means of Verification:</p> <p>USAID and Embassy monitoring; UNDP liaison; media reports; public opinion surveys.</p> <p>Reports by internationally recognized human rights groups such as Americas Watch and Amnesty International.</p> <p>Project reports; mid-term and final evaluations.</p> | <p>Important Assumptions:</p> <p>The underlying structure of the Haitian justice system is less of an urgent concern than deficiencies in the application of the law.</p> <p>Other donors participate in the program to improve the Haitian justice system and provide adequate resources to accomplish this objective.</p> <p>The GOH provides the financial and human resources which the courts and the MOJ will require to continue functions beyond cessation of donor assistance.</p> |
|--|---|---|--|

| Outputs: | Indicators: | Means of Verification: | Important Assumptions: |
|--|--|---|---|
| <p>1. Improved court system and procedures more effectively serve the public.</p> <p>2. Strengthened Ministry of Justice</p> <p>3. Increased public access to the justice system</p> | <p>1. a. Judicial officials at all levels are better trained.</p> <p>b. Court systems are better staffed, facilities are improved and equipped, and procedures are improved.</p> <p>2. a. An increase of resources is provided to judicial system (funds, staff, equipment, administrative support, etc.)</p> <p>b. The MOJ develops the capacity to monitor and supervise police and prison administration.</p> <p>c. Justice system hiring, promotion and appointments are based on merit.</p> <p>3. a. A public defender system is established and functioning throughout the country.</p> <p>b. A recognized alternative dispute resolution mechanism in use in lieu of the formal justice system.</p> <p>c. One NGO judicial watch group monitors judicial accountability and promotes judicial access.</p> <p>d. Arrest and detention procedures follow due process, as outlined in the 1987 Constitution.</p> | <p>The GOH increases budget resources to the judicial system.</p> <p>USAID, Embassy monitoring, UNDP liaison, media reports.</p> <p>Reports by human rights groups such as Amnesty International.</p> <p>Project reports.</p> | <p>The GOH will demonstrate its commitment to judicial reform by finding resources to adequately budget for judicial functions.</p> <p>The Judiciary is receptive to U.S. assistance, and such assistance is effective within a multi-donor assistance model.</p> <p>ICITAP program of assistance to professionalize the police proceeds more or less on schedule and at a parallel rate with improvements in the justice system.</p> <p>Sufficient minimally qualified people are available and willing to assume positions in the justice system.</p> |

| Inputs: | Level of Inputs: | Means of Verification: | Important Assumptions: |
|--|---|--|---|
| 1. Technical Assistance (U.S. and local) 2. Assessments 3. Commodities 4. Training 5. Monitoring and Evaluations 6. Project Management 7. Audits | 1. \$7.45 million 2. \$1.50 million 3. \$2.75 million 4. \$3.90 million 5. \$1.00 million 6. \$1.20 million 7. \$.20 million \$18.0 million | USAID project records. Audits of GOH and con- tractor/grantee expendi- tures. | Conditions precedent to project implementation are met in a timely man- ner. Funds are available as planned. |
| | | | |

B. MPD APPROVAL CABLE

MPD

C. SECTION 614 (a) DETERMINATION

D. INITIAL ENVIRONMENTAL EXAMINATION

INITIAL ENVIRONMENTAL EXAMINATION

A. PROJECT LOCATION: Haiti
B. PROJECT TITLE: Administration Of Justice (AOJ) (521-023)
C. TOTAL AID FUNDING: \$18.0 million
D. LIFE OF PROJECT: FY 1993 -FY 1998

E. IEE PREPARED BY: _____
Michelet Fontaine
Mission Environmental Officer

F. THRESHOLD DECISION RECOMMENDED
Categorical Exclusion
per Reg. 16, Section 216.2

G. CONCURRENCE: _____
Carol Horning
Program Office, for USAID/Haiti
Project Committee

H. MISSION DIRECTOR'S DECISION:
Approved: _____
Disapproved: _____
Date: _____

I. LAC ENVIRONMENTAL OFFICER'S DECISION:
Approved: _____
Disapproved: _____
Date: _____

ADMINISTRATION OF JUSTICE (521-0238)

(IEE - Categorical Exclusion)

A. PROJECT DESCRIPTION

This \$18 million project is designed to promote more effective and enduring democratic institutions that respond to the needs of the Haitian people, reinforce the rule of law, and foster respect for human rights. The project will address this goal by improving the effectiveness, accessibility, and transparency of the Haitian justice system.

B. PROJECT ACTIVITIES

This project will provide support to Haiti's Administration of Justice by:

- * **Increasing Judicial Independence and Efficiency.** This will promote a judiciary branch independent from the executive, and with improved structure, procedures, training and fair application of the law;
- * **Improving Criminal Justice and Legal Process.** This will be done through separation of the police from the Haitian military, training and improved operational procedures, and Alternative Dispute Resolution (ADR) mechanisms.

Activities will be implemented into two phases. Phase I will aim at demonstrating USG support for the judicial reform process. It will comprise coordination, policy dialogue, applied technical assistance, and close coordination with the constitutional GOH on judicial reform matters. Full scale implementation of project activities begins in Phase II, or approximately six to nine months after project approval and after Phase I work described above has been completed.

Initial obligation of project funds (Phase I) will likely be through an AID contract to cover some studies and the provision of technical assistance. Obligation of funds to the GOH will take place following political resolution and upon satisfactory compliance by the GOH to the set of judicial reform benchmark which would have been developed during Phase I.

C. RECOMMENDED THRESHOLD DECISION

In accordance with Sections 216.1 and 216.2 of AID Regulation 16, a categorical exclusion is recommended, and no further environmental examination is deemed necessary.

E. STATUTORY CHECKLIST

F. NAPOLEONIC CODE AND CIVIL LAW

NAPOLEONIC CODE AND CIVIL LAW

The Napoleonic Code has been the main influence in the 19th century civil codes of most countries of continental Europe and Latin America.

The demand for codification and, indeed, codification itself preceded the Napoleonic era. Roman law governed the south of France, whereas in the northern provinces, including Paris, a custom-based law had developed, based largely on feudal Frankish and Germanic institutions. Marriage and family life were almost exclusively within the control of the Roman Catholic church and governed by canon law. In addition, starting in the 16th century a growing number of matters were governed by royal decrees and ordinances and by a case law developed within specific, local units. Each area had its own collection of customs, and despite efforts in the 16th and 17th centuries to organize and codify each of these local customary laws, there had been little success at national unification.

After the French revolution, codification became not only possible but almost necessary. Powerful control groups, such as the manors and the guilds, had been destroyed; the secular power of the church had been suppressed; and the provinces had been transformed into subdivisions of the new national state. The Napoleonic Code, therefore, was founded on the premise that for the first time in history, a purely rational law should be created, free from all past prejudices and deriving its force from "sublimated common sense;" its moral justification was to be found not in ancient custom or monarchical paternalism, but in its conformity to the dictates of reason.

The most obvious feature of the Napoleonic Code, or civil law, is that it is codified. Codification in the sense of a statement of the whole law in a coherent systematic form that is a product of 18th century rationalism. Another prominent feature of modern civil law is the sharp distinction between public and private law. In civil-law countries, the first question that a lawyer is usually asked is whether he is a publicist or a privatist. If one is a public lawyer, one practices in a different set of courts from those that deal with private law, with a different procedure. Governments under civil law codes accepted that the private law was an area with which they were not concerned. Common-law refers to constitutional and administrative law; but the difference between public law and private law in common-law countries is still largely a matter of remedies available when a public body is one of the parties. The common law is still seen as indivisible in the sense that it applies both to the government and the individual citizen, and the same courts deal with both public and private law.

Another distinction lies in the concept of law. The civil-law conception of the written law as the source of private law and the highly systematic nature of modern codes of civil law lie behind the form of reasoning that characterizes the civil law. Civil-law reasoning can loosely be described as deductive reasoning, by which one proceeds from a broad principle, expressed in general terms, then considers the facts of the particular case and, finally, applies the principle to the facts of as to reach a

conclusion. This form of reasoning leads the civil-law lawyer to present a legal argument as if there can be only one right answer to any legal problem, and disagreement on the application of the law to the facts must, in his way of thinking, be the result of faulty logic by somebody.

In common law, no formulation of a rule, whether judicial or academic, is final. A later judge can broaden or narrow the terms in which the law is expressed. What is authoritative is not what is said but what is decided, and the difficulties of discovering what rule a particular decision has laid down are well known.

Several features that seem to separate modern civil law most sharply from common law derive from the distinctive procedure that pervades most civil-law systems. Common law laws are based on remedies. Modern civil law, however, makes a sharp distinction between substantive law and procedure. This is based on the view that civil law is not so much a set of objective rules, but rather a system of subjective rights. Thus, procedure is the mechanism for enforcing those rights.

The change in perspective from law as rules to law as rights was made easier by the fact that in Latin and in all European languages, with the exception of English, the word for the objective law and the word for a right adhering to an individual is the same; *ius*, *droit*, *diritto*, *Recht*, all have a double meaning. They can refer to the legal position in general or to the legal powers of an individual. In English we say "law" for the first and "right" for the second, and we limit the objective meaning of right to the language of morality.

Under the adversarial procedure of the common law, a trial is a kind of oral battle in which each party, backed by his own witnesses, confronts the other on a fixed day. The proceedings are oral, and the witnesses must give their evidence in public. Each party must come to the trial completely prepared. The judge acts as a referee, ensuring that the questions are relevant and the method of cross-examination is fair.

The typical procedure of the civil-law, on the other hand, is a series of meetings and written communications between the parties' representatives and the judge. Everyone knows in advance what points will be raised and the judge sees his function as one to discover the true basis of the dispute. The whole proceedings, from a common-law perspective, have a rather leisurely and bureaucratic air about them.

The main difference between these procedures concerns the relationship between fact and law. The common-law procedure is aimed to reduce the dispute to precise terms from which layman would know just what they had to discover if they were to condemn the defendant. The jury never has to justify its verdict with reasons. The consequence is that, in the common law, legal issues tend to be strictly confined within certain categories of facts and situations.

There is a tendency in common law for questions of fact to turn into questions of law. For example, the question whether the parties to a contract have reached agreement on its terms is

essentially a question of fact. But after a line of cases in which the judges have decided that when certain facts are proved, agreement must be presumed and the question becomes one of law.

The bureaucratic character of the civil-law procedure closely connects with the nature of the civil law as a system as a wholly written law. No rule of private law can be recognized which is not in statutory form.

Another effect of the procedural differences is a different attitude towards evidence. The common law has a preference for publicity over secrecy and for oral testimony over written proof. In civil-law, by contrast, there is a preference for written proof over oral testimony, which has led to the recognition that certain kinds of documents, prepared by professional such as notaries public, have a special status not enjoyed under common law.

G. SELECTED BIBLIOGRAPHY

SELECTED BIBLIOGRAPHY ADMINISTRATION OF JUSTICE COMPILED 7/08/93

STRATEGY

- (1) A STRATEGY FOR JUSTICE AND DEMOCRACY IN HAITI, USAID 3/93

PROJECTS/PROPOSALS

- (2) ADMINISTRATION OF JUSTICE (AOJ) NEW PROJECT DESCRIPTION, 3/1993
- (3) ADMINISTRATION OF JUSTICE PROJECT: SCOPE OF WORK, 10/91
- (4) ADMINISTRATION OF JUSTICE PROJECT: STATEMENT OF WORK, DRAFT 04/93
- (5) ADMINISTRATION OF JUSTICE PROJECT: STATEMENT OF WORK, DRAFT 06/93
- (6) DEMOCRACY ENHANCEMENT PROJECT, 521-0236 USAID/HAITI, MAY 1991
- (7) LEGAL ASSISTANCE TO THE POOR, HAITI PROJECT PAPER, 1979, # 521-0120 (DESCRIPTION OF CRIMINAL JUSTICE SYSTEM p. 10 - 20)
ANNEXES: CONSTITUTION OF 1964-REGLEMENTS DE L'ORDRE DES AVOCATS DU BARREAU (RULES OF PORT AU PRINCE BAR ASSOCIATION)
- (8) ICITAP PROPOSAL: REPUBLIC OF HAITI POLICE DEVELOPMENT PROJECT 1993-1998, Jan. 1993
- (9) DRAFT AOJ PROJECT PAPER, 6/93

EVALUATIONS/REPORTS

- (10) ICITAP-TRIP REPORT, HAITI JULY 16-20, 1991, MELANIE BEUM AND CARY HOOVER
- (11) POLICY AND ADMINISTRATIVE REFORM IN HAITI UNDER ARISTIDE AN ANALYSIS AND SUGGESTED OPTIONS FOR A.I.D. COOPERATION BRINKERHOFF AND MORTON, 1991, M.S.I
- (12) MEETING WITH MINISTER OF JUSTICE KARL AUGUSTE, 9/15/91
- (13) HAITI DEMOCRATIC NEEDS ASSESSMENT, MARYLIN ZAK, JUNE 1989
- (14) TRIP REPORT, ADMINISTRATION OF JUSTICE, CAROTHERS, 1986
- (15) HAITIAN JUSTICE: ANALYSIS OF FAILINGS AND BLUEPRINT FOR CHANGE ELLEN COSGROVE (JUNE 1993)
- (16) REGIONAL LEGISLATIVE DEVELOPMENT PROJECT: MIDTERM EVALUATION BY CREATIVE ASSOCIATES INTERNATIONAL, INC. (APRIL 1993)
- (17) THE JUSTICE SECTOR IN HAITI BY MARIE C. MARCOUX (JULY 1, 1993)

52

(18) AOJ PRE-ASSESSMENT REPORT BY IRWIN LEVY (JULY 1, 1993)

SUB-GRANTS ACTIVITIES/REPORTS

(19) L'AMICALE DES JURISTES, LEGAL ASSISTANCE PROGRAM DESCRIPTION, August 1992

(20) L'AMICALE DES JURISTES, PROGRESS REPORT AS OF SEPTEMBER 1992

(21) DRAFT OF L'AMICALE EVALUATION REPORT, JUNE 1993

(22) CENTRE OECUMENIQUE DES DROITS DE L'HOMME (PROGRAM DESCRIPTION) - MARS 1993

(23) PILOT PROJECT, MINISTRY OF JUSTICE, PETIT GOAVE, GLENN R. SMUCKER, DEC. 1990,

(24) PROGRAMME ADMINISTRATION DE LA JUSTICE (SEMINAIRE DE FORMATION REFLEXION DE JANVIER A OCTOBRE 1990), IHRED.

(25) RAPPORT D'INVESTIGATION SUR LE FONCTIONNEMENT DE L'ETAT CIVIL DE LA JUSTICE DE PAIX, DU NOTARIAT ET DE L'APPENTAGE DANS LA JURISDICTION DU TRIBUNAL DE PREMIERE INSTANCE DE PETIT-GOGAVE, 1990, IHRED.

(26) RAPPORT - SEMINAIRE SUR LA DEMOCRATIE ET LA JUSTICE, 1988, IHRED

(27) COLLOQUE SUR LA QUESTION CONSTITUTIONNELLE - RESOLUTIONS, 1986, IHRED.

(28) LES ASPECTS JURIDIQUES DE L'ORGANISATION DES COLLECTIVITES TERRITORIALES - SECTIONS COMMUNALES ET COMMUNES (IHRED, RAPHAELLA HOLLY)

(29) INFOTRAIN, INC PROPOSAL FOR A SOLUTION-ORIENTED LEGISLATIVE INFORMATION SYSTEM (SOLIS) TO ASSIST THE HAITIAN NATIONAL ASSEMBLY, APRIL 93

(30) FONDEM PROPOSAL

(31) CONGRESSIONAL HUMAN RIGHTS FOUNDATION PROPOSAL, APRIL 30, 1993

(31-A) TRAINING AND TECHNICAL ASSISTANCE PROGRAMME SUPPORT OF THE HAITIAN PARLIAMENT, BY CHRIF (MAY 25, 1993)

(32) ONG, GROUPES DE BASE ET DEMOCRATIE EN HAITI (AQOCI)

REFERENCE DOCUMENTS

(33) PROJET D'INTERVENTION D'URGENCE DANS SYSTEME JUDICIAIRE (STUDY BY HAITIAN LAWYERS UNDERTAKEN BY UNDP, 1992)

- (34) GOVERNMENT OF HAITI CONSTITUTION 1987, USAID TRANSLATION
- (35) ORGANIGRAMME DU MINISTERE DE LA JUSTICE ET DES FORCES DE POLICE
- (36) ORDRE DES AVOCATS DU BARREAU DE PORT-AU-PRINCE. SEPT. 92
- (37) LOI ORGANIQUE DU MINISTERE DE LA JUSTICE
- (38) REGLEMENTS DE L'ORDRE DES AVOCATS DE LA JURIDICTION DE PORT-AU-PRINCE (RULES OF THE PAP BAR ASSOCIATION)
- (39) STRUCTURE OF HAITIAN CRIMINAL JUSTICE SYSTEM
- (40) MODES ET FORMES D'ACCES A LA JUSTICE DANS LES MILIEUX RURAUX EN HAITI, 1991, HERARD JADOTTE
- (41) PROJET DE LOI DU MINISTERE DE LA JUSTICE PROPOSITION DU G.I.P. LOI SUR LES FORCES DE POLICE NATIONALE
- (42) "SILENCING A PEOPLE, THE DESTRUCTION OF CIVIL SOCIETY IN HAITI", AMERICAS WATCH
- (43) "SOURCE BOOK: COMMUNITY-ORIENTED POLICING". ICMA
- (44) GOH OUTLINE ON REFORM NEEDS FOR HAITIAN JUSTICE, 5/93 FROM THE CHAMBER OF DEPUTIES, COMMISSION ON JUSTICE, A REPORT (IN FRENCH) ON THE PRISON SITUATION, 5/93
- (45) A LIST OF NAMES & TELEPHONE NUMBERS FOR JUSTICE CONTACTS
- (46) THE NEW ENCYCLOPAEDIA BRITANNICA: NAPOLEONIC CODE
- (47) ROMAN LAW, COMMON LAW, AND CIVIL LAW, BY PETER G. STEIN, TULANE LAW REVIEW, VOL 66, 1992
- (48) HAITI'S PAST MORTGAGES ITS FUTURE, BY ROBERT I. ROTBERG (FOREIGN AFFAIRS, FALL 1988
- (49) LE RETOUR DE L'ARBITRAIRE ET DE LA VIOLENCE, COMMISSION EPISCOPALE NATIONALE JUSTICE ET PAIX, RAPPORT 1993
- (50) MODERN LEGAL SYSTEMS: COUNTRY STUDY ON HAITI, Univ. of Va., 1989
- (51) LOI SUR L'ORGANISATION JUDICIAIRE ET AUTRES DECRETS (LE MONITEUR)
- (52) PETIT MANUEL DE DROIT ET DE PROCEDURE EN MATIERE CORRECTIONNELLE, (RENE JULIEN, AMICALE DES JURISTES) FEB. 1993
- (53) SUR LES REALITES DU SERVICE DE LA JUSTICE (JEAN-CLAUDE ROY)

HUMAN RIGHTS REPORTS

- (54) PAPER LAWS, STEEL BAYONETS, BREAKDOWN OF THE RULE OF LAW IN HAITI November 1990, Lawyers Committee for Human Rights

- (55) HUMAN RIGHTS PLAN OF ACTION FOR HAITI, 1/93, Lawyers Committee for Human Rights,
- (56) REPORT ON THE NEEDS AND OPERATIONAL PLAN OF THE INTERNATIONAL CIVIL MISSION IN HAITI, Feb. 93
- (57) REPORT ON THE SITUATION OF DEMOCRACY AND HUMAN RIGHTS IN HAITI. MARCH 93
- (57-A) INTERIM REPORT OF THE INTERNATIONAL CIVILIAN MISSION TO HAITI (FEB. 9 - MAY 31, 1993)
- (58) WORLDBANK MULTILATERAL DONORS MEET ON HAITI (APRIL 1993)
- (59) TESTIMONY TO THE SELECT COMMITTEE HUNGER U.S. HOUSE OF REPRESENTATIVES, HEARINGS ON HUMANITARIAN CONDITIONS IN HAITI, JUNE 11, 1992 by Anthony Maingot
- (60) HAITI: HUMAN RIGHTS & EFFORTS TO RESTORE DEMOCRACY, June 7, 1993, Washington Office on Latin America
- (61) AMNESTY INTERNATIONAL: HAITI, HUMAN RIGHTS HELD TO RANSOM AUGUST 1992
- (62) HAITI, HUMAN RIGHTS AND THE RULE OF LAW, 1992 (NOVEMBER 23 - DECEMBER 19, 1992)

USAID POLICY GUIDANCE:

- (63) A.I.D.'s Experience with Democratic Initiatives: A Review of Regional Programs in Legal Institution Building
AID Program Evaluation Discussion Paper, No. 29, 1990
- (64) Legal, Regulatory and Judicial Reform (LRJ)

OTHER DOCUMENTATION

ARTICLES ON HAITI

- (65) "VOODOO POLITICS", ATLANTIC MONTHLY, by Larry Harrison
- (66) "DATELINE HAITI: CARIBBEAN STALEMATE", FOREIGN POLICY, BY PAMELA CONSTABLE
- (67) HAITIAN HUMAN RIGHTS DEFENSE ORGANIZATIONS PLATFORM
- (68) DEVELOPMENT AND THE LAW - INTER-AMERICAN DEVELOPMENT BANK NEWSLETTER (APRIL 1993)
- (69) HAITI'S STANDOFF - THE UNITED PRESS INTERNATIONAL (JUNE 10, 1993)
- (70) USAID/HAITI DEMOCRACY FAC SHEET (MAY 15, 1993)

5

