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DEPARTMENT OF STATE
AGENCY FOR INTERNATIONAL DEVELOPMENT
Washington, D.C. 20523

HAITI

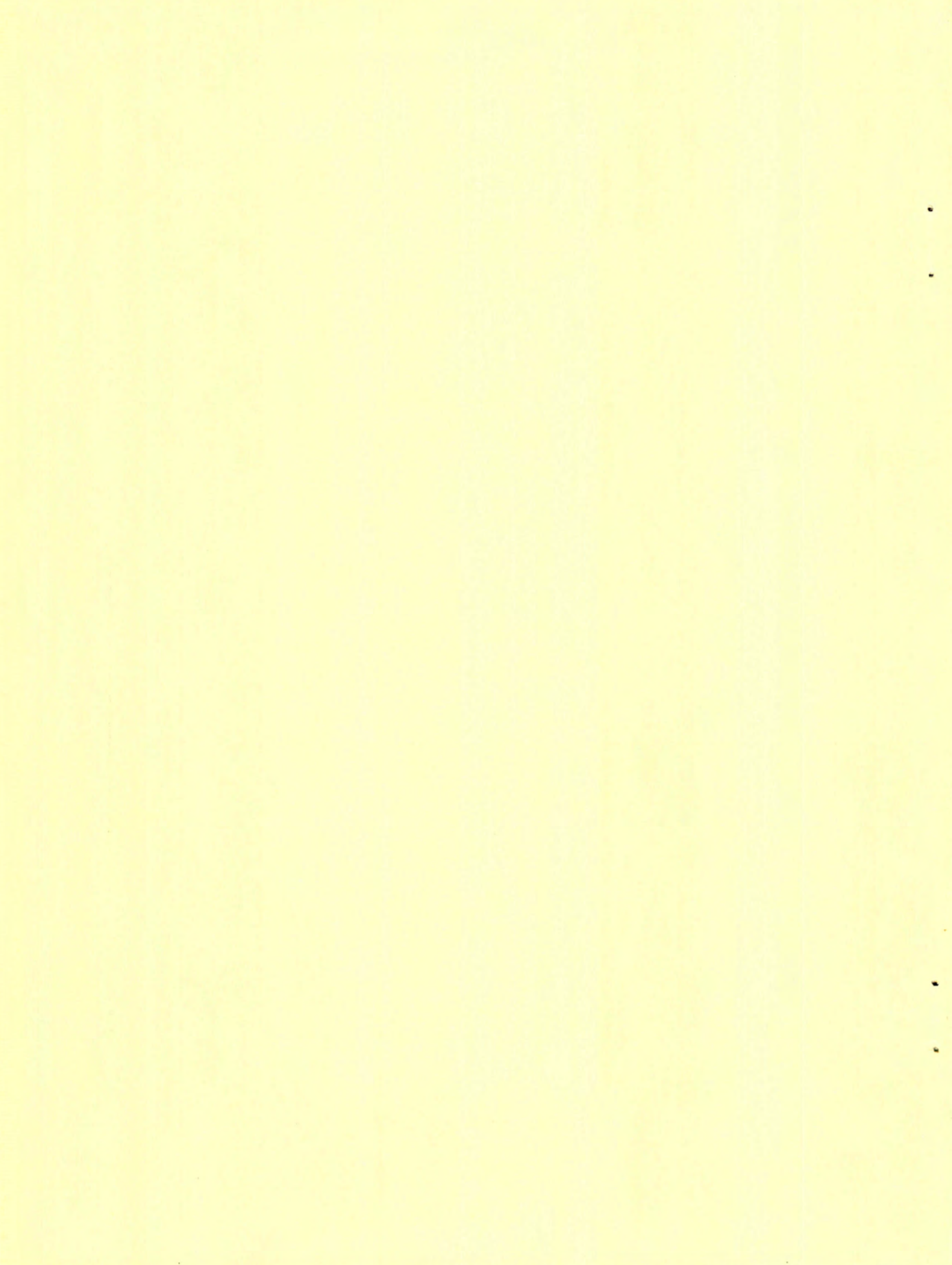
PROJECT PAPER

LEGAL ASSISTANCE TO THE POOR

LAC/DR:79-19

Project Number:521-0120

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AGENCY FOR INTERNATIONAL DEVELOPMENT

PROJECT PAPER FACESHEET

1. TRANSACTION CODE

A ADD
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PP

2. DOCUMENT CODE
3

3. COUNTRY/ENTITY

HAITI

4. DOCUMENT REVISION NUMBER

5. PROJECT NUMBER (7 digits)

6. BUREAU/OFFICE

A. SYMBOL B. CODE

7. PROJECT TITLE (Maximum 40 characters)

8. ESTIMATED FY OF PROJECT COMPLETION

FY

9. ESTIMATED DATE OF OBLIGATION

A. INITIAL FY B. QUARTER
 C. FINAL FY (Enter 1, 2, 3 or 4)

10. ESTIMATED COSTS (\$000 OR EQUIVALENT \$) -

A. FUNDING SOURCE	FIRST FY			LIFE OF PROJECT		
	B. FX	C. L/C	D. TOTAL	E. FX	F. L/C	G. TOTAL
AID APPROPRIATED TOTAL						
(GRANT)	(10)	(40)	(50)	(20)	(105)	(125)
(LOAN)	()	()	()	()	()	()
OTHER U.S. 1. 2.						
HOST COUNTRY						
OTHER DONOR(S) Haiti Bar Ass'n.		0	0		2.8	2.8
TOTALS	10	40	50	20	107.8	127.8

11. PROPOSED BUDGET APPROPRIATED FUNDS (\$000)

A. APPROPRIATION	B. PRIMARY PURPOSE CODE	PRIMARY TECH. CODE		E. 1ST FY <input type="text" value="79"/>		H. 2ND FY <input type="text"/>		K. 3RD FY <input type="text"/>	
		C. GRANT	D. LOAN	F. GRANT	G. LOAN	I. GRANT	J. LOAN	L. GRANT	M. LOAN
(1) SDA	720	920		125					
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TOTALS				125					

A. APPROPRIATION	N. 4TH FY <input type="text"/>		O. 5TH FY <input type="text"/>		LIFE OF PROJECT		12. IN-DEPT EVALUATION SCHEDULED
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(2)							
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TOTALS					125		

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SIGNATURE *Marshall D. Brown*

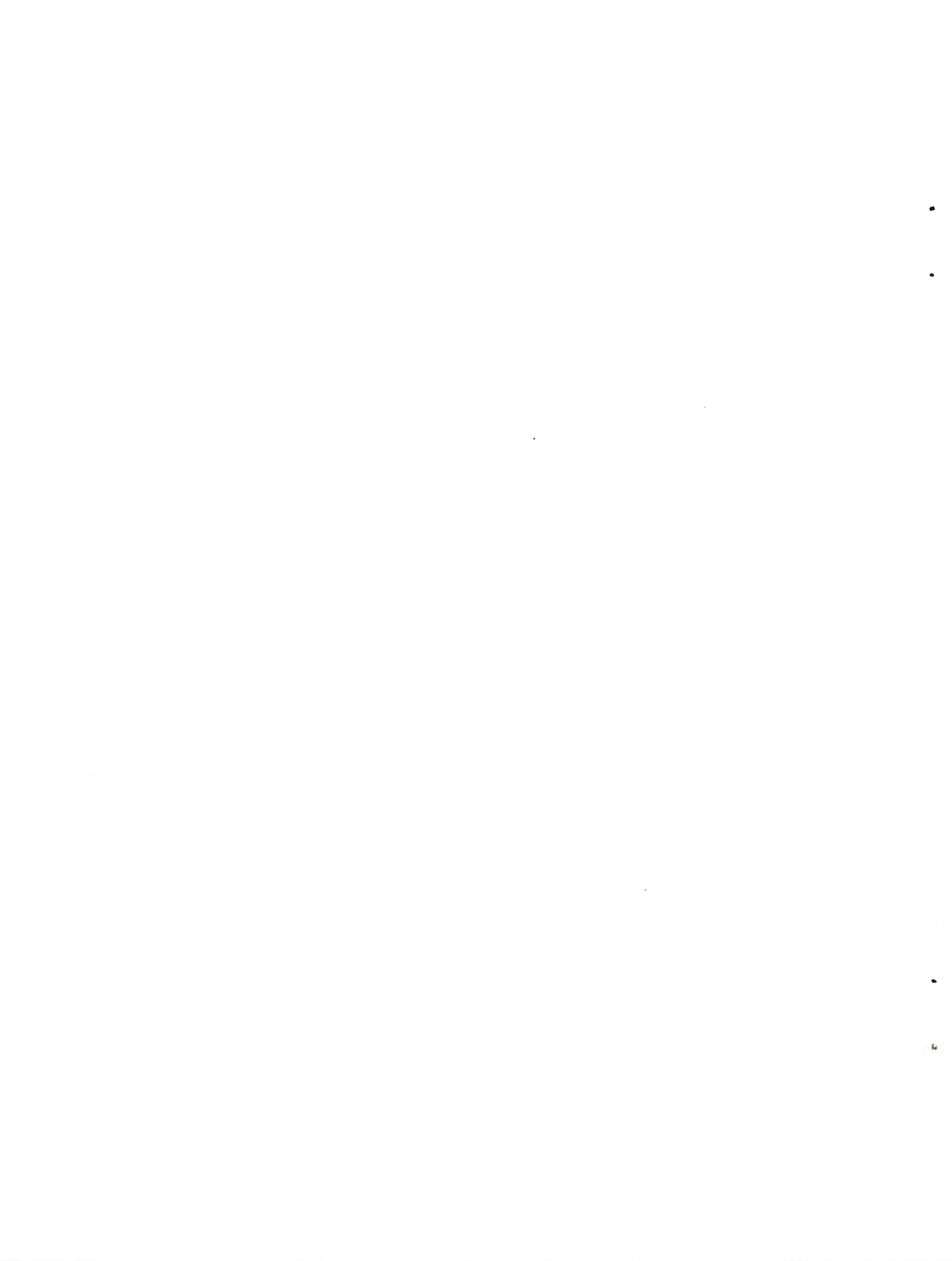
TITLE Marshall D. Brown, Director
Office of Development Resources

DATE SIGNED

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15. DATE DOCUMENT RECEIVED IN AID/W, OR FOR AID/W DOCUMENTS, DATE OF DISTRIBUTION

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PROJECT AUTHORIZATION

Name of Grantee	The Bar Association of Port-au-Prince Haiti
Name of Project	Legal Assistance to the Poor
Number of Project	521-0120

1. Pursuant to Section 106 of the Foreign Assistance Act of 1961, as amended, I hereby authorize the Legal Assistance to the Poor Project for the Bar Association of Port-au-Prince, Haiti, involving planned obligations of not to exceed \$125,000 in grant funds, to help in financing foreign exchange and local currency costs for the project.
2. The project will support the efforts of the Grantee to establish an institutionalized system for the provision of free legal services to indigent Haitians arrested or detained for alleged criminal activities in the Port-au-Prince area.
3. The Project Agreement, which may be negotiated and executed by the officer to whom such authority is delegated in accordance with A.I.D. regulations and Delegations of Authority, shall be subject to the following essential terms and covenants and major conditions, together with such other terms and conditions as A.I.D. may deem appropriate.

a. Source and Origin of Goods and Services

The Grant Agreement will contain the standard AID source and origin clause used for specific support grants. Goods and services financed under the Grant shall be purchased in and shipped from only Special Free World Countries (i.e., AID Geographic Code 935 countries) in accordance with the following order of preference:

The United States

AID Geographic Code 941 countries

Haiti

All other AID Geographic Code 935 Countries

b. Other Conditions

Prior to any disbursement under the Grant Agreement and unless AID shall otherwise agree in writing, the Grantee shall furnish to AID in form and substance satisfactory to A.I.D:

(i) copies of correspondence with the Public Prosecutor's Office, the Dean of the Civil Courts and the Dean of the Law School, evidencing that each supports the establishment of the Legal Assistance Program and the provision of free legal defense services by the Grantee to indigents accused of criminal activity, and

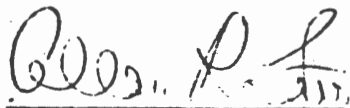
(ii) evidence that the proposed project has been presented to the membership of the Port-au-Prince Bar Association, and that the establishment of a Legal Assistance Program has been formally approved through the votes or signatures of the membership and by a formal written resolution of the Bar Council, and

(iii) evidence of the selection by the Bar Association of one of its active, practicing members, to fill the position of Project Director of the Legal Assistance Program, a position which will require a minimum of four working hours/day (exclusive of court hours) to be devoted to the operations of the Legal Assistance Program, and

(iv) evidence of the designation by the Bar Association of three of its active practicing members to act as supervising attorneys for the first phase of the Project, and

(v) evidence that the Bar Association has established a list of the legal interns (stagiaires) who will be available to work in the Legal Assistance Program and from which the legal staff of the office will be drawn.

c. The Grant Agreement will further contain a covenant by the Grantee Bar Association to take steps to strengthen its internal financial resources in order to be able to assume an increasing share of the ongoing operating costs of the Project.


Allan R. Furman
Acting Director

Clearances:

PDC:SES Smith
CONT:AF Hulliang
PRC:RGibson (in draft)
PRM:RBallantyne (in draft)
OP:WRhoads

Sept 19, 1977
Date


Drafted by: RIA:RMeighan/PDC:WSRhodes

PROJECT PAPER

LEGAL ASSISTANCE TO THE POOR

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I. SUMMARY AND RECOMMENDATION

A. Recommendation

Based on the findings of the Project study undertaken under the auspices of USAID/Haiti, and on the review of the Project proposal carried out in AID/W and the Haiti Mission, it is recommended that \$125,000 of development assistance grant funds be authorized to support the effort of the Bar Association of Port-au-Prince to establish an institutionalized system for the provision of free legal services to indigent Haitians arrested or detained for alleged criminal activities in the Port-au-Prince area.

B. Grantee/Executing Agency

The Legal Assistance to the Poor Project (No. 521-0120) was developed in response to an initiative by the Bar Association of Port-au-Prince (Ordre des Avocats du Barreau de Port-au-Prince). The Bar Association is an autonomous, non-profit, professional society responsible for the governance of the legal profession in the capital of Haiti. Although the President of the Bar fulfills certain official, ceremonial functions as representative of the legal profession, the Bar Association is a non-governmental association, established as a "juridical person" under the Civil Law of July 21, 1932. Its sources of revenue are registration fees paid by new members, dues paid by active members, a small portion of fees collected by the Clerk of the Courts, and occasional donations from the Government or the public. The activities of the Bar Association are determined by the Bar Council (Conseil de Discipline) and the President (Batonnier). In addition to governing the profession generally, the Bar Association maintains an office and law library in the central courthouse (Palais de Justice), and is responsible for administering the internship program for graduates of the law school of the National University who wish to enter the active practice of law. This program requires new lawyers to undergo a one-year apprenticeship period before they can become full-fledged members of the Bar and use the appellation "avocat".

Additionally, pursuant to Article 73 of the Rules of the Bar Association, the Bar is responsible for the establishment of an office for free legal consultations ("assistance judiciaire") for indigents. The Council is empowered to select three members of the Bar to carry out this responsibility. It is in order to fulfill this responsibility that the Bar Association has requested financial assistance from A.I.D. The proposed grant would be made directly to the Bar Association of Port-au-Prince to finance the activities described below.

C. Project Rationale

The rationale for this project, from a policy viewpoint, lies in its furtherance of the human rights policy of the United States (as discussed below in Section II.A), and its advancement of the social objectives stated in the USAID/Haiti Country Development Strategy Statement (CDSS). The CDSS defines the fundamental objective of the US foreign assistance program in Haiti as follows: to accelerate the process of economic and social change of the rigid, authoritarian and traditional society in Haiti, so that the poor majority will increasingly share in the fruits and opportunities of the society and be increasingly able to influence its evolution. Not only will an increased availability of legal representation have a salutary effect on the observance of the basic legal rights of the poor, but it is also likely to have a broadening, educational effect on the young lawyers (mostly from the wealthier elite of Haiti) who provide the legal services. The establishment of a comprehensive and active legal services system under the auspices of the Bar Association is also very likely to involve more Haitian lawyers in thinking, discussing, and perhaps writing about the kinds of changes needed in the existing system of criminal justice to achieve an effective and equitable system. This Project will provide directly a narrowly-defined but significant increase in the ability of a poor person to control his life and may also indirectly provide a stimulus to the process of social change and liberalization which has begun in Haiti.

D. Summary Project Description:

The goals of this Project are to foster increased awareness of and respect for internationally recognized human rights in Haiti and to promote the observance in practice of the basic legal rights of Haitians accused of criminal acts. The purpose of this Project is to assist the Bar Association of Port-au-Prince to establish an institutionalized system for the provision of free legal services ("assistance judiciaire") to indigent Haitians accused of crimes or involved in cases which may result in incarceration. A secondary purpose is to strengthen the Bar Association by supporting its role as a trainer of new lawyers ("avocats stagiaires") through the legal assistance program.

The target group of the Project is all Haitians detained or arrested by police authorities in the Port-au-Prince area who are financially unable to afford a lawyer to represent them. Many persons now in jail on criminal charges

in Port-au-Prince are poor, illiterate, speak and understand almost no French (the language of the Courts) and have a very limited understanding of the Haitian court system. Nor is there a general awareness of the legal rights guaranteed to all Haitians by the Haitian penal code and the Constitution. Without legal representation, petty offenders as well as serious offenders may languish in jail without trial. This is often the result of Haiti's overburdened and understaffed justice system, and also of simple neglect in the processing of criminal cases where there is no pressure to do so. While the establishment of an institutional system to make legal counsel available to indigents does not guarantee a quick and fair disposition of all cases, it is likely to reduce instances of unjustified, prolonged detention. In the long run, it is also likely to result in a more efficient and equitable administration of the criminal justice system in Haiti.

The primary beneficiaries of the Project, then, are indigent Haitians detained or arrested by authorities for alleged criminal activity. While exact data are difficult to obtain, the Public Prosecutor's Office reported a total of 1207 cases referred by police authorities for prosecution during the year from October, 1977 through September, 1978. It was not possible to ascertain what proportion of these involved indigents unrepresented by legal counsel, but estimates by knowledgeable practicing attorneys in Port-au-Prince indicated a substantial number. It should be noted that this average of 100+ cases/month reflects only those cases in which the defendant will be subject to incarceration for more than six months, and excludes the minor misdemeanors adjudicated in the Justice of the Peace Courts without referral to the Public Prosecutor. While no data on the number of such minor cases prosecuted each year were readily available, the number is substantially greater, and the proportion involving indigents is far higher.

The secondary beneficiaries of the Project will be the legal interns ("avocats stagiaires") who have completed the four-year law faculty course at the National University, and who are undergoing the one-year apprenticeship required before becoming full-fledged members of the Bar. While the work of these interns in representing indigent clients will be voluntary and uncompensated, they will receive the opportunity to act as counsel in court, and the material, personal and institutional support to be effective advocates.

Finally, the Bar Association will benefit from the Project, as it is provided the resources required to undertake a more active and supportive role in the training of new lawyers who will constitute its younger membership.

At the end of the Project, an institutionalized system for the provision of free legal defense services ("assistance judiciaire") for indigents accused of crimes and/or subject to incarceration will be functioning in the jurisdiction of Port-au Prince. While it is possible that this system may require continued external financial support, it can be expected to provide needed legal services to a substantial portion of indigents arrested and to improve the quality of the training of young lawyers in the Port-au-Prince area.

The legal services office will be directed by a practicing Haitian attorney, and attended full time by a receptionist/secretary. The Director will be responsible for the activities of the office to the President of the Bar, who will have overall supervisory responsibility. The office will contain several small rooms for use in interviewing clients, witnesses, etc., and for preparation of paperwork required for court cases. One room will be utilized as a law library and conference room. A filing system will be established and records kept on each case where legal representation is provided.

The legal staff of the office will consist of the legal interns ("stagiaires"), who will be supervised by the Director and by active members of the Bar Association. The Bar Association views the establishment of a legal assistance office as an opportunity to reactivate and broaden its role in training young lawyers, and to provide practical experience during the internship period. Although it is extremely difficult to estimate the exact requirements for such legal assistance, and therefore, the number of interns required for the Project, it would appear that the 30 to 35 graduating law students sworn in as "stagiaires" each year in Port-au-Prince will provide an adequate pool of available manpower, at least at the outset.

The interns will be supervised in the preparation of cases by members of the Bar who are, at the time, engaged in practice before the Courts (Tribunaux Civil) of Port-au-Prince. Three attorneys will be designated by the President of the Bar to act as supervisors of legal interns for a four to six-month period. Selection will be rotated among Bar members in active court practice. Participating interns may also obtain supervisory assistance from other practicing attorneys who volunteer to assist, or with whom the intern may have a family relationship or friendship. As there are no more than 50 or 60 members of the Port-au-Prince Bar who are in active practice before the Courts (out of a total Bar membership of approximately 250), these lawyers are well-known to the interns and are readily accessible.

The Dean of the law faculty of the National University of Haiti has indicated his expectation that interest in providing legal assistance to indigents and gaining practical experience in the court system will extend to students still in law school. Students may obtain the status necessary to represent clients in the Justice of the Peace Courts after two years of study. The Dean of the Law School has promised his cooperation and support in encouraging students to spend time working with the legal assistance office and to assist the legal interns and supervising attorneys as a means of obtaining practical experience.

In addition, the Bar Association will covenant to take steps during the three-year life of the Project to strengthen its own financial resources in order to secure funding adequate to finance the recurrent operating costs of the Legal Assistance Program.

II. PROJECT BACKGROUND

A. Human Rights in American Foreign Policy

The protection and promotion of fundamental human rights has constituted an element of American foreign policy for decades, particularly since the end of World War II and the formation of the United Nations. The Preamble to the U.N. Charter and Articles 1, 55 and 56, establish a duty for all U.N. Member States (of which Haiti is one) to observe and respect fundamental human rights. And the U.N.'s Universal Declaration of Human Rights established common standards to which all Member States pledged themselves. The Universal Declaration has become generally accepted as the point of reference for determining what constitutes "internationally recognized" human rights. The Articles of the Declaration (3, 5 and 8 - 11) which provide guarantees against violations of the security and integrity of the person, have been established by previous and the current administration as the principal focus of the United States human rights policy. A basic statement of this policy is set forth in Section 502B of the Foreign Assistance Act of 1961, as amended in 1976, which reads in part:

"It is the policy of the United States in accordance with its international obligations as set forth in the Charter of the United Nations and in keeping with the constitutional heritage and traditions of the United States, to promote and encourage increased respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion".

1. The Grantee will present to USAID/Haiti copies of correspondence received from the Public Prosecutors' Office, the Dean of the Civil Courts and the Dean of the Law School, which evidences the support of each for the establishment of the Legal Assistance Program and the provision of free legal defense services to indigents.
2. The Grantee will present to USAID/Haiti evidence that the proposed Legal Assistance Program has been presented to the membership of the Port-au-Prince Bar Association, and that the establishment of the Legal Assistance Program has been formally approved through the votes or signatures of the members and by a formal written resolution of the Bar Council.
3. The Grantee will select an active, practicing member of the Bar Association to be the director of the Legal Assistance Program, who will agree to devote at least four hours daily (excluding court hours) to the operations of the legal services office. A copy of the employment agreement between the Bar Association and the project director will be submitted to A.I.D.
4. The Grantee will formally designate three of its active, practicing members to act as supervising attorneys for the first phase of the Project, and inform USAID/Haiti of their designation. The designated attorneys will agree to provide assistance and supervision to the legal interns who will constitute the legal staff of the Legal Assistance Program.
5. The Grantee will hold a convocation of stagiaires and law students to inform them of the program and to encourage their participation. The Grantee will establish a list of stagiaires who will be available to work in the Legal Assistance Program and will select from this list the initial staff necessary to meet the estimated requirements of the Program.

The Carter Administration has substantially increased the emphasis on human rights as an element of U.S. foreign policy and has instituted a more active and public execution of that policy. In a December, 1978 White House ceremony marking the 30th anniversary of the Universal Declaration of Human Rights, President Carter stated,

"As long as I am President, the Government of the United States will struggle for the enhancement of human rights. No force on earth can separate us from that commitment..... Our human rights policy is not a decoration. It is not something we have adopted to polish up our image abroad or to put a fresh coat of moral paint on the discredited policies of the past. Our pursuit of human rights is part of a broad effort to use our great power and influence in the service of creating a better world."

Significantly, President Carter went on to single out the freedom from arbitrary violence against the person as the most basic human right, and stated that national governments, because of their great power, have a special responsibility to protect the rights of their citizens. "When government itself becomes the perpetrator of arbitrary violence, it undermines its legitimacy." President Carter also noted that in determining the recipients of scarce foreign assistance resources, "... we will demonstrate that our deepest affinities are with nations which commit themselves to a democratic path to development." Congress has recognized and furthered this human rights policy in a concrete way by amending Section 116 (e) of the Foreign Assistance Act to create a special fund, earmarked for use by AID, for activities which will encourage or promote increased adherence to civil and political rights as set forth in the Universal Declaration. The amendment encourages the obligation of at least \$1.5 million for human rights projects in FY 1979, and was specifically intended to assist, inter alia, in the development of legal assistance programs in recipient countries.

B. Human Rights in Haiti

Haiti is considered by many to be a human rights problem country. Born in a slave rebellion lasting from 1791 to 1804, Haiti is the second oldest independent country (after the United States) in the Western Hemisphere. It has had a long history of authoritarian leadership, punctuated

by attempts by those out of power to remove those in power by force. Civil freedoms and due process of law, while guaranteed to all citizens by the Haitian Constitution, have not been established by tradition. From 1957 to 1971, all power was concentrated in President François Duvalier, and violations of basic human rights were widespread through this period. Since 1971, and the assumption of power by Duvalier's son, Jean-Claude, there has been a slowly evolving but significant improvement in the respect for and observance of basic human rights. The excesses of the earlier era have been largely eliminated, and a regularized system of public criminal trials was reestablished in the early 1970s and is still developing (see Section II.c). Improvements in the human rights area in Haiti have been realized in the area of legal rights and due process of law.

President Jean-Claude Duvalier has publicly committed himself to a policy of "progressive liberalization" and "democratization", and has taken a number of actions to implement this policy. For example:

-Six separate amnesties for prisoners have been declared by the Government since 1971, releasing more than 500 prisoners, many of whom were "political" in nature. 104 political prisoners were released in September, 1977 in the presence of press and foreign diplomats, and the Government stated that these were the last political prisoners being held. However, Amnesty International, while congratulating President Duvalier on this initiative, reported that a number of persons originally imprisoned for political reasons were not released under these amnesties and still have not been accounted for. The State Department has stated that there are currently no known political prisoners remaining in Haiti's jails.

-The Government of Haiti formally adhered to the American Convention on Human Rights in September, 1977, which obligates it to respect the rights to (inter alia) personal liberty, a fair trial and humane treatment as elaborately described therein. In conjunction with this adherence, the Government invited the Inter-American Human Rights Commission for an inspection visit in August 1978, and cooperated with the Commission during its visit. The Report of the Commission is scheduled to become available late in 1979.

- Two public criminal trials of governmental authorities were held in 1978. In one, two members of the Volunteers for National Security (VSN) were found guilty, fined, and briefly jailed for the beating of a newspaper publisher. In the other, an army lieutenant was sentenced to 6 years for killing a civilian.

- The formation of a Haitian League for human Rights in March, 1978 (and its publication of a number of highly critical "bulletins") has been tolerated by the Government, although formal governmental recognition of it as a non-political association has not been granted. Such recognition would permit the group to grow beyond its current membership of twenty, as limited by the Government.

- Elections were held for the 58 seats in the National Legislature on February 11, 1979. While many of the candidates were selected and supported by the Government, there were a number of actively contested races. In Cap-Haitien, the country's second largest population center, the deputy race was won by an active opposition candidate, in a landslide. However, the voter turn-out in the Port-au-Prince area was very low, evidencing widespread voter skepticism.

President Jean-Claude Duvalier has specifically placed substantial emphasis in his rhetoric on the improvement of the Haitian system of justice. While a detailed description of that system and its operations follow in Section II c., it is worth noting here that the President spent a significant portion of his "State of the Nation" speech on January 2, 1979, discussing his intention to further restructure and reinvigorate the Haitian justice system to make it stronger and more equitable. He noted in this regard that the Haitian Government celebrated the 30th anniversary of the Universal Declaration of Human Rights, and that in doing so, it illustrated its "firm determination" to pursue its policy of "progressive democratization".

C. The Criminal Justice System in Haiti

1. Theoretical Overview

The Haitian criminal justice system was established shortly after independence was gained early in the nineteenth century. It was based, substantively, on the Napoleonic Code and, procedurally, on the French civil law system. The original Code of Criminal Procedure (Code d'Instruction Criminelle) was enacted in 1835. Although much amended, it still constitutes the theoretical backbone of the criminal justice system in Haiti. The following is a description of the way in which the criminal justice system in Port-au-Prince should operate, according to the Code and the Haitian Constitution of 1964.*

(a) The Courts

Criminal offenses in Haiti are tried in one of three courts: the Justice of the Peace (Tribunal de Paix), the Correctional Court (Tribunal Correctional) and the Criminal Court (Tribunal Criminel).

The Justice of the Peace tries all defendants charged with minor misdemeanors or so-called "police violations" (contraventions). These offenses carry a possible penalty of six months or less in prison. The Justice of the Peace sits every day, although in Port-au-Prince criminal trials are not held on Tuesday or Friday, which are given over to civil matters of a small-claims nature. There are four Justice of the Peace districts in Port-au-Prince (North, South, East and West) and one court for each district. Each district has a Justice of the Peace and an Assistant Justice, plus at least two clerks. There are also Justices of the Peace in surrounding jurisdictions, such as Petionville, Carrefour, etc.

The Correctional Court has jurisdiction over all offenses punishable by not less than six months or more than five years in prison (delits). It sits in the Palace of Justice (Palais de Justice) and meets every day. As with the Justice of the Peace, trials in Correctional Court are held before a judge only. No jury trials take place in either of these courts. Some purely civil cases are heard in the Correctional Court, and frequently a case will have both a civil and criminal component. For example,

*In researching this portion of the Project Paper, these sources were supplemented by a review of the Rules of the Port-au-Prince Bar Association and by many interviews with practicing Haitian lawyers, judges and law professors.

when the prosecutor is seeking a criminal conviction and the victim of the crime is suing for money damages, a single trial will be held in the Correctional Court and the Judge will make a ruling on both cases.

The Criminal Court, also located in the Palace of Justice, is where the most serious criminal offenses (crimes) are tried. All crimes punishable by prison terms of from five years to life (or by death), i.e. serious "felonies", must be tried in this court. For the most serious crimes of personal violence, jury trials are required; for less serious offenses, judge trials are held. Whether or not a trial is to be by judge or by jury is strictly a function of the type of offense involved. The choice is not one for the judge, the prosecutor, or the accused. The Criminal Court is required to hold sessions (assizes) every six months.

(b) Criminal Procedure

Unless a crime is un flagrant delit, i.e., witnessed by the police or reported by a victim or witness immediately after its occurrence, a warrant (mandat) is required by Haitian law before an arrest can be made. The warrant is to be issued by the Investigative Judge (Juge d'Instruction). In certain cases an accused person is summoned or "invited" to appear before the authorities and only when he does not appear as required is a warrant issued.

Once a person is arrested, he is to be brought promptly before a judge. Article 17 of the Constitution of 1964 provides that "(no) one may be kept under arrest more than forty-eight hours unless he has appeared before a judge who is assigned to rule on the legality of the arrest and the judge has confirmed the arrest by a decision giving reasons". This section of the Constitution provides for what is roughly the equivalent of a "probable cause" or "preliminary" hearing under the U.S. system, i.e., a hearing which addresses the question of whether there are reasonable grounds to believe a crime was committed and that the arrested person committed it. Such a hearing is not required, however, if the arrest took place pursuant to a warrant issued by a judge .

The judge before whom arrested persons are initially presented is the Justice of the Peace for the jurisdiction in which the alleged crime occurred. If the offense is determined to be a police violation (minor misdemeanor) only, then the person is tried and sentenced

by the Justice of the Peace. If a more serious offense is involved, the case is deemed to be beyond the "competence" of the Justice of the Peace and is referred to the Public Prosecutor's office (Parquet) for further investigation. The Chief Public Prosecutor (Commissaire du Gouvernement) or one of his assistants evaluates the case and makes a decision regarding what charges, if any, are appropriate. The accused is then brought before the Investigative Judge who makes a final determination as to the legality of the arrest. This hearing is theoretically to be held within forty-eight hours of arrest, pursuant to the provisions of Article 17, and this hearing constitutes the equivalent of a probable cause hearing for offenses beyond the Justice of the Peace level.

The Investigative Judge may dismiss the case, send it back to the Justice of the Peace (if he determines that only a police violation is involved), or rule that the case is serious enough to warrant further prosecution by the Public Prosecutor. The decision of the Investigative Judge ordering a defendant's continued incarceration can be appealed to the Court of Appeals (Cour d'Appel).

If the Investigative Judge rules against the accused, the case is referred back to the Public Prosecutor's office for further investigation and trial preparation. It should be noted that the Haitian criminal justice system resembles other civil law countries in that the Justices of the Peace and the Investigative Judges act in an investigatory (rather than judicial) capacity in the pre-trial stages of a criminal case and the precise function of each is determined primarily by the nature and seriousness of the offenses. This is distinct from the common law system, in which the investigative role is carried out entirely by the police and prosecutorial agencies. While the Investigative Judge does, in theory, have responsibility for ruling on the propriety of the charges recommended by the Prosecutor, he by no means exercises the completely independent and impartial function of a "judge" under the common law system during the pre-trial stage of a case.

When the Public Prosecutor has completed his investigation, a recommendation of formal charges is made to the Investigative Judge who issues an indictment (ordinance) charging the person with specific violations of provisions of the Penal Code. A copy of the ordinance is served on the accused (and his attorney, if he has one),

and a trial is scheduled in either the Correctional Court or the Criminal Court. The issuance of the ordinance by the Investigative Judge can also be appealed, and after it is issued, application can be made for the provisional release (liberté provisoire) of the accused. This is the civil law equivalent of release on "own recognizance".

If the case is very serious and is to be heard in the Criminal Court, the accused must await the convening of a Criminal Court session. The sessions are held regularly twice a year, although in certain non-jury criminal cases, the Court can be specially convened at any time.

Convictions in both the Correctional Court and the Criminal Court can be appealed, first to the Court of Appeals (Cour d'Appel) and ultimately to the Supreme Court (Cour de Cassation).

(c) Appointment of Lawyers for Indigents

The statutory basis for appointing lawyers for indigent persons accused of serious crimes is contained in the Code of Criminal Procedure and the Law of July 21, 1932. Under the Code (Articles 200 & 201), a person facing trial in the Criminal Court is entitled to have a lawyer represent him if he cannot afford to retain counsel himself. Although no similar provision exists in the Code with respect to the Correctional Court or the Justice of the Peace, the Law of July 21, 1932 (on "Judicial Institutions") contains provisions which, arguably, stand for the notion that all accused indigent persons are entitled to representation. Article 9 states:

At the request of the deans of criminal courts, and of presidents of military courts, the President of the Bar shall appoint attorneys to be ex officio defenders of accused persons whose financial situations do not allow them to retain an attorney.

Article 37 of the Law refers to legal interns ("stagiaires") as ex officio defenders of accused persons, and establishes the basic requirements for completing the internship period (including accepting appointment to represent indigents).

The mechanism through which counsel is appointed under these chapters of the Criminal Code and the Law of July 21, 1932 is set forth in the Regulations of the Port-au-Prince Bar Association (Reglements de l'Ordre des Avocats de la Juridiction de Port-au-Prince). Article 73 of those Regulations provides for the establishment of a formal program of providing legal assistance to the poor (Assistance Judiciaire). The program is to be administered by three lawyers selected by the President (Batonnier) of the Bar Association and the public is to be advised of the place and time during which they can consult with the Legal Assistance office. The precise type of legal assistance (civil, criminal, etc.) to be provided under the program is not specified in the Bar Regulations.

Articles 56 through 59 of the Regulations deal with the "stagiaires" and elaborate upon the requirements of the apprenticeship period which must be fulfilled before law school graduates can be admitted to the Bar and become practicing attorneys. According to Article 57, the stagiaire cannot plead in civil or commercial matters, but he can appear on behalf of criminal defendants "in the assizes (Tribunal Criminel) or in courts judging minor offenses (Tribunal Correctionnel or Tribunal de Paix)." In such cases the stagiaires are to be appointed to represent accused persons by the President of the Bar Association and are to be supervised by another attorney, also to be designated by the President of the Bar.

C. CRIMINAL JUSTICE SYSTEM IN HAITI (continued)

2. The System in Practice

Between the theory of criminal justice in Haiti and the reality of its current administration falls, unfortunately, a rather lengthy shadow. Any assessment of the existing system must, of course, be placed in the context of recent history, a history which included a virtual suspension of the court system during the François Duvalier era (1957-1971). During that period, arrested persons were, for the most part, dealt with outside the courts. However, in the years following the demise of François Duvalier, the Haitian court system has begun to show signs of a hesitant but definite revival. In the early 1970's, the Criminal Court held sessions for the first time in more than fifteen years. The Constitutional provisions for judicial presentment within forty-eight hours of arrest have begun to be raised by defendants and respected by authorities, albeit, still sporadically. In the words of one Haitian lawyer, a judicial system that was "seriously ill" has embarked upon a period of "convalescence." The signs today indicate that the convalescent stage is continuing, but the criminal justice system is still a considerable distance from complete recovery.

a. The Courts

All the criminal courts are currently functioning in Haiti. In Port-au-Prince, the local Justices of the Peace sit every day, as does the Correctional Court in the Palace of Justice. In the latter, a single judge presides on any given day, and, as a rule, not more than one case is tried per day. Sometimes a single case will consume two or more days, and often it will be civil in nature rather than purely a criminal prosecution. As a rule, the Correctional Court sits only from 10:00-12:00 p.m. each day. Sessions of the Criminal Court have been regularly held, although sometimes just once a year rather than twice as required by the Code of Criminal Procedure. Occasionally, when sufficient pressures are brought, non-jury criminal trials are convened outside the regular sessions.

b. Criminal Procedure

Most of the problems with the current functioning of the criminal justice system can be seen as somewhat milder variations of an old theme: accused persons are not consistently being processed through the courts in accordance with the procedures set forth in the Constitution and the Criminal Code. People familiar with the practice of criminal law in Port-au-Prince agree that "justice" is meted out at such an arbitrary and personal level as to make the system almost inscrutable to a non-participant. These same people also agree that, while the effect of such a system can sometimes be beneficial to an accused person, it can just as easily result in abuses. Some (but not all) of these abuses will be subjects of attention by the Legal Assist-

ance Project. Some examples of current problems include:

(1) Arbitrary detention: Sometimes persons are arrested by the police and their cases are not referred to the Justice of the Peace or the Prosecutor. The Public Prosecutor himself acknowledges that this is a problem, but is unable to supply even a rough estimate of the number of persons who may be affected. Often, people in this category are simply detained by the police and arbitrarily released after a certain length of time has passed, without ever having had any contact with the judicial system whatsoever.

(2) Delays in filing of formal charges: Among arrested persons whose cases are referred to a Justice of the Peace and/or the Public Prosecutor, many are not being presented before a judge within the forty-eight hour period mandated by the Constitution. Again, while statistics are virtually non-existent, the impressions of persons familiar with the system are that the problem exists at all three court levels. It was pointed out that it is common for a person arrested for a minor offense to be detained for several days by the police before being brought before the Justice of the Peace. Clearly, the impact of even a short period of incarceration can be quite devastating for someone living (and possibly supporting a family) on a marginal income -- even if he is eventually released when presented before the judge. The problem can be even more serious in cases which are beyond the competence of the Justice of the Peace and are then referred to the Public Prosecutor and the Investigative Judge, for there can be further delays before the case is presented to an Investigative Judge and a ruling made on the validity of the arrest.

(3) Delays in bringing charged prisoners to trial: There are lengthy delays before trial at the Correctional Court and Criminal Court level. Such delays may occur before the formal ordinance is issued by the Investigative Judge, i.e., while the Prosecutor's office is investigating the case and deciding what charges are appropriate, or they may occur after the issuance of the ordinance, when a trial may be delayed by the backlog of cases in the single Correctional Court or by the infrequent and short sessions of the Criminal Court. (The statutory requirement that Correctional level cases which can be categorized as flagrant delicts are to be tried within three days, for example, apparently is not being followed at all). In nearly all cases, and especially in cases involving indigent defendants, the accused remains incarcerated during the pre-trial period -- a period which can often be counted in months.

(4) Limited court sessions: Few cases involving indigent defendants actually go to trial. The percentage of indigent persons arrested for crimes appropriate for trial in the Correctional Court or the Criminal Court who are eventually tried is not large. The Criminal Court was last in session for only one week and the Court completed only five or six trials. Although the total number of Criminal Court trials during the year exceeds that figure, the total is still small. In the Correctional Court, since the courts sit every day, more trials are held. However, at the present time, relatively few of those trials involve indigent defendants. One lawyer estimated that 80% to 90% of the defendants in Correctional Court trials are represented by retained counsel. This is the case because, first of all, the kind of offense tried in the Correctional Court is, by definition, more likely to be committed by a person able to retain a lawyer than the kind of offenses tried at the Justice of the Peace or Criminal Court level. Embezzlement, forgery, and drug possession are typical. Secondly, there is often a money-damage component to criminal cases in the Correctional Court, i.e., a victim-plaintiff is suing the defendant at the same time the prosecutor is trying him on a criminal charge. In such cases it is reasonable to assume that if a defendant is worth suing, he is also able to afford his own counsel. All of this adds up to an informal but widely acknowledged priority system for scheduling trials in the Correctional Court. Because only one Correctional Court judge sits every day, not all of the pending cases can be tried. The ones which do get tried more often than not are cases in which retained lawyers are involved, and bringing pressure upon authorities to process their client's cases. While there may be various reasons the Prosecutor's office decides to bring one case to trial rather than another, there is little question that it is the case involving the lawyerless indigent that usually gets lost in the shuffle.

What becomes of unrepresented indigent defendants in the Criminal and Correctional Courts who do not go to trial? The consensus among local lawyers is that many of them remain detained until it is decided by the police and the Prosecutor that they should be released. In many cases, an individual may stay in prison in a "pre-trial" status for so long that, instead of being brought to trial, he is simply freed. (The periodic "amnesties" declared by the government, in which hundreds of prisoners have been released without trial, are a testament to the fact that a substantial number of people are detained for long periods of time without ever being channeled through the court system). In other cases involving lengthy pre-trial incarceration, a convicted person will be sentenced to time served. The principal reasons for these kinds of failures in the criminal justice system are not complex, and may be best illustrated by example. The Public Prosecutor's office, (the Parquet, a small, two-story cinder block building on Rue Pavée) is,

on any given morning, literally teeming with defendants, defendant's relatives or friends, a few lawyers and others having business with the Public Prosecutor. Detained prisoners whose cases are currently under investigation are brought up each day from the penitentiary and kept in a small holding area on the first floor. Eventually, they are interviewed upstairs in one of the small cubicles assigned to each of the four assistant prosecutors who, with the Chief, make up the entire Public Prosecutor's Office. The friends and relatives of the defendant may plead and argue with the assistant prosecutor handling the case, and the appearance is almost one of a "rump" court session. The prosecutor will then exercise his discretion whether to carry the prosecution further or drop the investigation.

The atmosphere at the Parquet is a convenient metaphor for the problems currently plaguing the criminal justice system in Haiti, especially in Port-au-Prince. While willful deviations from proscribed procedures certainly still occur at all levels, it is more often than not a case of inadequate resources to effectively process the number of accused persons currently coming through the judicial system. While the judicial system has indeed been resuscitated from a long period of dormancy, it is in essence the same "system" which was established decades ago, before the population of Port-au-Prince swelled to its current proportions.

The Chief Prosecutor and his four assistant prosecutors who comprise the Parquet are responsible for investigating all criminal matters above the level of police violations. Given that they also have responsibility for certain civil matters as well, they are woefully understaffed and, at approximately \$200 per month, underpaid. Several lawyers have suggested that, at a minimum, at least five additional prosecutors are needed to handle criminal matters alone. Similarly, there are currently only three Investigative Judges. Given that these judges sit as trial judges in civil cases, as well as having responsibility for approving formal charges issued in all criminal cases, their number is far too few to process cases with deliberate speed.

Because the system is so overburdened at the prosecutorial and Investigative Judge level, there is tremendous pressure to short-circuit procedures designed to ensure that accused persons are dealt with fairly. The forty-eight hour presentment rule, for example, is often one of the first casualties. Prompt trials are another. Because the judicial system simply cannot handle the number of cases currently coming through it, many of those cases are disposed of outside the system. Indeed, for many persons accused of criminal offenses, the very notion of a "system" breaks down entirely. Defendants are often dealt with purely on a case-by-case basis and the length of time actually

spent in detention is determined by an incalculable mix of factors, such as the seriousness of the offense, the length of time already spent in incarceration, the socioeconomic position and/or nationality of the accused, the backlog of cases awaiting action, and significantly, whether the person has a lawyer looking after his interests.

Sometimes these conditions can work to a defendant's benefit: charges may be dropped or he may be released on bail and never tried, simply due to the incapacity of the system to process the case. But the likelihood of the system working to the benefit of the accused in a typical criminal case is frequently determined by whether or not he is represented by counsel. The pervasive personal quality of the administration of criminal justice in Port-au-Prince is heightened even further by the fact that the number of persons working within the system -- lawyers, prosecutors, judges -- is very small. Everyone is well known to everyone else, and personal contact between lawyers and the authorities within the judicial system is easily accomplished at all levels, including the highest.

The informality, unpredictability and customary shoddiness of prosecution efforts are further reasons why criminal defendants can benefit from competent defense counsel at the trial stage as well as during the long pre-trial stages of a criminal case, no matter which court is involved.

3. Appointment of Lawyers for Indigents

Lawyers are currently appointed to represent indigent defendants at the Criminal Court trial level only. Such an appointment is required by the Code of Criminal Procedure. In practice, when an unrepresented person is scheduled for trial in the next session of the Criminal Court, the Dean of the Court (Doyen), who performs the administrative function equivalent to that of a Chief Judge, contacts the President of the Bar Association and requests that a lawyer be appointed. The quality of the legal services provided by a court-appointed attorney varies. Sometimes the appointment is made sufficiently in advance to allow the attorney time to prepare for trial. At other times, however, it is made on the actual day of trial. This occasionally occurs when the previously appointed attorney simply fails to appear on the day of trial. Obviously, the quality of the representation in such circumstances is questionable: a classic case of too-little-too-late. No statistics are available as to the actual number of appointments made pursuant to this arrangement in recent years.

There are currently no provisions for furnishing an indigent criminal defendant with counsel at any time prior to the issuing of official charges by the Investigative Judge and the subsequent scheduling of the case for trial in the Criminal Court. Likewise, no lawyer is appointed to represent indigent

defendants at the Correctional Court or Justice of the Peace level, despite the fact that the law of July 21, 1932 could be interpreted to require such appointments. Accused persons who cannot afford an attorney normally go unrepresented even at the trial stage in the lower level courts.

At the Justice of the Peace level, there are persons known as Fond de Pouvoirs ("proxies") who frequent the courts and, for a fee, will agree to assist persons accused of police violations. They are not lawyers, and frequently have had little formal education, but are familiar with the operation of the Justice of the Peace Courts and are customarily allowed to act as "advisory counsel" in minor cases. It is difficult to know how many people are financially capable of procuring the services of a Fond de Pouvoir, but there is universal agreement that many indigent persons go wholly unrepresented before the Justice of the Peace. Several members of the Bar noted that the unusual institution of the Fond de Pouvoir appears to be passing, and questioned the value of the services provided by such persons.

The "representation" offered by the "Fond de Pouvoir" is usually based on personal familiarity with the practices and personnel of the particular Justice of the Peace Court, and not upon knowledge of Haitian criminal law or procedure. Although it is not clear what the impact of the Project will be upon this institution, it is possible that the provision of a stagiaire to a Justice of the Peace Court will complement, rather than compete with, the Fond de Pouvoir. In any case, the quality of legal assistance for indigents at this level should increase.

D. ASSESSMENT OF NEED FOR PROJECT

Among the many members of the Port-au-Prince Bar Association consulted in connection with the Project, there was universal agreement that a Legal Assistance Program was greatly needed and long overdue, for exactly the reasons described above. The Minister of Justice, the Public Prosecutor in Port-au-Prince, the Dean of the Law School, and various judges wholeheartedly concurred. Although almost everyone had slightly differing notions of precisely where the greatest need for the program existed, there was virtual unanimity of opinion on certain fundamental propositions regarding the composition of the Program's potential clientele. These propositions were substantiated by personal observation of the judicial system in operation over a three week period.

It appears, first of all, that there is a definite need for the Legal Assistance Program to function in all three criminal tribunals: the Justice of the Peace, the Correctional Court and The Criminal Court. One of the oft-acknowledged shortcomings of the existing "system" for providing counsel to indigents was that it is oriented exclusively toward serious crimes which came to trial in the Criminal Court. Providing assistance to indigent defendants charged with serious crimes is, of course, essential, but to limit the project to such a high level is to ignore the many indigent persons charged with lesser offenses who are subject to incarceration for up to five years.

There is also almost total agreement that much attention should be given to the Justice of the Peace Courts. It was repeatedly emphasized that this tribunal is the principal institution of the criminal justice system for the vast majority of indigent Haitians charged with criminal offenses. While, the crimes are usually minor (simple assault, petty larceny, etc.) the periods of incarceration which sometimes result from the system's malfunctioning at this level can be devastating to the accused, who is not infrequently a newcomer to Port-au-Prince and totally ignorant of how the court system is supposed to function. Although the Justice of the Peace Courts focus on minor violations only, it is an area which everyone agrees will yield results in terms of the numbers of needy people assisted.

The legal assistance to be provided through this Project is also needed at the Correctional Court level, although the quantity of cases involving indigent defendants is far less than in the Justice of the Peace Courts. As pointed out above, many of the defendants in Correctional Court trials are able to afford their own attorneys. The problem, of course, lies with the cases at this level which do not come to trial -- the reason often being that there is no lawyer jockeying for the client's position on the Court's crowded calendar. Therein lies the primary role for court-appointed attorneys in Correctional Court: maneuvering to get their client's cases tried expeditiously.

At the Criminal Court trial level, as mentioned, there already exists a system mandated by statute for supplying court-appointed lawyers to indigent defendants. There is a consensus, however, that the effectiveness of this program could be greatly increased if it were formally incorporated into the proposed legal assistance office. As of now, it amounts to a loose arrangement between the Dean of the Court and the President of the Bar, with the "too-little-too-late" syndrome as the result. By making greater use of the stagiaires at the Criminal Court level (supervised by practicing attorneys), the quality of representation in that court could be strengthened.

One resounding theme which emerged from discussions with people familiar with the court system involved the need for the appointment of counsel early in the life of a criminal case -- especially in cases destined for trial in the Correctional or Criminal Courts where pre-trial delays are notoriously long. While traditionally there has been no official role for a defense lawyer to play in the pre-trial investigatory stage of a criminal case (lawyers are not required to represent clients at the 48-hour presentment hearing and are not permitted to be present if when a defendant is brought before the prosecutor for questioning), there is little doubt that, in practice, there is a critical role for attorneys to play at this stage. Nearly all the lawyers consulted in connection with the project cited examples

from their own practice of the effectiveness of persistent early-on representation of detained clients. The practical system for granting release on bail (liberté provisoire) is but one example of why early appointment of counsel can be important. Although, in theory, provisional liberty pending trial can be granted only by the Investigative Judge after formal charges have been issued, in fact it can be, and often is, granted by the prosecutor or the Justice of the Peace at virtually anytime after an accused has been placed under arrest. Also, to cite another example, the failure to bring a defendant before a competent judicial authority within the required forty-eight hour period can also be challenged judicially. In short, the importance of matching court-appointed lawyers with indigent defendants early-on cannot be overstated.

It should be pointed out, finally, that while it is possible to describe in some detail the various categories of indigent persons in need of legal assistance, it is extremely difficult to estimate how many persons currently fall into each of those categories. Repeated requests for statistics (on numbers of arrests, kinds of charges brought, percentage of defendants who are indigent, etc.) yielded little response. This was due to several factors. First, it appears that complete records simply don't exist and that those that do are scattered in bits and pieces throughout the system. Further, since the criminal court system was virtually in abeyance for many years and is only now regaining momentum, statistics from the past -- even the recent past -- may be of limited utility in estimating the number of persons potentially eligible for legal assistance. Finally, sensitivities about the international standing of the country -- and fears that data provided could be used with a negative connotation -- probably resulted in some hesitancy to provide detailed information. However, the Public Prosecutor's Office did provide a list detailing the number of cases referred to it each month by police authorities and/or Justice of the Peace Courts during the "judicial year" 1977-78 (Oct. - Sept.). The total number of cases for the year was 1,207, or an average of just over 100 per month. This is probably an accurate indication of the number of persons being formally charged and processed by the criminal justice system in the jurisdiction of Port-au-Prince for alleged crimes above the "minor misdemeanor" level. While no exact figures were obtainable, two relevant assumptions can be safely made: (1) a very substantial portion of this figure involved indigents unable financially to pay for legal representation in their cases, and (2) a substantially higher number of "minor misdemeanor" cases were processed by the Justice of the Peace Courts without referral to the Public Prosecutor's Office, the vast majority of which involved indigent defendants.

III. PROJECT DESCRIPTION

A. Synopsis of the Logical Framework

1. Goals and Purposes

The goals of this Project are to foster increased awareness of and respect for internationally recognized human rights in Haiti and to promote the observance in practice of the legal rights of Haitians accused of criminal acts. The purpose of this Project is to assist the Bar Association of Port-au-Prince to establish an institutionalized system for the provision of free legal services ("assistance judiciare") to indigent Haitians accused of crimes or involved in cases which may result in incarceration. A secondary purpose is to strengthen the Bar Association by supporting its role as a trainer of new lawyers through the legal assistance program.

The target group of the Project is all Haitians detained or arrested by police authorities in the Port-au-Prince area who are financially unable to afford a lawyer to represent them. Many persons now in jail on criminal charges in Port-au-Prince are poor, illiterate, speak and understand almost no French (the language of the Courts) and have little, if any understanding of the Haitian legal system. Nor is there a general public awareness of the legal rights guaranteed to all Haitians by the Haitian penal code and the Constitution. Without legal representation, petty offenders as well as serious offenders may languish in jail without trial. This is too often the result of Haiti's overburdened and understaffed justice system, and of simple neglect in the processing of criminal cases where there is no pressure to do so. While the establishment of an institutional system to make legal counsel available to indigents does not guarantee a quick and fair disposition of all cases, it is likely to reduce instances of unjustified, prolonged detention. In the long run, it is also likely to result in a more efficient and equitable administration of the criminal justice system in Haiti.

The primary beneficiaries of the Project, then, are indigent Haitians detained or arrested by authorities for alleged criminal activity. While exact data are difficult to obtain, the Public Prosecutor's Office reported a total of 1,207 cases referred by police authorities for prosecution during the year from October, 1977 through September, 1978. It was not possible to ascertain what proportion of these involved indigents unrepresented by legal counsel, but estimates by knowledgeable practicing attorneys in Port-au-Prince indicated a substantial **percentage**. Further, this average of 100+ cases/month includes only defendants subject to incarceration for more than 6 months. A substantially larger number of minor misdemeanor cases are processed through the Justice of the Peace Courts each year, and the proportion

of these involving indigents is even greater.

The secondary beneficiaries of the Project will be the legal interns ("avocats stagiaires") who have completed the four-year law faculty course at the National University, and are undergoing the one-year apprenticeship required before becoming full-fledged members of the Bar. While the work of these interns in representing indigent clients will be voluntary and uncompensated, they will receive the opportunity to act as counsel in court, and the material, personal and institutional support to be effective advocates.

Finally, the Bar Association itself will benefit from the Project, as it is provided the resources required to undertake a more active and supportive role in the training of new lawyers who will constitute its younger membership.

2. Outputs and End-of-Project Status

The fundamental outputs of the Project are as follows: (a) a legal assistance office, near the central courthouse (Palais de Justice), which is established, staffed and equipped for the provision of legal counsel to indigents; (b) a significant number (e.g., 10-30) of legal interns each year, supervised by at least three practicing attorneys, participating in the provision of legal services to indigents through the established office; (c) a significant portion of indigents arrested or detained, who would otherwise be without counsel, being represented in their legal proceedings; and (d) the Port-au-Prince Bar Association playing a more active role in the training of young lawyers and in assuring respect for the legal rights of persons arrested.

At the end of the Project, an institutionalized system for the provision of free legal defense services for indigents accused of crimes and subject to incarceration will be functioning in the jurisdiction of Port-au-Prince. While it is possible that this system may require continued external financial support, it can be expected to provide needed legal services to a substantial portion of indigents arrested and to improve the quality of the training of young lawyers in the Port-au-Prince area.

The legal services office will be directed on a part-time basis by a practicing Haitian attorney, and attended full-time by a receptionist/secretary. The Director will be responsible for the activities of the office to the President of the Bar, who will have overall supervisory responsibility. The office will contain several small rooms for use in interviewing clients, witnesses, etc., and for preparation of paperwork required for court cases. One room will be utilized as a law library and conference room.

A filing system will be established and records kept on each case where legal representation is provided.

The legal staff of the office will be constituted by the legal interns, or "stagiaires", who will be supervised by the Director and by other active members of the Bar Association. The Bar Association views the establishment of a legal assistance office as an opportunity to reactivate and broaden its role in training young lawyers and to provide practical experience during the internship period. Although it is extremely difficult to estimate the exact requirements for such legal assistance and, therefore, the number of interns required for the Project, it would appear that the 30 to 35 graduating law students sworn in as "stagiaires" each year in Port-au-Prince will provide an adequate pool of available manpower, at least at the outset.

3. Inputs and Assumptions

A.I.D. inputs to this Project are very limited in nature and quantity. A direct grant will be made to the Bar Association in the amount of \$125,000. This fund will be utilized over a three-year period for the start-up costs of establishing and equipping a legal services office and library, a professional salary for the office director and a clerical salary for the receptionist/secretary. Mobilization funds will be used for office rehabilitation of rented space and for the purchase of desks, chairs, filing cabinets, typewriters, supplies, law books ect. A small amount of technical assistance will be provided to the Bar Association to assist it in establishing a case assignment and monitoring system and a filing system. A small fund will be established to cover miscellaneous expenditures required to carry out legal defense work.

The principal assumption of this Project is that the interest and enthusiasm for a legal assistance system, as evidenced in the numerous interviews with members of the Bar and key officials in the justice system, was genuine and will be sustained. Haitian attorneys have a strong sense of professional pride and societal responsibility, and this sense appears to be growing as the political evolution of Haiti permits its expression. It is further a necessary assumption of this Project that the Government of Haiti will continue to view the legal assistance activities of the Bar Association in a positive light and cooperate with the operation of the office. In particular, active cooperation will be required from the Public Prosecutor's Office in order to establish an institutionalized mechanism for assigning cases to indigent defendants being prosecuted. This cooperation has been promised by the Public Prosecutor to the Bar Association.

B. Project Design: Proposed System for Legal Assistance

1. Overview

The Legal Assistance Project represents an attempt to establish a formal, permanent system for matching indigent criminal defendants at all court levels with the legal talent currently available in Port-au-Prince, primarily the lawyer-interns just out of law school. Such a system is virtually non-existent at the present time, but is provided for under Haitian law and the Rules of the Bar. By setting up a physical office near the Palace of Justice, and by making its existence known throughout the community, the Project hopes to broaden and deepen the scope of legal assistance available to indigent defendants and to put into effect, on an organized, day-to-day basis the avowed goals of the increasingly active Port-au-Prince Bar Association in the area of legal assistance. By assigning stagiaires and/or lawyers to assist clients facing trial in the Criminal Court at an early stage, the project will strengthen the already-existing informal appointment system; by focusing on the Correctional Court and the Justice of the Peace Courts, and assigning lawyers to clients as soon as possible after arrests, the Project will broaden the scope of legal assistance far beyond what is now available. The Project, of course, must begin slowly. Priorities for the assignment of counsel will have to be established as the needs of the target clientele come into focus and as the Project itself becomes an accepted feature of the criminal justice system which, it must be remembered, is itself only "convalescing." This period of adjustment will be critical, and the USAID/Haiti Project Office will monitor the activities of the office to assist in determining priorities and to provide some technical or managerial assistance, as it is requested by the Bar Association.

2. Statutory Framework

As previously pointed out, Articles 200 and 201 of the Haitian Code of Criminal Procedure provide for the assignment of counsel to indigent defendants facing trial in the Criminal Courts. These provisions, when read in conjunction with Articles 28, 57, and 73 of the Port-au-Prince Bar Association Regulations, constitute the statutory basis for the Project. Article 28 of the Regulations states that one of the duties of the President of the Bar Association is to appoint stagiaires to represent indigent defendants. Article 57 enumerates the requirements to be met before stagiaires can become full practicing attorneys and mentions the obligation to represent "prisoners at the Bar and indicted persons" at the behest of the Bar President, under the supervision of a practicing attorney. Finally, Article 73 provides for the establishment of a "free consulting office for poor people", and requires that the public be informed of the office through notices in the daily newspapers in the

capital, fixing the place, days and hours for consultation. At the outset, it is anticipated that radio announcements will also be used to notify the public of the office, due to low literacy rates among the poor. Word-of-mouth is also expected to be an efficacious form of public notice.

The Legal Assistance Program contemplated by this Project, therefore, fits neatly within already-existing laws and regulations. While the Bar Regulations are silent on the nature and the scope of the legal assistance office contemplated therein, there is no doubt that the program as envisioned can be put into effect without need for further amendments to the regulations, or to the Code of Criminal Procedure. However, several members of the Bar did recommend that the efficacy and permanence of the legal assistance program would be a far more certain thing if the Code of Criminal Procedure were to be amended to expand the mandated appointment of counsel at the Criminal Court level to require the appointment of counsel at the lower court levels. Some members of the Bar also suggested that the Rules of the Bar be amended to make the participation of the stagiaires in the legal assistance program an absolute requirement for final admission to the Bar. Working toward such changes in the law will be a derivative focus of the Project, once the legal assistance system begins operations.

3. Human Resources for Legal Staff

There are, as mentioned, approximately 250 members of the Port-au-Prince Bar Association, of whom about sixty are actively practicing in the Court system. It is from the latter number that the Legal Assistance Program would draw attorneys to supervise the stagiaires who would make up the actual legal staff of the office. While not all of these practicing lawyers were polled on the question of their willingness to participate in the Project, a good number of them were, and, to a man, they were supportive of the program and stated their own willingness to act as a supervisory attorney.

The legal education system in Haiti differs from that of the United States, and is patterned upon that of France. Students who receive their second-level "baccalaureat" degree by graduating from a "lycée" and passing the required examination may enroll in the Faculté de Droits et des Sciences Economiques (School of Law and Economics). The law school curriculum is four years, and after two years, law students may be certified to represent accused persons brought before a Justice of the Peace. Not all students who graduate from this School intend to practice law, and (unlike in the U.S.) those who do so intend, must undergo an additional apprenticeship before they are admitted as full-fledged members of the Bar Association, which is a requirement to begin law practice.



According to the Dean of the Law School, there were 60 graduates in 1978. Of these 60, approximately 33 were sworn in as apprentice lawyers or stagiaires; the remainder for various reasons, are not for the present pursuing the active practice of law in Port-au-Prince. The Dean expects the number of new lawyers to be sworn in in 1979 to be slightly higher. He predicted that the stagiaires would be enthusiastic about the Legal Assistance Program and would be eager to take cases assigned to them, primarily because it is difficult for new law school graduates to find cases and gain courtroom experience. The amount of time each could devote to working in the office and representing indigent clients may vary somewhat, since many stagiaires become affiliated with a practicing lawyer or law firm and may, therefore, have other obligations. However, firm commitments will be re-

quired for a minimum number of hours on a regular basis, for each participating stagiaire. The President of the Bar Association is confident that most stagiaires will participate voluntarily and also pointed out that it is clearly within the power of the Bar Association to require such participation prior to admitting a stagiaire to full membership. This power is described in Article 57 of the Rules of the Bar.

The Dean of the Law School also pointed out that third- and fourth-year law students are qualified to represent persons before the Justice of the Peace Courts, thus providing the Legal Assistance Program with another large pool of talent to represent persons charged with minor violations. Once the legal services office is operating effectively with the stagiaires, it is anticipated that the Project will pursue the possibility of establishing a "clinical" program to involve law students in its activities at the Justice of the Peace level.

4. Office Organization and Management

It would be impossible to work out a detailed plan for the day-to-day operations of the legal services office at this early stage of the Project. It is possible, however, to isolate a number of factors which should be considered prerequisites to the office's developing into an effective provider of legal assistance on a regular basis, rather than becoming simply a physical space through which random lawyers and legal interns occasionally flow.

a. Location

The legal services office should be located within easy walking distance of the Palace of Justice. The morning court sessions in the Palace provide an almost daily gathering spot for many practicing members of the Port-au-Prince Bar and such a location would make it convenient for the participating supervising attorneys to meet with the stagiaires in the Project office. At one time, there were suggestions that space was available for the Project in the Palace of Justice itself. Even if such space were available, it would probably not be advisable to locate the project there, as potential clients should be made to understand that the legal assistance office is, in fact, an entity separate from the police, the courts, and the Public Prosecutor's office. A separate physical location would help convey such an impression. It was also suggested that the Project office be located at the law school. While this might make sense in view of the availability of the library, etc., it is doubtful that adequate space in the law school's already cramped facilities could be allocated to the Project. The stagiaires, furthermore, no longer attend classes and have no independent reason to be at the law school. Again, a basic prerequisite to the Program's becoming a recognized, functioning

entity is its physical location in a separate centrally-located readily identifiable office.

b. Office Layout

The office should include a reception/waiting room area, an office for the director, one or two small interview rooms, and, if space provides, a small library or conference room. There should be a telephone for the receptionist with the extensions in the director's office and the interview rooms. The office equipment required is included in the Financial Plan (Section IV B).

c. Regular Office Hours

The legal services office should be open during regular business hours, either every day or on certain designated days every week. as most lawyers and stagiaires will be at the Palace of Justice from 10:00 - 12:00 a.m., every weekday, it will be recommended that the office open no later than 8:00 a.m. and remain open until 4:00 p.m., with the Director available during a minimum of 4 hours daily in the office. The hours should be affixed to the door and made known through newspaper and/or radio advertisements. Each of the stagiaires who are participating in the program should, on a rotating basis, be responsible for being in the office on particular days during business hours to deal with clients or potential clients who may come in. A secretary/receptionist should, of course, be present at all times during regular business hours.

d. Case Assignment

At regularly-scheduled intervals, perhaps once a week or ten days, a list of Correctional and Criminal Court cases in which defendants are without counsel should be made available to the Legal Assistance Program. The Public Prosecutor has already agreed to supply such a list to the Bar President. Once the name and location of such persons are known, individual stagiaires should be assigned the cases and attempt to arrange an initial interview with the persons involved. The Prosecutor has also agreed to assist the stagiaires in gaining access to detained prisoners when that is necessary. Cases at the Justice of the Peace level should be handled in much the same way as office hours, i.e., individual stagiaires and, perhaps, law students, should have responsibility for going to particular Justice of the Peace courts on particular days and taking appropriate cases. Each case, no matter which court it is in, should be considered the sole responsibility of the individual stagiaire to whom it is assigned for the life of the case.

e. Caseload Management

A system should be established to ensure that the caseload of the office and the individual caseloads of the stagiaires is workable and can be monitored. Once the office has begun operations and the average quantity of cases coming through the office becomes clear, caseload limits can be established. Each stagiaire should for example, be responsible for some cases in all three courts, if possible, but it is not yet possible to determine appropriate minimum or ceiling caseloads, and caseload levels will have to be determined by experience.

f. Selection of Stagiaires

The Dean of the Law School, in cooperation with the President of the Bar Association, should determine the number of stagiaires who will initially work for the Project. The Bar President has already suggested that ten stagiaires would be a minimum number to start with, although it may be necessary to increase the staff shortly depending on the demand. Within any given "class" of stagiaires, it appears that there will be some who will be available more or less full-time with the Legal Assistance Program, while others, for financial or other reasons, will go to work for private lawyers. The core staff should, obviously, be chosen from the former group, although stagiaires employed elsewhere should be encouraged to participate in the program to the extent their other obligations permit. It is essential, however, that firm commitments to work exclusively within the program be secured from as many of the stagiaires as possible. If there are more applicants for full-time work within the program than can be absorbed initially, a selection system -- based, in part, on law school performance and level of interest -- should be established by the President of the Bar Association.

g. Project Director

Probably the most important feature of the Legal Assistance Program is the establishment of a permanent position for a salaried Director. Again, this is essential if the office is to develop into anything more than an available physical space for whoever wants to make use of it. There are many organizational details which cannot be worked out until a specific person is given exclusive responsibility for the day-to-day management of the office and for putting together the initial organizational structure. Setting up the mechanism for obtaining lists of accused persons and assigning eligible clients to the stagiaires, to cite but one example, is a relatively complex proposition. Other functions which will require attention from the Director at the outset include setting up a system for staffing the office during business hours, assigning lawyers to

the various Justice of the Peace Courts, and establishing the eligibility criteria which must be met before an individual can be eligible for the office's services.

While the President of the Bar Association and the Bar Council should have ultimate control over the direction of the Project, the current President of the Bar is a private practitioner, general counsel to the National Bank of Haiti, and a law professor, who concedes that he (or any future Bar President) would be unlikely to have the appropriate amount of time to devote to the Project on a daily basis. He agrees, furthermore, that a separate Director of the Project is essential. The ideal persons for the job would be a practicing Haitian lawyer who is familiar with the current workings of the criminal court system and who is in a position to devote a very substantial amount of time to the Project. While a full-time Director would be ideal, it may not be possible to identify a practicing attorney who would give up his local private practice in order to become Director of a new project which has incremental, 3-year funding, at best. However, it may be possible to identify a candidate who will commit himself to spend 6 hours/day on the Legal Assistance Program for a reasonable salary, while still retaining at least a portion of his private practice. This is a matter which will have to be resolved before any disbursements are made under the Project, but which may not be resolvable until the Project is authorized. A draft job description for the Director's position has been prepared and is attached in Annex F .

As for the selection of the Director, the Bar Council, composed of the President and several other members of the Bar, is the logical body to make the choice. AID should, however, retain ultimate power to approve or disapprove the selection and to insist that the person fulfill certain fundamental qualifications, such as having the requisite familiarity with the court system, the available time to devote to the Project, and a basic sympathy with the overall goals of the program. It would also be very helpful if the Director was relatively fluent in English, as the ability to communicate readily with external groups may prove critical to obtaining additional financing for the Legal Assistance Program in the future.

5. Staff Supervision

Each stagiaire participating in the Legal Assistance Program should be supervised by an experienced, actively practicing Port-au-Prince attorney. The Bar Regulations already provide for the selection, on a rotating basis, of three lawyers to act in such capacity in the Legal Assistance Program, and that basic scheme appears logical and adequate, at least at the outset. Stagiaires who are not already affiliated with a practicing attorney or law firm would be assigned to one of the three supervisory attorneys, each appointed to serve for a six-month period. Each of the three, obviously, would have supervisory responsibilities for more than one stagiaire. This basic system could be supplemented by having the stagiaires who are already affiliated with a particular attorney or firm be supervised by their employers. This would also serve to involve other lawyers in the Program.

The supervisory role of the practicing lawyers should be carried out on a systematic basis. Periodic reviews of an individual stagiaire's caseload should be undertaken, and regularly scheduled Legal Assistance Program staff meetings should be scheduled, during which all of the participating interns and supervisory attorneys could come together to discuss common problems, individual cases, etc. The task of organizing the supervisory program is complex, and requires a great deal of attention at the outset. It is something which will have to be done by the Director, in collaboration with the Bar Council, and with the active participation of the three initial attorneys selected to supervise the program.

If and when a serious case comes to trial in the Correctional Court or the Criminal Court, the supervisory attorney should be expected to participate in the preparation of the case for trial as well as be present at the trial itself -- at least until the stagiaire gains enough experience to handle a case on his own.

6. Record-Keeping

With respect to record-keeping, there are several basic procedures which will need to be followed if the program is to be effective and if that effectiveness is to be measurable after a given period of operations:

First, each stagiaire should be responsible for setting up and maintaining a separate file on each case to which he is assigned. Printed "Assistance Judiciaire" file folders should be obtained, with appropriately-designated spaces on the cover for entries corresponding to the various stages in the life of a criminal case -- arrest, issuance of the ordinance, etc. Each case file cover would, then, provide a capsule summary of the nature and history of the case. All the files should be kept in the Legal Assistance Program office, readily available

for review by participating stagiaires and supervising attorneys.

Secondly, an "eligibility" form needs to be developed for use during the initial client interview to determine whether an individual meets the criteria for the program's service. This could be a simple one-page document developed by the Program Director in conjunction with the Bar President and Council.

Finally, there should be a simple "closed case" card, which could be filled out and filed when a particular case is concluded. The card should contain basic information about the history/disposition of the case which would be of use to anyone evaluating the volume and nature of cases handled by the Project during a given time.

Although the availability and use of a few forms and files like those described herein appear to be a small matter, they are critical to the legal services office's operation, both on a substantive level and on an "appearances" level. The goal is to set up a functioning effective law office for indigents, and for such an office to perform well it must be organized like a law office. Also, a well-structured office is more likely to attract legal talent from the law school than a loosely-organized one.

The establishment of a case assignment and monitoring system, a supervisory system, a record-keeping/filing system and eligibility procedure are administrative matters of some complexity and a great deal of importance to the success of this Project. It is for this kind of activity that funds for technical/managerial assistance are set aside in the Project Financial Plan. These systems are also essential to the effective monitoring and evaluation of the Project by AID; for this reason the USAID/H Evaluation Officer and the Regional Social Science Advisor will be involved in their design.

C. Possible Expansion of the Project

1. Geographical

There is no National Bar Association in Haiti. Bar Associations have been organized exclusively in the major population centers of Haiti where a system of Courts (Tribunaux Civil) is functioning. There are currently Bar Associations in several such centers in Haiti, including Cap-Haitien, Gonaives, Jacmel, and Les Cayes. The discussions leading to the development of

this Project included an interview with Mr. Francois St. Fleur, the President of the Bar Association of Cap-Haitien and a nationally-known attorney. He expressed a very active interest in the Project, and a desire that it be expanded to include areas outside Port-au-Prince. In particular, Mr. St. Fleur would like for the Project to be extended to Cap-Haitien, where a law school is located and where from 5-10 "avocats stagiaires" enter the profession each year. The Bar Association of Cap-Haitien has approximately 150 official members, but only about 25 are currently in active practice before the courts.

If the Legal Assistance Program is successfully established in Port-au-Prince, it is anticipated that the Project will be expanded to other population centers in Haiti where organized Bar Associations exist and where a high level of interest is expressed. This expansion could begin as early as the second year of the Project.

2. Scope of Activities

Discussions were held with the President and various members of the Bar Association regarding possible activities which could take place within the parameters of this Project, would benefit the target group, and would assist the Bar in re-establishing the active role in public affairs it played in earlier years. The President was pleased to discuss several items which are, perhaps, of limited benefit to the target group, but which would otherwise be worthwhile activities. These included the publication of an academic Haitian Law Journal, and the establishment of a monthly newsletter for the Port-au-Prince legal community. The latter idea may be worth some consideration, as such a newsletter could be utilized to publicize the activities of the Legal Assistance Program, as well as to inform the legal community of the outcome of significant cases, the proposal or passage of new laws, the various activities of the Bar, etc. Some discussion was also held on the possibility of establishing, under Bar sponsorship, a law reform study group, which would discuss and perhaps propose amendments to existing laws and new laws. Indeed, the law journal, in which substantial active interest appears to exist, could serve as a vehicle for the proposal of the ideas of such a group. A natural starting place for such discussions would be the statutory amendments needed to reinforce and institutionalize the mechanism which this Project will attempt to establish, making the appointment of counsel for indigents a legal requirement for cases below the Criminal Court level.

There are other fruitful areas for Bar Association involvement in Haiti, and because the Bar is a prestigious, "establishment" organization made up of some of the most intelligent, articulate and well-educated members of Port-au-Prince society, its voice would be hard to ignore. Land tenure problems of the rural poor are complex and critical in the development process, and the Bar Association might be able to assist rural poor in establishing their title to land, through a special "land tenure" project. Indigent Haitians who emigrate illegally to the United States are a major source of concern to both governments and to human rights groups, and the Bar Association could play a role to help ensure respect for legal rights of those who are forcibly returned to Haiti. These and other ideas for further assistance to the Bar Association for activities which are consistent with the purposes of this Project will be seriously considered, if the Legal Assistance Program can be successfully established.



IV. PROJECT ANALYSES

A. Institutional Feasibility

The institutions which will be involved in or affected by the Legal Assistance Project, whose support is needed if the Project is to succeed, include the Ministry of Justice, the Courts, the Public Prosecutor's Office, the Law School of the National University of Haiti, and most importantly, the Port-au-Prince Bar Association. The heads of all these groups have been consulted and to a person they have expressed whole-hearted support for the Project. Further, no person consulted expressed reservations about the ability of the Project to function within the present structure of the criminal justice system. The Minister of Justice was extremely enthusiastic and was, in fact, somewhat disappointed with the limited scope of the Project at the outset. The Dean of the Law School welcomed the opportunity for young lawyers to gain practical experience in the court system, especially since such opportunities with private law offices are difficult to find. Even the Public Prosecutor, members of whose office will be opposing the staff of the Legal Assistance Program in court, welcomed the Project as a way of generating more efficiency in the clogged court system, and promised his cooperation in providing necessary information to the Bar Association (the current Chief Prosecutor, Mr. Rodrigue Casimir, is a former member of the Bar Council).

The key institution is, of course, the Bar Association of Port-au-Prince, which was described in some detail under Grantee/Executing Agency (Section I B). The Bar Association has about 250 official members, of which about 50 to 60 are in active practice before the courts. Its members are well-educated and exhibit a high level of professional pride and civic-mindedness. A number hold prestigious positions in Cabinet and sub-cabinet level agencies. Most are aware of the reputation of Haiti in international circles and are anxious to improve it. In the numerous consultations held with Bar members about the institution of a Legal Assistance Program, the only response received that was not completely positive was a fear that the Project might involve American participation or interference in the affairs of the Bar Association, or perhaps the criminal justice system itself. This fear was readily assuaged as the nature of the Project was explained. However, it is important to keep in mind that the Port-au-Prince Bar Association views itself as a highly independent and prestigious organization which operates without the interference of any outside group or institution. It must be conceded that while all the members interviewed believed that the Project would assist the Bar Association in providing a needed social service to the community, a number seemed to feel that the Project's principal positive benefit would be to assist the Bar to revive itself as an active organization and reassert itself in its role of the trainer of new

lawyers in Haiti.

In any case, although no extensive institutional analysis of the Ministry of Justice, the Public Prosecutor's Office, or the Law School was undertaken (or believed necessary) it appears clear that the feasibility of the Project will not be impaired by institutional conflict or the lack of institutional support. The greatest potential problems in implementing the Project lie in the realm of the actual creation of an institutionalized, permanent system for the provision of free legal services to arrested indigents. Specific mechanisms must be established through which the resources of the appropriate institutions can be brought to bear upon the problems to be addressed by the Project. (An example of this lies in the need to formalize and regularize the way (when, how, etc.) in which the Public Prosecutor will provide current information to the Legal Assistance Program on cases referred to his office for prosecution). There is no doubt that the translation of the general institutional support which the Project is receiving into a functioning system for the legal defense of indigents accused of crimes will require at least, (a) continued enthusiasm from the Bar and its members; (b) the delivery of promised cooperation and support from the other relevant institutions; (c) dynamic and perhaps even courageous actions on the part of the Project Director; and (d) the resources to be provided through this Project.

B. Financial Feasibility and Summary Financial Plan

As described above, this Project is limited in scope at the outset and will not require numerous or costly inputs. The objective is to provide the resources which are required as a catalyst to activate the Port-au-Prince Bar Association into fulfilling its recognized professional (and statutory) responsibility to provide free legal assistance to indigents. The President of the Bar Association has asserted that it has been primarily the lack of material resources which has prevented the Bar from acting more decisively in this field.

The principal start-up costs of the Project include initial rental of office space, purchase of furniture, books and supplies to equip the office and library, and some initial technical assistance to establish the required case-assignment, supervision and monitoring system and a record-keeping/filing system. The principal recurrent operating costs will be the salaries of Project Director and the secretary/receptionist, continuing rental, telephone and utility expenses, and miscellaneous incidental expenditures to meet the costs of litigation. If the Project is expanded in the future to include publication of a newsletter or journal, or to pay for special law reform studies to be carried out, additional funds will be required to meet these costs.

A summary of the principal, anticipated costs of the Project for which A.I.D. financing will be required is provided in Table I. The counterpart contribution is difficult, if not impossible, to estimate, as it will take the form primarily of uncompensated time contributed to the Project by the President of the Bar, members of the Bar Council, the supervisory attorneys and the stagiaires. If the customary rate at which hours are billed to clients for professional services rendered was attributed to the time donated by these people to the Project, there is little doubt that the counterpart contribution would be greater than 50% of the overall Project cost.

As Table I shows, the estimated annual recurrent costs of the Project will be just under \$35,000 in Year III. If the Legal Assistance Program is to continue on the same basis as during the Project years, it is clear that continuing sources of external financing will be required, at least to cover salary costs. It may be possible by then for the Bar Association to have strengthened its internal financial resources adequately to meet the recurrent costs of rent, utilities and office supplies, but even this may be optimistic. The Bar will covenant to use its best efforts to increase its income, and intends to do so primarily through raising and enforcing collection of monthly dues (now a meager \$1.00/month) and initial membership fees. But because the Bar will not be able to fully cover these operating costs at the end of the three-year Project, it is critical that other sources of external financing be sought and obtained during the Project years. (This is one important reason for requiring that the Project Director be relatively fluent in English).

A potentially fruitful approach to the question of obtaining funds to continue the Project would be through the establishment of a close affiliation between the Haitian Legal Assistance Program and the newly-formed Inter-American Legal Services Association (ILSA). Indeed, this affiliation has already been informally begun through the attendance of the current Bar President (Mr. Trouillot) and Mr. Francois Guy Malary (a leading member of the Bar), at the initial meeting of the ILSA Board of Directors in Santo Domingo, Dominican Republic (May 3-5, 1979). ILSA was established as a non-profit corporation in December 1978, as the culmination of a study carried out on legal assistance and law reform activities in the Latin American and Caribbean Region. The study was done by the American Society of International Law (financed by a grant from A.I.D.), at the behest of the Inter-American Juridical Committee of the OAS. ILSA has now established offices in Washington, D.C. (Headquarters), in Bogota, Colombia (Latin American Region), and Bridgetown, Barbados (Caribbean Region).

TABLE I

SUMMARY COST ESTIMATE AND FINANCIAL PLAN (U.S. \$, inflation factor included)

ESTIMATED PROJECT COSTS	YEAR I		YEAR II		YEAR III		TOTAL	
	A.I.D.	Bar Assn	A.I.D.	Bar Assn	A.I.D.	Bar Assn	A.I.D.	Bar Assn
<u>Operating Costs:</u>								
Office Rental	6,000		6,900		8,000		20,900	
Telephone, Utilities, Services	1,200		1,500			1,800	2,700	1,800
Office Supplies	1,000			500		500	1,000	1,000
Director's Salary	12,000		13,800		15,900		41,700	
Secretary/Admin Aide	6,000		6,900		8,000		20,900	
<u>Mobilization Costs:</u>								
Office Furniture & Equipment	6,500						6,500	
Law Library & Publications	5,000						5,000	
Advertising & Publicity	300						300	
Technical Assistance	8,000				8,000		16,000	
Contingency Fund (travel, seminar, project exp.)	4,000		3,000		3,000		10,000	
Total	50,000	0	32,100	500	42,900	2,300	125,000	2,800

* The cash contribution of the Bar Association is limited at the outset but will increase over time to cover a greater portion of the operating expenses of the Legal Assistance Program. Its primary contribution to the Project is in the form of voluntary services by its members.

One of the primary objectives of ILSA is to increase financial assistance to legal services programs in the Latin American and Caribbean Region, by helping them to obtain funding from granting institutions (e.g., Ford Foundation, the Inter-American Foundation), and, if possible, by direct financial assistance (this will probably be limited to small "seed money" grants to new projects). In addition, ILSA will hold periodic conferences among Latin and Caribbean lawyers to focus on common problems related to providing legal services to the poor, and sponsor some training and technical assistance by Latin and Caribbean lawyers experienced in providing legal services. Additional information on ILSA is provided in Annex G.

Another idea that has received a small amount of discussion is the possibility that the Port-au-Prince Bar Association seek to establish a "Sister Bar Association" relationship with a local American Bar Association. For example, an arrangement with the Miami, Florida Bar Association might be explored, given the mutual concern of the two areas with the problems (many of which are legal) created by the heavy flow of Haitian refugees seeking asylum in southern Florida. It might be possible to interest a local U.S. Bar Association into providing a subsidy for the operating expenses of the Legal Assistance Program in Port-au-Prince.

Finally, in the interview carried out with the Minister of Justice, the question of possible government funding of the Program (through earmarked contributions to the Bar Association) was raised. The Minister was extremely sympathetic to the idea and "guaranteed" that if a successful legal services office was established through the Project, that it would not be permitted to wither away for a lack of funds, at least during his tenure. However, given the nature of the Project, it would seem desirable to avoid seeking funds from the Government, except as a last resort.

C. Economic Considerations

Because of the small size and the nature of this Project, no formal economic analysis of its feasibility and impact was carried out. The Project is not oriented primarily toward economic benefit to the target group, but on social benefit. However, it is intended, and it is very likely, that the Project will have a significant economic benefit for those persons on marginal incomes, who are arrested or detained and who -- but for the availability of free legal service--would have undergone a prolonged period of detention without charge or trial. To the extent those persons are income-earners for a family, the provision of legal counsel and the securing of an earlier disposition of the case will also benefit dependent members of the family, who otherwise would have been required to fend for themselves (and who probably would have had to obtain additional resources to support the

imprisoned member of the family). However, the principal impact of this project is designed to be social in its enhancement of the civil rights of indigent Haitians: its economic impact is a by-product, although certainly not an inconsequential one.

D. Social/Cultural Considerations

No formal Social Soundness Analysis was carried out in the development of this Project, primarily due to its small scale and experimental nature. It may well be that such an analysis would have been useful at this point in time. There are significant issues of motivation on the part of both the deliverer of services and the clientele, including questions such as those pertaining to social distance, capacity for consistent activity on a volunteer basis, commitment to regularized participation, perceptions of need and urgency, and the possibility of the stigma and low utilization rates sometimes associated with free services. On the other hand, there is the potential for excessively quick overload on the new system. Recent and ample data indicate that the indigents who will compose the client population are at the utter bottom of the urban socioeconomic pyramid and thoroughly within the parameters of poverty which are AID's mandate.

Any Legal Assistance Program in Haiti cannot be realistically compared to similar programs in the United States. The longstanding, widely-accepted, societal commitment to equal justice before the law that has resulted in the establishment of Constitutionally-mandated Public Defender programs in the U.S. simply does not exist in Haiti. There are, as has been seen, laws on the books in Haiti which require the provision of legal counsel to the poor under certain, rather dire, conditions. But by-and-large, social and legal justice in Haiti historically has been for those able to afford it, and that number is very small indeed (and not noticeably growing). As noted, Haiti is only now emerging, incrementally, from a period in which there existed no system of justice at all. An entire generation was raised in that period and this cannot help but affect the implementation of this Project. In light of recent history, it would be unrealistic to expect participation in Project activities to be based entirely upon a readily-felt professional or societal duty to assist poorer members of society who are in trouble with the law. The fact that such a duty is stated in the Law of July 21, 1932, and Rules of the Bar Association is certainly helpful, but active participation must also be attractive (especially to the stagiaires) on levels other than altruism or professional ethics. After much discussion, it was decided that providing a financial incentive might work,

but might also risk impairing the existing residual sense of professional duty, expressed frequently by the older members of the Bar interviewed and stated in the Rules of the Bar. It would also make the Project significantly more expensive to A.I.D., and reduce the basis for a substantial counterpart contribution. And, in addition to a sense of professional duty, the discussions held with the Dean of the Law School and several younger lawyers indicated that the desire of the stagiaires to embark on their legal careers, to gain experience in courtroom practice, and to become known and respected in the legal community, would work as a strong, additional incentive to participate in the work of the Project. The opportunities for new lawyers to take responsibility for cases and to represent clients in the courtroom are few and far between, and are actively sought. The achievement of Project objectives rests on these motivational factors, as well as upon the statutory authority of the President of the Bar to appoint stagiaires to represent indigents.

As for the acceptance of the system by the public, the Legal Assistance Program may face some of the same sensitivities faced by public defender and legal aid programs in the U.S., i.e., the disincentive to classify oneself as "indigent" by the acceptance of free legal services, and the belief that such free services are poorer in quality than those obtainable commercially. These sensitivities will have to be understood by all attorneys and stagiaires involved in the Project, and accounted for to the extent possible. If the legal services office is set up and managed in a highly professional manner, and if the legal staff is committed to its work as professional advocates, these problems should not become significant obstacles to the successful operation of the office.

It is obvious that much of the success or failure of this Project will derive from what are essentially sociocultural factors. As in any project implying readjustment in the status quo or even minimal shifts in social-structural arrangements which have endured for so long, there is a potential for failure or, more probably, for a gradual and elusive withering away. At the same time, it is extremely difficult to anticipate the dynamics which will emerge through the Project and the various interactions and commitments it comprises. This difficulty in prediction is compounded by the enthusiasm demonstrated by the various institutions and individuals concerned with services delivery. On the client side, it is only possible to hypothesize -- and, indeed, clients themselves could only hypothesize at this point--about whether they would prefer to continue in a state of neglect or to risk a social stigma.

We are thus returned to the reality that this Project is, as indicated, a quasi-experimental effort, in itself a hypothesis-testing activity. For this reason, it is appropriate to begin after six months of active project life, to carry out a data-gathering exercise which will accumulate baseline data now almost totally lacking. This activity will include the elaboration of a set of quantitative indicators and qualitative questions which will, at the end of the first and second years of the Project, provide both for project monitoring and redesign. An end-of-project evaluation based on these indicators and questions, and the data provided, will determine the advisability of continuance, expansion, or termination of the project. Thus evaluation and social soundness activities will be combined throughout the Project.

V. PROJECT IMPLEMENTATION

A. Schedule of Major Events

1. The Project will be authorized o/a September 17, 1979.
2. The Project Agreement will be signed o/a September 20, 1979.
3. The Conditions Precedent to initial disbursement of grant funds to the Bar Association will be met o/a November 20, 1979.
4. The initial technical assistance will commence o/a December 3, 1979.
5. The legal services office will be outfitted with furniture, equipment and supplies during the month of December 1979.
6. The Haiti Legal Assistance Program ("Assistance Judiciaire") will open its doors to the public o/a January 2, 1980.
7. Public notices regarding the operations of the new legal services office will be placed in the daily newspapers and on the radio during January and February 1980.
8. An evaluation of the first year of activities under the Project will occur in January 1981. Evaluations will be held annually.

B. USAID Monitoring

Monitoring responsibilities for the Project will be fulfilled by the Project Division of USAID/Haiti, and the Regional representative of the AID General Counsel's Office (located in Bridgetown, Barbados). The Project Division will also be prepared to provide other forms of assistance to the Bar Association to assure effective implementation of the Project.

C. Procurement and Disbursement

Procurement of almost all goods to be purchased under this Project will be "off-the-shelf" in Haiti (e.g., furniture, typewriters, office supplies, etc.). The technical assistance provided for by the Project will probably be obtained from the Federal Public Defender's Office in Washington, D. C. Some library resource materials may have to be purchased from French speaking countries, such as France and Canada.

Disbursement will be almost exclusively in local currency for items procured in Port-au-Prince (except for technical assistance and perhaps some legal publications). Disbursement will generally be made by USAID in the appropriate currency to the Bar Association of Port-au-Prince, upon presentation of a list of eligible expenditures, or of a voucher for reimbursement for the purchases of eligible goods or services.

D. Evaluation

As discussed in the above Section IV D, on "Social/Cultural Considerations", the Project will be evaluated on an annual basis by a joint USAID/Bar Association team, with the assistance of outside expertise as considered necessary or desirable by the team. It is recommended that the first such evaluation include outside (TDY) participation. The Federal Public Defender Service in Washington, D. C. assisted in the development of the Project Paper and could be particularly valuable in such an evaluation. Assistance might also be obtained from the Regional Legal Advisor in Barbados or the General Counsel's Office in AID/W. A Social Scientist will be included in the evaluation design activity, as well as in the actual evaluations, as indicated in Section III B 6.

Qualitative analysis based on participant observation and semi-structured interviews will address matters of motivation, commitment, interactive style, client perceptions, and selected characteristics of the deliverer and client populations. This analysis will not only provide a fuller description of the population actually served, but will identify those characteristics of the services-delivery contingent. The analysis in toto should lead to generalization and conclusions about the reasons underlying project deficiencies, level of success, and range of impact.

An evaluation plan should be drawn up for USAID review by the end of the tenth month of the Project at the latest. It should attempt to set out indicators for measuring the impact of the Project on: 1) the extent to which indigents who have otherwise gone unrepresented when accused of crimes are receiving adequate legal representation, and 2) the extent to which the Bar Association has been strengthened and reactivated as a professional society and public service organization through the activities of the Project. If possible, indicators should be developed for measuring the institutional viability of the Legal Assistance Program as a system for the ongoing provision of legal services to indigents accused of criminal violations. Finally, it would be extremely valuable if measures can be devised to determine the impact of the Project on the incidence of cases of prolonged detention without charge or trial, and ^{on} other aspects of the observance of basic legal rights by police and prosecutorial authorities.

UNOFFICIAL TRANSLATION

Port-au-Prince, August 30, 1977

Mr. Frazier Meade
Charge d'Affaires ad interim
American Embassy
Port-au-Prince

Honorable,

We have the honor to inform you that the project discussed with us by your Embassy concerning the creation of a Legal Assistance Program has had our best attention. It meets our point of view in principle, and the establishment of such a Program is something we have long wished to accomplish. You will find attached a copy of the Law of 1932 governing the Bar Council and a specimen of the rules of the Bar Council for the Port-au-Prince jurisdiction.

These rules and law will inform you that the Bar is an independent body enjoying civil and legal personality. It is governed by a special law. Article 38 of that law stipulates that the Bar can receive bequests or grants without impairing its independence. Thus, concerning the proposed project, the Bar is fully able to receive, within its legal and customary framework, the help you intend to offer to assist the indigents and for the development of the young lawyers of the Bar. There is nothing that prevents the Bar from signing, if necessary, an agreement with an agency of the American Embassy.

Thus, would be created the Legal Assistance Bureau which would have as its purpose to assure, without charge, the defense of indigents brought before the Court of Justice for civil, penal and working matters. The Bureau would act as representative of defendants who are not able to pay the professional services of a lawyer owing to their precarious economic condition. That assistance would include the benefit of all services for the defense of their rights and would extend to the Court of Appeals as well as to the Supreme Court of Appeal (Cour de Cassation), and would also include subsequent procedures generated by the court action. It is even intended to assist one accused of a minor misdemeanor before the Court of Summary Jurisdiction on a continuing basis and to envisage the case of those accused in our Justices of the Peace Courts of simple police violations.

The Legal Assistance Bureau would have for members the trainee attorneys and all lawyers with less than five years of professional experience.

A bilingual secretary (French-English) would be in charge of the maintenance, the organization and the control of the library. The Bureau would work under the supervision of a Council which would include the President of the Bar, a member of the Bar Council, a practicing lawyer, four trainee lawyers, one of which would act as Secretary and another as Treasurer. The latter would have the right jointly with the President of the Bar to sign for expenses. It is understood that the trainees, when defending clients, will be assisted by their elders, notably members of the Bar Council.

Pending a new, more spacious and more suitable locale to lodge the Legal Assistance Bureau, the room currently used by the President of the Bar at the Law Courts could be improved and equipped with three desks: one for the President of the Bar, one for the Council and one for the bilingual secretary. Wall cupboards would be made up to receive books and the large table now there could be used as a working table. Office furniture (typewriter, files, etc.) will complete that equipment initially.

The Port-au-Prince Bar expresses its satisfaction that the Legal Services office anticipated by the law governing the Bar Council and our internal rules can become, thanks to your assistance, a reality. In fact, Article 73 of the Rules anticipates Legal Assistance and the establishment of a "Bureau of Consultation" without charge for indigents. Your proposal will allow us to realize the vow of the Bar Council. Trainees and beginning lawyers would assure a continuing presence at the Bureau.

We are sure that the application of this proposal will serve the cause of Human Rights in Haiti and will allow our trainees and our attorneys to realize their potential. They will develop on contact with practice and will acquire valuable experience that will allow them to be successful in their professional careers.

Furthermore, the progressive policy of the President-for-Life of the Republic, His Excellency Mr. Jean-Claude Duvalier, in the area of the defense of Human Rights, would find a favorable outlet.

We are very grateful to you and hope you will accept the assurances of our full consideration.

Ernst Trouillot
President of the Bar Council

CONSEIL DE DEVELOPPEMENT
N. NIGGOMATON
ADRESSE: PORT-AU-PRINCE
BOITE 424
PORT-AU-PRINCE
HAUT-RIEN
BOITE 1000
PORT-AU-PRINCE
HAUT-RIEN
BOITE 1000
PORT-AU-PRINCE
HAUT-RIEN
BOITE 1000

ORDRE DES AVOCATS DU BAIRIEAU DE PORT-AU-PRINCE

BARONNIER ERNEST TRUQUET
PALAIS DE JUSTICE
BOITE POSTALE
PORT-AU-PRINCE HAUT-RIEN

Port-au-Prince, le

Par son Conseil d'Administration, l'Ordre des Avocats de Port-au-Prince, le 17 septembre 1979, a autorisé à signer son Bulletin d'Annuaire d'Avocats, le 20 septembre 1979.

Port-au-Prince, le 17 septembre 1979.

[Handwritten signature]

Baronniere
Ernest Truquet
Palais de Justice
Boite Postale
Port-au-Prince
Haut-Rien

[Handwritten signature]

Ernest Truquet



REPUBLIQUE D'HAITI

RECEIVED

SEP 17 5 25 PM '79

DEPARTEMENT DE LA JUSTICE

U.S.A.I.D./HAITI

No. 214 C.T.R

Port-au-Prince, le 197.....

MONSIEUR ALLAN R. FURMAN
AGENCY FOR INTERNATIONAL
DEVELOPPEMENT
MISSION TO HAITI

Monsieur le Directeur a.i.,

Je m'empresse de vous accuser réception de votre lettre en date du 12 septembre 1979 relatif au concours offert par l'A.I.D. en vue de la mise en oeuvre par le Barreau de Port-au-Prince d'un programme d'assistance judiciaire.

La Secrétairerie d'Etat de la Justice ne fait aucune objection à cette mise en oeuvre par le Barreau de Port-au-Prince d'un tel programme, en attendant qu'une loi vienne conditionner et reglementer cette assistance.

EWALD ALEXIS
SECRETARIE D'ETAT.-

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DATE:	8/25
BY:	9/19

C.T.R
9/19/79

he: 9/26/79

DEPARTMENT OF STATE
AGENCY FOR INTERNATIONAL DEVELOPMENT LAC/DR-IEE-79-54
WASHINGTON D C 20523

ENVIRONMENTAL ADVISOR

ENVIRONMENTAL THRESHOLD DECISION

Location : Haiti, 521-0120
Project Title : Legal Assistance to the Poor
Funding : \$125,000 Grant (FY 79)
Life of Project: Three Years

Mission Statement:

Based on the Initial Environmental Examination, the Mission has concluded that the proposed project is not an action which will have a significant effect on the human environment, and therefore, is not an action for which an Environmental Impact Statement or an Environmental Assessment will be required.

Pursuant to the authority vested in the Assistant Administrator for Latin America and the Caribbean under Title 22, Part 216.4a, Environmental Procedures, and based upon the above recommendation, I hereby determine that the proposed project is not an action which will have a significant effect on the human environment, and therefore, is not an action for which an Environmental Impact Statement or an Environmental Assessment will be required.

Administrative:

Pursuant to the authority vested in the Assistant Administrator for Latin America and the Caribbean under Title 22, Part 216.4a, Environmental Procedures, and based upon the above recommendation, I hereby determine that the proposed project is not an action which will have a significant effect on the human environment, and therefore, is not an action for which an Environmental Impact Statement or an Environmental Assessment will be required.

Assistant Administrator for
Latin America and the Caribbean

September 5, 1979
Date

Clearances:
LAC/DR:Environmental Advisor:ROtto
DAEC Chairman:MBrown

ROtto
MBrown

INITIAL ENVIRONMENTAL EXAMINATIONPART I

Project Location : Haiti

Project Title : Legal Assistance to the Poor
No. 521-0120

Funding : \$125,000 Grant
(FY79)

Life of Project : 3 years, 1979-1982

IEE Prepared by : William Stacy Rhodes
Date: August 20, 1979

Threshold Decision :

- a. Recommendation:
Negative Determination
- b. Concurrence:

for Allan R. Furman/WSR Date: August 30, 1979
Allan R. Furman
Acting Mission Director
USAID/Haiti

DESCRIPTION OF THE PROJECT

PART II

The purpose of the Project is to assist the Bar Association of Port-au-Prince to establish an institutionalized system for the provision of free legal assistance to indigent Haitians accused of crimes. The Project will also strengthen the role of the Bar Association in training young lawyers in trial practice, through the "legal defenders" program.

The Project will provide for the establishment and equipping of a legal services office in the downtown area of Port-au-Prince, Haiti. Furniture, office equipment/supplies, and books and library materials will be obtained. Project funds will also be utilized to pay the salaries of a practicing attorney to direct the office and a secretary/receptionist. Some technical assistance will be provided to assist the mobilization of initial office operations.

IDENTIFICATION AND EVALUATION OF ENVIRONMENTAL IMPACT

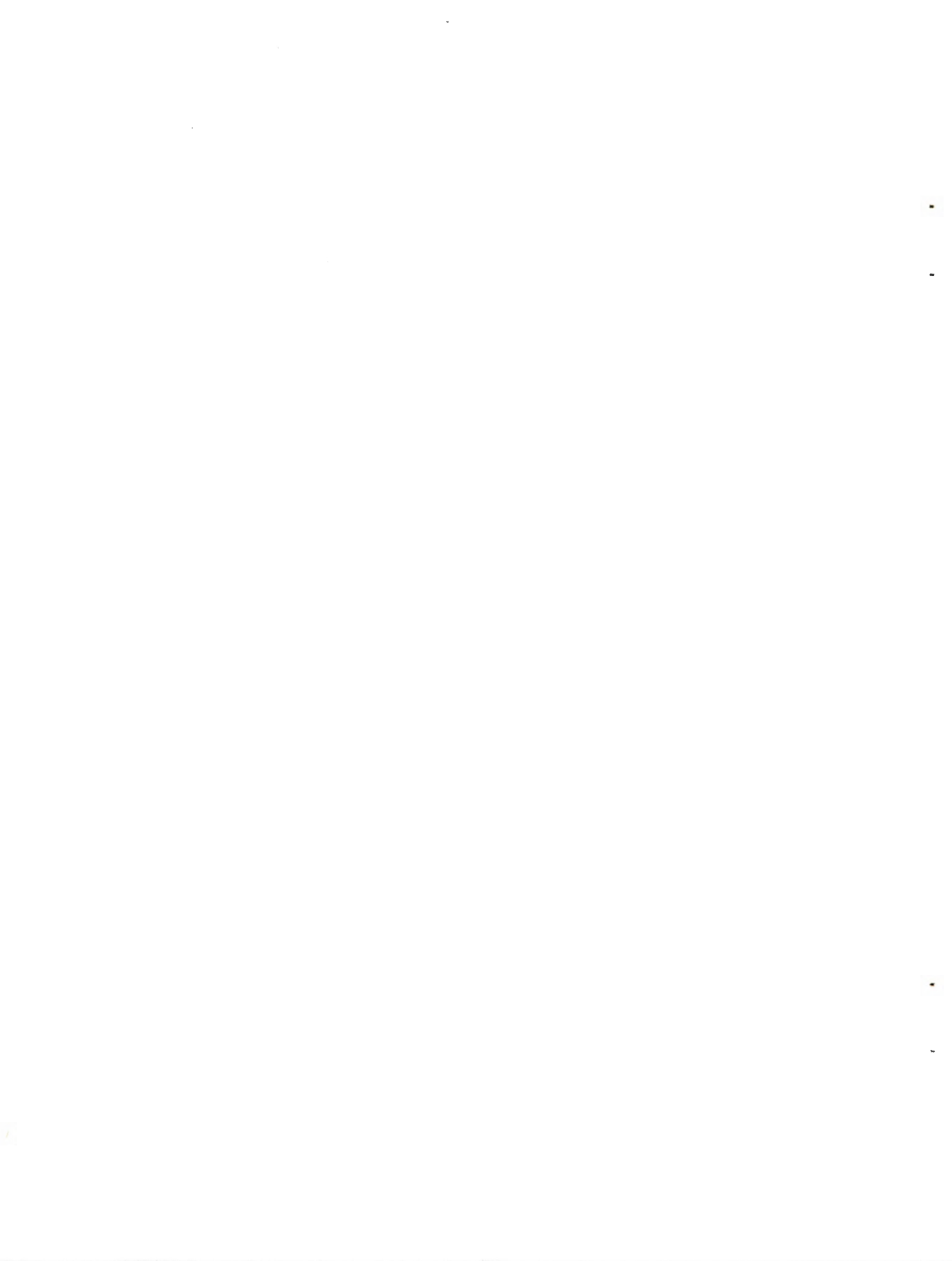
PART III

The Project is one of those classified in Part 216.2 of A.I.D. Environmental procedures as published in the Federal Register among the "general class of activities that do not normally require the filling of an Environmental Impact Statement or the preparation of an Environmental Assessment: Education or training programs not designed to result in activities directly affecting the environment."

RECOMMENDATION FOR ENVIRONMENTAL ACTION

PART IV

Since the Legal Assistance to the Poor Project does not involve any actions that will have a direct adverse effect on the human environment, a Negative Determination is proposed.



5C(2) - PROJECT CHECKLIST

Listed below are, first, statutory criteria applicable generally to projects with FAA funds, and then project criteria applicable to individual fund sources: Development Assistance (with a sub-category for criteria applicable only to loans); and Security Supporting Assistance funds.

CROSS REFERENCES: IS COUNTRY CHECKLIST UP TO DATE? IDENTIFY. HAS STANDARD ITEM CHECKLIST BEEN REVIEWED FOR THIS PROJECT?

The Country Checklist contained in the FY1979 Haiti Rural Health Delivery System Project Paper (Project No. 521-0091) is applicable and is on file in LAC/DR.

A. GENERAL CRITERIA FOR PROJECT.

1. App. Unnumbered; FAA Sec. 653(b)

(a) Describe how Committees on Appropriations of Senate and House have been or will be notified concerning the project;
(b) is assistance within (Operational Year Budget) country or international organization allocation reported to Congress (or not more than \$1 million over that figure plus 10%)?

The Committees have been notified through an Advice of Program Change. The assistance is within the country OYB allocation

2. FAA Sec. 611(a)(1). Prior to obligation in excess of \$100,000, will there be (a) engineering, financial, and other plans necessary to carry out the assistance and (b) a reasonably firm estimate of the cost to the U.S. of the assistance?

Yes

3. FAA Sec. 611(a)(2). If further legislative action is required within recipient country, what is basis for reasonable expectation that such action will be completed in line to permit orderly accomplishment of purpose of the assistance?

N.A.

4. FAA Sec. 611(b); App. Sec. 101. If for water or water-related land resource construction, has project met the standards and criteria as per Memorandum of the President dated Sept. 5, 1973 (replaces Memorandum of May 15, 1961; see Fed. Register, Vol 38, No. 174, Part III, Sept. 10, 1973)?

N.A.

5. FAA Sec. 611(e). If project is capital assistance (e.g., construction), and all U.S. assistance for it will exceed \$1 million, has Mission Director certified the country's capability effectively to maintain and utilize the project?

N.A.

A.

6. FAA Sec. 209, 619. Is project susceptible of execution as part of regional or multi-lateral project? If so why is project not so executed? Information and conclusion whether assistance will encourage regional development programs. If assistance is for newly independent country, is it furnished through multi-lateral organizations or plans to the maximum extent appropriate?

No

7. FAA Sec. 601(a); (and Sec. 201(f) for development loans). Information and conclusions whether project will encourage efforts of the country to: (a) increase the flow of international trade; (b) foster private initiative and competition; (c) encourage development and use of cooperatives, credit unions, and savings and loan associations; (d) discourage monopolistic practices; (e) improve technical efficiency of industry, agriculture and commerce; and (f) strengthen free labor unions.

N.A. (not an economic or commercial development project)

8. FAA Sec. 601(b). Information and conclusion on how project will encourage U.S. private trade and investment abroad and encourage private U.S. participation in foreign assistance programs (including use of private trade channels and the services of U.S. private enterprise).

N.A.

9. FAA Sec. 612(b); Sec. 636(h). Describe steps taken to assure that, to the maximum extent possible, the country is contributing local currencies to meet the cost of contractual and other services, and foreign currencies owned by the U.S. are utilized to meet the cost of contractual and other services.

The contributions of Haitians involved in Project activities will be in the form of personal services and will be substantial. There is no governmental involvement.

10. FAA Sec. 612(d). Does the U.S. own excess foreign currency and, if so, what arrangements have been made for its release?

No

B. FUNDING CRITERIA FOR PROJECT

1. Development Assistance Project Criteria

a. FAA Sec. 102(c); Sec. 111; Sec. 281a. Extent to which activity will (a) effectively involve the poor in development, by extending access to economy at local level, increasing labor-intensive production, spreading investment out from cities to small towns and rural areas; and (b) help develop cooperatives, especially by technical assistance, to assist rural and urban poor to help themselves toward better life, and otherwise encourage democratic private and local governmental institutions?

The purpose of the Project is to assist a local institution (the Bar Association) establish a public defender type system to represent indigents arrested for alleged crimes. The effect should provide substantial encouragement to democratic private and local governmental institutions.

B1

b. FAA Sec. 103, 103A, 104, 105, 106, 107. Is assistance being made available: [include only applicable paragraph -- e.g., a, b, etc. -- which corresponds to source of funds used. If more than one fund source is used for project, include relevant paragraph for each fund source.]

(1) [103] for agriculture, rural development or nutrition; if so, extent to which activity is specifically designed to increase productivity and income of rural poor; [103A] if for agricultural research, is full account taken of needs of small farmers;

N.A.

(2) [104] for population planning or health; if so, extent to which activity extends low-cost, integrated delivery systems to provide health and family planning services, especially to rural areas and poor;

N.A.

(3) [105] for education, public administration, or human resources development; if so, extent to which activity strengthens nonformal education, makes formal education more relevant, especially for rural families and urban poor, or strengthens management capability of institutions enabling the poor to participate in development;

N.A.

(4) [106] for technical assistance, energy, research, reconstruction, and selected development problems; if so, extent activity is:

Yes

(a) technical cooperation and development, especially with U.S. private and voluntary, or regional and international development, organizations;

(b) to help alleviate energy problem;

(c) research into, and evaluation of, economic development processes and techniques;

(d) reconstruction after natural or manmade disaster;

(e) for special development problem, and to enable proper utilization of earlier U.S. infrastructure, etc., assistance;

(f) for programs of urban development, especially small labor-intensive enterprises, marketing systems, and financial or other institutions to help urban poor participate in economic and social development.

The Project is intended to help develop and make more fair the criminal justice system of the Capital city area, and to provide the urban poor with greater control over their lives.

(5) [107] by grants for coordinated private effort to develop and disseminate intermediate technologies appropriate for developing countries.

N.A.

c. FAA Sec. 110(a); Sec. 208(e). Is the recipient country willing to contribute funds to the project, and in what manner has or will it provide assurances that it will provide at least 25% of the costs of the program, project, or activity with respect to which the assistance is to be furnished (or has the latter cost-sharing requirement been waived for a "relatively least-developed" country)?

The requirement is waived for Haiti as an RLDC. This Project does not involve government participation (a significant counterpart contribution will be in the form of large amounts of professional time contributed.)

d. FAA Sec. 110(b). Will grant capital assistance be disbursed for project over more than 3 years? If so, has justification satisfactory to Congress been made, and efforts for other financing?

No

e. FAA Sec. 207; Sec. 113. Extent to which assistance reflects appropriate emphasis on; (1) encouraging development of democratic, economic, political, and social institutions; (2) self-help in meeting the country's food needs; (3) improving availability of trained worker-power in the country; (4) programs designed to meet the country's health needs; (5) other important areas of economic, political, and social development, including industry; free labor unions, cooperatives, and Voluntary Agencies; transportation and communication; planning and public administration; urban development, and modernization of existing laws; or (6) integrating women into the recipient country's national economy.

This Project reflects a strong emphasis on the development of social/judicial institutions, urban development and the modernization of existing legal procedures.

f. FAA Sec. 281(b). Describe extent to which program recognizes the particular needs, desires, and capacities of the people of the country; utilizes the country's intellectual resources to encourage institutional development; and supports civic education and training in skills required for effective participation in governmental and political processes essential to self-government.

The needs for this Project are tremendous, as few indigents are ever represented in a legal proceeding. The manpower provided to the Project is entirely local (young lawyers and members of the Bar) and the Project clearly supports training for effective participation in governmental processes.

B1

g. FAA Sec. 201(b)(2)-(4) and -(8); Sec. 201(c); Sec. 211(a)(1)-(3) and -(3). Does the activity give reasonable promise of contributing to the development: of economic resources, or to the increase of productive capacities and self-sustaining economic growth; or of educational or other institutions directed toward social progress? Is it related to and consistent with other development activities, and will it contribute to realizable long-range objectives? And does project paper provide information and conclusion on an activity's economic and technical soundness?

Yes, particularly with respect to the development of judicial institutions. The Project contributes to the realization of long-range objectives (see Rationale Section of PP) and the PP provides information on economic and institutional soundness.

h. FAA Sec. 201(b)(6); Sec. 211(a)(5), (6). Information and conclusion on possible effects of the assistance on U.S. economy, with special reference to areas of substantial labor surplus, and extent to which U.S. commodities and assistance are furnished in a manner consistent with improving or safeguarding the U.S. balance-of-payments position.

A small amount of technical assistance will be contracted in the U.S.

2. Development Assistance Project Criteria
(Loans only)

a. FAA Sec. 201(b)(1). Information and conclusion on availability of financing from other free-world sources, including private sources within U.S.

N.A.

b. FAA Sec. 201(b)(2); 201(d). Information and conclusion on (1) capacity of the country to repay the loan, including reasonableness of repayment prospects, and (2) reasonableness and legality (under laws of country and U.S.) of lending and relending terms of the loan.

N.A.

c. FAA Sec. 201(e). If loan is not made pursuant to a multilateral plan, and the amount of the loan exceeds \$100,000, has country submitted to AID an application for such funds together with assurances to indicate that funds will be used in an economically and technically sound manner?

N.A.

d. FAA Sec. 201(f). Does project paper describe how project will promote the country's economic development taking into account the country's human and material resources requirements and relationship between ultimate objectives of the project and overall economic development?

N.A.

e. FAA Sec. 202(a). Total amount of money under loan which is going directly to private enterprise, is going to intermediate credit institutions or other borrowers for use by private enterprise, is being used to finance imports from private sources, or is otherwise being used to finance procurements from private sources?

N.A.

f. FAA Sec. 620(d). If assistance is for any productive enterprise which will compete in the U.S. with U.S. enterprise, is there an agreement by the recipient country to prevent export to the U.S. of more than 20% of the enterprise's annual production during the life of the loan?

N.A.

3. Project Criteria Solely for Security Supporting Assistance

FAA Sec. 531. How will this assistance support promote economic or political stability?

N.A.

4. Additional Criteria for Alliance for Progress

[Note: Alliance for Progress projects should add the following two items to a project checklist.]

N.A.

a. FAA Sec. 251(b)(1), -(8). Does assistance take into account principles of the Act of Bogota and the Charter of Punta del Este; and to what extent will the activity contribute to the economic or political integration of Latin America?

b. FAA Sec. 251(b)(8); 251(h). For loans, has there been taken into account the effort made by recipient nation to repatriate capital invested in other countries by their own citizens? Is loan consistent with the findings and recommendations of the Inter-American Committee for the Alliance for Progress (now "CEPCIES," the Permanent Executive Committee of the OAS) in its annual review of national development activities?

CONSTITUTION
OF
HAITI
1964
(AS AMENDED - 1971)



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Article 15. In the cases determined by law an alien may be refused admission to, or sojourn in, the territory of the republic.

An alien may be deported from Haiti when he interferes either directly or indirectly in the political life of the state or spreads doctrines that are anarchistic or contrary to democracy.

Chapter IV

Individual Rights and Guarantees

Article 16. Haitians shall be equal before the law, subject to the special advantages conferred on native-born Haitians.

Every Haitian may take an active part in his country's government, hold public office, or be appointed to a government position, without distinction as to color, sex, or religion.

In the administration of government services, the appointment of personnel, and the terms and conditions of their employment, must be free of privileges, favors, and discrimination.

Article 17. Individual liberty shall be guaranteed. No one may be prosecuted arrested, or detained except in the cases determined by law and in the manner which it prescribes.

In addition, no one may be arrested or detained except by order of a legally competent official.

For the execution of such an order, it is necessary:

1. that it formally state the reason for the arrest and the law that punishes the act charged;
2. that legal notice of it be given and that a copy of the order be left with the accused at the time of its execution, except in case of flagrante delicto.

No one may be kept under arrest more than forty-eight hours unless he has appeared before a judge who is assigned to rule on the legality of the arrest and the judge has confirmed the arrest by a decision giving reasons.

In the case of a petty offense, the arrested person shall be referred to the justice of the peace, who will then pronounce a final decision.

In the case of a more serious offense, an appeal may be filed, without prior permission, simply by addressing a petition to the presiding judge of the competent civil court, who, on the basis of the oral statement of the prosecutor, shall rule on the legality of the arrest in a special session of the court, without postponement or rotation of judges, all other cases being suspended.

In either case, if the arrest is judged illegal, the arrested person shall be released, any appeal to a higher court or the Court of Cassation notwithstanding.

Any unnecessary force or restraint in the apprehension of a person or in keeping him under arrest, any moral pressure or physical brutality, is forbidden.

All violations of these provisions shall be considered arbitrary acts against which the injured parties may, without prior authorization, appeal to the competent courts, prosecuting either the authors or the perpetrators, regardless of their rank or the body to which they belong.

Article 18. No one may be denied access to the judges whom the constitution or the law assigns to him. A civilian may not be tried by a military court nor may a military person be denied access to a court of ordinary law, in an exclusively civil matter, except when a state of siege has been declared by law.

Article 19. House searches and seizures of papers shall be prohibited except by virtue of law and in accordance with legally prescribed procedures.

Article 20. This law shall not be retroactive in effect except in criminal cases when it is favorable to the offender.

The law shall be retroactive in effect whenever it takes away vested rights.

Article 21. No penalty may be established except by law, or imposed except in the cases provided by law.

Article 22. The right of ownership is guaranteed to the citizens. Expropriation for a legally established public purpose may be effected only by the advance payment, or deposit, in favor of the person entitled thereto, of fair compensation.

Property also entails certain obligations. Its use must be in the public interest.

Landowners have an obligation to the community to cultivate, work, and protect their land, particularly against erosion.

The penalty for failure to fulfill this obligation shall be prescribed by law.

The right of ownership shall not extend to springs, rivers, or other water-courses, mines, and quarries in the subsoil. These are part of the public domain.

The law shall establish regulations governing freedom to prospect for and work mines, ore-bearing earths, and quarries, ensuring an equal share of the profits of such exploitation to the owner of the land and to the state or its concessionnaires.

The law shall fix the limit on the right of ownership.

Article 23. Freedom to work shall be exercised under the control and supervision of the state and shall be regulated by law.

However, save for the exceptions and distinctions established by law, all importers, agents, and manufacturers' representatives shall be prohibited from engaging in retail trade, even through an intermediary.

The law shall define what is meant by an intermediary.

Article 24. Every worker shall be entitled to a fair wage, job training, health protection, social-security, and the welfare of his family insofar as his country's economic development permits.

It shall be a moral obligation of the employer to contribute to the education of his illiterate workers according to his means.

Any worker may participate, through his representatives, in the collective determination of working conditions. All workers shall be entitled to rest and leisure.

All workers may protect their interests through trade-union activities. Each worker shall belong to the trade union representing his particular occupation.

Annual vacations with pay shall be compulsory.

Article 25. Capital punishment may not be imposed for any political offense except treason.

The crime of treason consists in taking up arms against the Republic of Haiti, joining avowed enemies of Haiti, and giving them aid and comfort.

Article 26. Everyone has the right to express his opinion on any matter and by every means within his power.

The expression of thought, whatever form it takes, may not be subjected to prior censorship except when war has been declared.

Abuses of the right of freedom of speech shall be defined and punished by law.

Article 27. All religions and faiths shall be equally recognized and free. Everyone may profess his religion and practice his faith, provided he does not disturb law and order.

No one may be compelled to belong to a religious organization or to follow a religious teaching contrary to his convictions.

Article 28. Since marriage tends to purity of morals by contributing to a better organization of the family, the fundamental basis of society, the state shall facilitate it and encourage its spread among the people, particularly in the rural class.

In the organization of marriage, the law shall protect Haitian women in particular.

Article 29. Freedom of education shall be exercised in accordance with the law, under the control and supervision of the state, which should see to the moral and civic training of the young.

Public education shall be the responsibility of the state and the communes.

Primary education shall be compulsory.

Public education shall be free of charge at all levels.

Technical and vocational training shall be generalized.

Higher education shall be open to all, on an equal basis, according to merit only.

Article 30. In the cases determined by law, a jury shall be used in criminal trials and for political offenses committed through the press or by some other means.

Article 31. Haitians may assemble peaceably and without arms, even for the purpose of discussing political affairs, without prior authorization, in conformity with the laws governing the exercise of this right.

This provision shall not apply to public gatherings, which shall be entirely subject to police regulations.

Article 32. Haitians shall have the right of association, of forming political parties, labor unions, and cooperatives.

This right may not be subjected to any preventive measure. And no one may be compelled to join an association or a political party.

The law shall regulate the conditions for the functioning of these groups and shall promote their formation.

Article 33. The right of petition shall be exercised personally by one or more individuals, never in behalf of a group.

Any petition addressed to the legislative body must give rise to the regulatory procedure making it possible to rule on the object of the petition.

Article 34. Correspondence shall be inviolable, subject to the penalties provided by law.

Article 35. French shall be the official language. Its use shall be compulsory in government services. However, the law shall determine in what cases and under what conditions the use of Creole may be permitted, and even recommended, for the purpose of safeguarding the material and moral interests of citizens who do not know the French language well enough.

Article 36. The right of asylum shall be accorded to political refugees, provided they conform to the laws of the country.

Article 37. Extradition in political matters shall not be permitted.

Article 38. The law may neither add to nor derogate from the constitution.

The letter of the constitution shall always prevail.

LAW OF JULY 21, 1932 OR
JUDICIAL AND DISCIPLINARY INSTITUTIONS

Art. 6.- In order to be a registered member of the Bar, one must have complied with a one year internship (stage) requirement after having sworn in upon the request made by the president of the Bar.

Art. 9.- At the request of deans of criminal Courts, and of presidents of military courts, the president of the Bar shall appoint attorneys to be ex officio defenders of accused persons whose financial situations do not afford them to retain an attorney.

Art. 34.- The internship period is established by article 6. It may be fulfilled by attending various courts and may not be interrupted for longer than three months.

Art. 36.- The names of Interns do not show on the list of registered attorneys until after the end of the internship period.

Art. 37.- Interns are not allowed to handle civil litigations. However, they are ex officio defenders of accused persons.

Refusal to perform this task shall entail an extension of the internship period. Internship compliance certificates are delivered by the president of the Bar.

REPUBLIQUE D'HAÏTI



REGLEMENTS
DE
L'ORDRE DES AVOCATS
DE LA
JURIDICTION DE
PORT-AU-PRINCE

Exercice : 1971-1973

Bâtonnier : Ernst TROUILLOT

Secrétaire : François E. AUGUSTE

Membres : Newton, Charles, Léonce Dupiton, Pierre-Louis
: Salomon, Aurélien Jeanty, François Nérette,
: Dabelmar Mentor, Rodrigue Casimir, Georges Beaufils.

CHAPITRE I

SECTION I

DE L'ORDRE

Article 1.— L'Ordre des Avocats du Barreau de Port-au-Prince se compose de tous les avocats inscrits au tableau. Il est dirigé par un Conseil de Discipline, présidé par un Bâtonnier assisté d'un Secrétaire-Trésorier.

Article 2.— Pour faire partie de l'Ordre, il faut 1o) être licencié en droit, 2o) avoir prêté le serment prévu par la loi, 3o) être muni d'un certificat de stage.

Article 3.— Avant la réquisition de prestation de serment, le licencié en droit intéressé devra verser à la Caisse de l'Ordre un droit de cinquante (50) gourdes.

SECTION II

DE L'ASSEMBLEE GENERALE ET DU VOTE

Article 4.— L'Ordre des Avocats se réunit pour l'élection du Bâtonnier et du Conseil dans la première quinzaine de Septembre. L'élection a lieu dans les formes et conditions déterminées par la loi.

Article 5.— La convocation de l'Assemblée Générale se fait au plus tard huit jours avant la date fixée pour l'élection. Elle a lieu par avis du Bâtonnier publié dans l'un des quotidiens de la Capitale.

Article 6.— Au jour fixé, le Secrétaire de l'Ordre fait l'appel nominal des avocats militants conformément à la liste qui en aura été dressée, puis il donne lecture à l'assemblée de son rapport sur la gestion du Conseil.

Si le quorum qui doit être de la majorité absolu n'est pas constaté, il en est dressé procès-verbal par le Bureau et ajournement est pris pour le premier vendredi suivant conformément à la loi.

En cas d'absence ou d'empêchement du Bâtonnier, le membre du Conseil le plus anciennement inscrit au tableau préside les travaux.

Article 7.— Le bureau de l'Assemblée Générale se compose du Bâtonnier et de deux membres du Conseil, à défaut de membres du Conseil, de deux avocats désignés par le Bâtonnier.

Ce Bureau siège en toge.

Le Bâtonnier ou l'avocat qui préside les travaux de l'assemblée désigne deux scrutateurs; ceux-ci procèdent au comptage des bulletins et au dépouillement de l'urne.

Le bureau de l'Assemblée tranche souverainement toutes les contestations qui peuvent se produire au cours de l'élection à propos du dépouillement.

Article 8.— Les avocats stagiaires ne prennent pas part au vote; il en est de même des avocats temporairement interdits et de ceux qui ne sont pas en règle avec la caisse de l'Ordre.

CHAPITRE II

SECTION I

DU CONSEIL DE DISCIPLINE

Article 9.— Le Conseil de Discipline se compose de dix membres, dont le Bâtonnier et un Secrétaire-Trésorier.

Il est élu pour deux ans et est indéfiniment rééligible.

Il entre en fonction le premier lundi d'Octobre qui suit son élection, sauf lorsqu'il est appelé à continuer le mandat d'un autre Conseil.

Article 10.— S'il se présente des circonstances qui empêchent les élections d'avoir lieu, le Conseil reste en fonction jusqu'à ce qu'il soit pourvu à son remplacement.

Article 11.— Le membre du Conseil qui aura encouru la suspension ou une peine plus forte, passée en force de chose jugée, cesse de faire partie du Conseil.

SECTION II

DES ATTRIBUTIONS DU CONSEIL

Article 12.— a) Le Conseil est représenté dans les cérémonies publiques par le Bâtonnier ou son délégué.

b) Il statue sur les demandes de prestation de serment, d'admission au stage et d'inscription au tableau de l'Ordre, désigne les maîtres de conférences chargés d'organiser des conférences contradictoires sur des sujets proposés par le Conseil, reçoit les dons, contrôle la caisse de l'Ordre ainsi que la bibliothèque pour laquelle il commande périodiquement des ouvrages et des revues et enfin prend toutes les mesures susceptibles de promouvoir le développement de l'institution et d'en assurer la pérennité.

c) Il prévient ou concilie par tous les moyens en son pouvoir les différends qui peuvent naître entre deux ou plusieurs avocats dans l'exercice de la profession.

d) Il punit d'office ou sur la plainte de la partie intéressée les infractions ou les fautes dont peuvent se rendre coupables les avocats dans l'exercice de la profession.

e) La juridiction du Conseil s'étend à tous les actes commis par l'avocat et qui sont de nature à porter atteinte à l'honneur et à la considération de l'Ordre.

SECTION III

DU MODE DE PROCÉDER DEVANT LE CONSEIL ET DES PEINES

Article 13.— L'inculpé est appelé par lettre du Bâtonnier ou du Secrétaire.

Le délai de la comparution est de huitaine franche augmenté du délai de distance.

A l'expiration du délai, si l'inculpé ne comparait pas, il lui sera donné un nouvel avis par lettre recommandée avec accusé de réception. Si l'inculpé ne comparait pas sur le second appel, il sera jugé par défaut.

Article 14.— Au jour fixé, pour la comparution, le Secrétaire de l'Ordre donne lecture de la plainte et le Conseil entend l'avocat inculpé dans sa défense.

Seules les parties qui comparaissent sont admises à déposer des mémoires.

Les parties peuvent se faire assister d'un avocat.

Article 15.— Le Conseil ordonne, au besoin, toutes mesures d'instruction autorisées par la loi et dans les formes qu'elle prescrit.

Article 16.— Procès-verbal est dressé par le Secrétaire de tous les dires et déclarations des parties qui les signent. En cas de refus ou d'empêchement de signer, mention en sera faite.

Article 17.— La décision du Conseil est motivée; elle est rendue au plus tard un mois après l'audition de l'affaire.

Notification de la décision est faite à l'inculpé à la diligence du Secrétaire de l'Ordre dans les huit jours du prononcé.

Article 18.— Les peines que le Conseil peut infliger sont les suivantes : 1o) l'avertissement; 2o) la censure; 3o) la réprimande; 4o) la suspension dont la durée ne sera pas inférieure à un mois, ni n'excédera une année, et enfin 5o) la radiation du tableau.

Article 19.— Il n'est point dérogé par les dispositions qui précèdent aux droits qu'ont les tribunaux de réprimer les fautes commises à leur audience par les avocats.

Article 20.— L'exercice du droit de discipline ne met pas obstacles aux poursuites que le Ministère Public ou les parties civiles se croiraient fondés à intenter par devant les tribunaux de droit commun, pour la répression des actes qui constituent des délits ou des crimes.

Article 21.— Le recours en Cassation est ouvert contre les décisions du Conseil de Discipline qui auront prononcé une suspension ou une interdiction de plus de trois mois, ou la radiation.

Article 22.— Toute décision du Conseil prononçant une suspension ou radiation passée en force de chose jugée sera, dans les trois jours, expédiée aux Commissaires du Gouvernement près des Cours de Cassation et d'Appel et près le Tribunal Civil qui en surveilleront l'exécution.

Article 23.— Il sera donné avis au Secrétaire d'Etat de la Justice des décisions du Conseil de Discipline passées en force de chose jugée.

Article 23.— Les décisions qui ne sont sujettes à aucun recours sont exécutées dans les trois jours de leur signification ou notification à l'avocat condamné.

Article 24.— La suspension ou la radiation ne peuvent être prononcées qu'à la majorité absolue des membres présents. Les votes sont émis au scrutin secret par oui ou par non.

SECTION IV

DES SEANCES DU CONSEIL

Article 25.— Le Conseil de Discipline ne peut valablement délibérer qu'à la majorité absolue de ses membres. Ses séances sont présidées par le Bâtonnier dont la voix départage un vote en cas de ballottage.

Dans un registre spécial, le Secrétaire inscrit séance tenante, toutes les décisions du Conseil qui doivent être signés, du Bâtonnier et des membres présents immédiatement après la séance.

Article 26.— Le Conseil de Discipline, avec ou sans convocation du Bâtonnier, se réunit à l'ordinaire au Palais de Justice, dans la salle affectée aux travaux de l'Ordre.

Dans les cas urgents, ou à défaut de convocation du Bâtonnier, le Conseil de Discipline se réunit à l'extraordinaire sur la convocation d'au moins deux de ses membres.

CHAPITRE III

SECTION I

DU BATONNIER

Article 27.— Le Bâtonnier est le chef de l'Ordre. Il préside l'Assemblée Générale et le Conseil de Discipline. Il exécute les décisions du Conseil et correspond au nom de l'Ordre avec les autorités constituées. Il délivre les permis qu'il signe ou fait signer par le Secrétaire, ainsi que les certificats de stage et d'inscription. Il représente l'Ordre et le défend dans toutes les contestations où il peut être intéressé. Il ne peut introduire aucune instance en justice, ni s'y défendre sans l'autorisation du Conseil.

Article 28.— Il désigne au Doyen les avocats stagiaires à commettre d'office, pour la défense des justiciables indigents.

Article 29.— Il représente l'Ordre dans les conflits qui peuvent naître entre Magistrats et avocats au cours d'incidents d'audience. En son absence, tout membre du Conseil est autorisé à agir au nom de l'Ordre.

Article 30.— En cas de décès d'un avocat, le Bâtonnier ou tout membre du Conseil demandera au Tribunal de lever le siège en signe de deuil.

SECTION II

DU SECRETAIRE- TRESORIER

Article 31.— Le Secrétaire remplit aussi la fonction de Trésorier. Il rédige les procès-verbeaux des séances du Conseil et de l'Assemblée Générale, les convocations, les lettres d'appel adressées aux avocats inculpés et aux témoins, contresigne les certificats d'inscription ou de réinscription, certifie conformes les décisions du Conseil et de tous les actes de l'Ordre sous le contrôle du Bâtonnier et enfin dirige les stagiaires attachés au Secrétariat.

Le Conseil peut, selon les circonstances, lui adjoindre un ou plusieurs Sous-Secrétaires.

Il tient la caisse de l'Ordre, en perçoit régulièrement et sous sa responsabilité personnelle les revenus et fait les dépenses autorisées par le Conseil ou, dans les cas urgents, par le Bâtonnier.

Les significations destinées au Bâtonnier peuvent être valablement faites au Secrétaire.

Article 32.— Tous les mois le Conseil fixe la somme à laisser en possession du Trésorier pour les dépenses courantes; l'excédent des recettes lors qu'il dépasse le montant des dépenses fixées par le Conseil sera déposé à la Banque au nom de l'Ordre.

Article 33.— Les dépôts et tirages sont opérés conjointement par le Bâtonnier et le Secrétaire-Trésorier.

Article 34.— La comptabilité du trésorier est vérifiée et arrêtée par le Conseil tous les six (6) mois.

SECTION III

DE LA BIBLIOTHEQUE ET DU BIBLIOTHECAIRE

Article 35.— La bibliothèque de l'Ordre des avocats, installé dans la salle du Palais de Justice affectée aux travaux de l'Ordre, sera ouvert aux heures déterminées par le Conseil.

Article 36.— Le Secrétaire remplit aussi la fonction de bibliothécaire. En cette dernière qualité, il répond personnellement des ouvrages de la bibliothèque, lesquels ne peuvent être déplacés que contre reçu et pour une période ne dépassant pas 15 jours.

Article 37.— Le bibliothécaire est tenu d'avoir un catalogue de tous les livres et revues de la bibliothèque.

Tout avocat qui aura perdu, égaré ou détérioré un des livres de la bibliothèque, sera tenu, à la diligence du bibliothécaire, de payer le double du prix de revient de l'ouvrage.

Article 38.— Le Secrétaire bibliothécaire ne permettra l'accès et l'usage de la bibliothèque qu'aux avocats inscrits au tableau et qui sont en règle avec la Caisse de l'Ordre. Aucune personne, autre que des confrères appartenant à d'autres barreaux, ne pourra pas y avoir accès sans l'autorisation du Bâtonnier.

Article 39.— Tous les six (6) mois il sera fait un contrôle de la bibliothèque par trois membres du Conseil choisis par le Bâtonnier.

Article 40.— Les juges des Cours de Cassation et d'Appel et du Tribunal Civil, avec les Commissaires et Substituts ont le privilège de consulter, sans déplacement, les livres de la bibliothèque.

CHAPITRE IV

DES DROITS ET DEVOIRS DES AVOCATS

Article 41.— L'avocat jouit d'une pleine liberté pour la défense de ses clients. Son comportement dans l'exercice de la profession reflétera la noblesse du caractère et la grandeur d'âme.

Il doit user envers ses clients de tact, de délicatesse et d'une discrétion absolue. Il doit être digne dans son maintien, loyal à l'endroit de ses confrères.

Article 42.— Il est interdit de faire état à la barre de pourparlers, de tractations engagés auparavant avec un confrère.

Article 43.— Toute violation des dispositions des deux précédents articles entraînera, et si le cas se répète, la réprimande ou la suspension dont la durée sera d'un à trois mois.

Article 44.— L'avocat n'est pas obligé de déposer en justice des faits, dont il a connaissance dans l'exercice de la profession.

Article 45.— Son cabinet est inviolable et ne peut être l'objet de perquisition de la part de la Police, sauf s'il est personnellement prévenu d'un crime ou d'un délit. Dans ce cas, il est assisté d'un confrère de son choix et d'un membre du Conseil de Discipline désigné par le Bâtonnier.

Il peut retenir, jusqu'au paiement des honoraires et des frais faits par lui, tous les actes de procédure et pièces composant le dossier de la partie pour qui il occupe.

Article 46.— A défaut de convention expresse, l'avocat ne pourra prétendre à plus de 20% sur le montant des créances recouvrées. Dans tous les autres cas, la détermination des honoraires aura lieu à forfait.

Article 47.— Tout paiement fait par un avocat et toute somme perçue par lui doivent faire l'objet d'un écrit.

Article 48.— Il est formellement interdit à l'avocat de se rendre cessionnaire des droits litigieux quand il représente l'une des parlitigantes.

Article 49.— Le registre prévu à l'article 159 du Tarif judiciaire est obligatoire pour l'avocat.

Article 50.— L'avocat ne peut plaider que revêtu de la toge munie de rabat, sauf s'il postule dans sa propre affaire.

Article 51.— L'avocat paie une cotisation de cinq (5) gdes. par mois. Le paiement de cette cotisation pourra être effectuée par trimestre, par semestre ou par an.

Cette cotisation n'est pas quérable, elle est portable.

Article 52.— L'avocat dont le nom a cessé de figurer au tableau de l'Ordre parce qu'il occupait une fonction incompatible avec la profession d'avocat, paiera un nouveau droit d'inscription de cinquante gourdes.

Dans ce cas il reprend son ancien rang.

CHAPITRE V

CEREMONIES ET FUNERAILLES

Article 53.— Le Bâtonnier ou tels membres du Conseil qu'il désigne représentent l'Ordre aux cérémonies auxquelles il est invité.

Article 54.— En témoignage de bonne confraternité, l'Ordre doit assister aux funérailles de ses membres.

Article 55.— Au décès d'un membre, le Bâtonnier ou un membre du Conseil demande au Tribunal, de lever le siège en signe de deuil et il convoque l'Ordre aux funérailles.

Si le défunt est un Bâtonnier en fonction, un ancien Bâtonnier, ou un membre du Conseil, quatre avocats tiennent les cordons du poêle.

Les membres du Conseil portent la toge avec rabat et toque; les autres membres de l'Ordre précèdent le char funèbre.

Les couronnes funéraires sont portées par les avocats stagiaires.

Au cimetière, le Bâtonnier ou un membre du Conseil délégué à cette fin, retrace la vie du disparu.

CHAPITRE IV

DU STAGE

Article 56.— L'avocat qui a prêté le serment exigé par la loi pourra être admis au stage.

Article 57.— L'avocat stagiaire est tenu de suivre avec assiduité les audiences du Tribunal Civil où se fait son stage. Sa présence quotidienne est constatée par sa signature apposée sur un registre spécial tenu au Secrétariat de l'Ordre, sauf dispense du Bâtonnier, si le stagiaire prouve qu'il milite devant les Justices de Paix et qu'il est attaché au cabinet d'un avocat inscrit au tableau depuis cinq ans.

Il développe sous forme de conférences contradictoires les sujets qui lui sont proposés par le Maître de Conférences. Il ne peut ni plaider, ni écrire dans les affaires civiles et commerciales; néanmoins, il peut plaider au criminel et au correctionnel. Il peut être désigné d'office par le Bâtonnier ou par le Doyen pour défendre les accusés et les prévenus. Dans ce cas, il doit être assisté d'un autre confrère désigné par le Bâtonnier. Tout refus non justifié entraînera contre lui, la prolongation de son stage.

Les certificats concernant le stage sont délivrés par le Bâtonnier ou par le Secrétaire.

L'avocat stagiaire ne peut prendre le titre d'avocat qu'en le faisant suivre du mot «stagiaire», sous peine d'une prolongation de son stage.

Article 58.— Les avocats ou licenciés en droit qui ont rempli pendant deux années au moins les fonctions de Juge ou Ministère Public sont dispensés du stage.

Article 59.— L'inscription au tableau date du jour de la demande. Elle est subordonnée à deux conditions: 1^o la preuve que le stage a été fait, 2^o le versement d'un droit de cinquante gourdes.

Le stage de l'avocat continue jusqu'à ce qu'il ait obtenu son inscription au tableau de l'Ordre.

CHAPITRE III

DES AVOCATS ADMIS A PLAIDER

Article 60.— Pour plaider dans la juridiction de Port-au-Prince, l'avocat appartenant à un autre barreau, doit fournir la preuve de son inscription au tableau de sa juridiction.

L'avocat d'une autre juridiction, militant habituellement ou établi à Port-au-Prince, fera viser tous les six (6) mois par le Secrétaire de l'Ordre, le permis qui lui est délivré par le Bâtonnier de l'Ordre de sa juridiction ou par le Doyen. Il versera un droit de vingt cinq gourdes pour chaque visa. Faute de quoi, l'avocat sera considéré comme n'ayant pas de permis et ne pourra pas plaider.

Article 61.— Le permis pourra être retiré à l'avocat s'il est convaincu d'avoir commis des actes qui portent atteinte à la dignité de l'Ordre.

Article 62.— Le Conseil ne peut prendre d'autres mesures que celles prévues en l'article précédent. La décision sera affichée et notifiée au Conseil de l'Ordre auquel appartient l'avocat intéressé, au Doyen du Tribunal Civil, aux Présidents des Cours de Cassation, et d'Appel aux Commissaires du Gouvernement.

Article 63.— Tout licencié en Droit, qui, après avoir prêté serment devant une juridiction autre que celle de Port-au-Prince, aura obtenu un permis de plaider sera tenu de prouver qu'il a fait son stage.

CHAPITRE VIII

DU PERMIS

Article 64.— L'avocat inscrit au tableau de l'Ordre ne pourra obtenir permis du Bâtonnier, s'il n'est pas en règle avec la caisse.

Article 65.— L'avocat qui se trouve dans l'impossibilité de se présenter aux audiences peut obtenir un permis du Bâtonnier, sur la présentation de la quittance pour sa redevance du mois expiré.

Article 66.— Ce permis comporte dispense de plaider, dont la durée n'excède pas quinze (15) jours. Dans ce cas, aucun défaut ne pourra être requis contre l'avocat permissionnaire.

Article 67.— Quand le permis excède quinze jours, le bénéficiaire devra désigner un confrère de son choix, pour l'expédition des affaires en instance, sous peine de perdre l'avantage du permis.

Article 68.— Dans aucun cas, il ne doit s'écouler moins de six (6) mois, entre deux dispenses de plaider.

Article 69.— Le permis est affiché par le Secrétaire, dans la salle d'audience de la Cour d'Appel, du Tribunal Civil de la juridiction du permissionnaire. Un duplicata en est délivré au bénéficiaire.

CHAPITRE IX

DU TABLEAU

Article 70.— Au début de chaque année judiciaire, le Conseil de Discipline dresse le Tableau de l'Ordre, conformément à la loi.

Article 71.— Ce tableau comporte les noms et prénoms de tous les avocats inscrits, avec, en regard, la date d'inscription. Les avocats figurent au tableau selon l'Ordre chronologique de leur inscription.

Article 72.— Les avocats stagiaires ne figurent pas au tableau. Ils y sont néanmoins inscrits à la suite. Il en est de même des avocats des autres barreaux militant à Port-au-Prince.

CHAPITRE X

DE L'ASSISTANCE JUDICIAIRE

Article 73.— Il est établi un Bureau de Consultations gratuites pour indigents. Ce Bureau, formé par le Conseil de l'Ordre, est composé de trois avocats et est renouvelable trimestriellement.

Les membres du bureau sont avisés de leur choix, par lettre du Secrétaire, expédiée avec avis de réception. Le Public est informé de la composition du bureau, à la diligence du Secrétaire, par avis publiés dans un des quotidiens de la Capitale.

Le bureau fixe les lieux, jours et heures des consultations.

Article 74.— Désormais, il est institué la fête de l'Ordre des Avocats. Elle sera célébrée le 19 Mai de chaque année, jour de la Saint-Yves, patron des avocats, par le Conseil en exercice.

CHAPITRE XI

DISPOSITIONS GENERALES

Article 75.— Il est prévu un casier judiciaire des membres de l'Ordre. Ce casier, tenu par le Secrétaire, contiendra la mention de toutes les peines disciplinaires prononcées par le Conseil contre tout avocat, et devenues définitives.

Article 76.— Comme signe distinctif, les avocats portent l'insigne qu'ils se procurent, en s'adressant au Trésorier de l'Ordre.

Le Bâtonnier, les membres du Conseil et les anciens Bâtonniers portent l'insigne de couleur différente.

Article 77.— Toute décision prise par le Conseil de Discipline oblige non seulement tous les membres de l'Ordre, mais aussi les avocats des autres juridictions admis à plaider à Port-au-Prince.

Article 78.— Les infractions aux dispositions ci-dessus seront punies, conformément aux règlements.

Article 79.— Les présents règlements qui entreront en vigueur trente (30) jours après leur vote abrogent tous ceux qui y sont contraires. Ils seront imprimés et publiés à la diligence du Secrétaire de l'Ordre.

Ernst Trouillot, BÂTONNIER

François E. Auguste, SECRETAIRE

Léonce Dupiton, Georges Beauvais, Pierre-Louis Salomon, Newton Charrier, Dabemar Mentor, Rodrigue Casimir, Aurélien Jeanty, François Néréty, Membres.

Donné de Nous, ce jourd'hui (26) vingt six Janvier mil neuf cent soixante douze.

CHAPTER I

SECTION I

THE BAR ASSOCIATION

Article 1.- The Bar Association of the Bar of Port-au-Prince is composed of all the lawyers registered in the roll of lawyers. It is managed by a Council of Discipline, presided by ~~a member~~ ^{the President} assisted by a Secretary-Treasurer.

Article 2.- To become a member of the Association, one must 1) be a bachelor of laws, 2) have taken an oath, as prescribed by the law, 3) possess a certificate of probationary period.

Article 3.- Before the request for taking the oath, the interested bachelor of laws shall pay in the Cash of the Bar Association a duty of fifty "Gourdes" (Ten dollars).

CHAPTER II

SECTION I

COUNCIL OF DISCIPLINE

Article 9.- The Council of Discipline is composed of ten members, including the ~~member~~ ^{President} and a Secretary-Treasurer.

It is elected for a period of two years and ^{its members are} ~~is~~ indefinitely re-eligible .

It enters upon its duties on the first Monday of October following its election, except when it is called to continue the mandate of another Council.

Article 10. If such circumstances occur which prevent the elections to take place, the Council remains in office until its replacement.

Article 11.- A member of the Council who has incurred suspension, or any more serious enforceable penalty, ceases to be Member of the Council.

SECTION II

ATTRIBUTIONS OF THE COUNCIL

Article 12.- a) The Council is represented in public ceremonies by the ~~Leader~~^{President} or his representative.

b) It deals with requests for taking the oath, admission to the probationary period and registration in the roll of the Bar Association, designates conference masters whose office is to organize contradictory conferences on subjects proposed by the Council, receives donations, controls the Cash of the Bar Association as well as the Library for which it orders periodically books and reviews and at last takes all steps susceptible of promoting the development of the institution and assuring its perennity.

c) It prevents or conciliates by all means within its power disputes which may arise between one or more lawyers in the exercise of their profession.

d) punishes ex officio / ^{or} upon charges laid by the interested party in-fractions or faults lawyers in the exercise of their profession may commit.

e) The jurisdiction of the Council embraces all acts committed by a Lawyer and likely to injure the honor and consideration of the Bar Association.

CHAPTER III

SECTION I

PRESIDENT
THE ~~LEADER~~

Article 27.- The ^{President}~~Leader~~ is the chief of the Bar Association. He is president of the General Assembly and the Council of Discipline. He executes the decisions of the Council and corresponds in the name of the Bar Association with the powers that be. It delivers permits which he signs or causes the Secretary to sign, as well as certificates of probationary period and registration. He represents the Bar Association and defends it in all contestations it may interested in. He cannot institute any action, nor can he defend without authorization by Council.

Article 28.- He designates to the ^{Dean of the Court}~~Leader~~ the lawyers on probation to be appointed ex officio, for the defense of ^{indigents.}~~poor and indigent.~~

Article 29.- He represents the Bar Association in conflicts which can rise between Magistrates and lawyers in the course of Court Incidents. In his absence, any Member of the Council is authorized to act in the name of the Bar Association.

Article 30.- In case of decease of a lawyer, the Leader or any member of the Council shall require the Court to close the Session in a mourning gesture.

CHAPTER IV

RIGHTS AND DUTIES OF LAWYERS

Article 41.- A lawyer enjoys entire liberty for the defense of his clients. His comportment in the exercise of his profession will reflect the nobleness of his character and nobility of his soul.

He shall be tactful with his clients, honest and absolutely discreet. He shall be worthy in his demeanour, loyal toward his colleagues.

Article 42.- It is forbidden to take into account before the Court negotiations, bargainings, engaged previously with a colleague.

Article 43.- Any violation of the clauses of the two previous articles, will carry and if the case recurs, reprimand or suspension of one to three months.

Article 44.- A lawyer is not obliged to give evidence of facts he is informed of in the exercise of his profession.

Article 45.- His office is inviolable and cannot be subject to Police search, unless he is personally accused of crime or offence. In that case, he is assisted by a colleague of his choice and a member of the Council of Discipline designated by the Leader.

He may retain until payment of fees and costs all writs and documents composing the brief of the party whose interest he defends.

Article 46.- In default of a stated agreement, the Lawyer shall not claim more than 20% of the amount of debts recovered. In all other cases, fees will determined by contract.

Article 47.- Any payment made by a lawyer and amount received by him shall be expressed in writing.

Article 48.- A lawyer is absolutely forbidden to become concessionaire of the litigious rights, when he represents one of the contending parties.

Article 49.- The register provided for in article 159 of the judicial Tariff is obligatory for a lawyer.

Article 50.- A lawyer cannot plead if he does not wear a gown with band, unless he is pleading in his own affair.

Article 51.- A lawyer pays a monthly contribution of five (5) gdes. *
Payment of such contribution may be ~~quarterly~~, half-yearly or yearly.

Such contribution is not to be looked for, it is to be delivered.

Article 52.- A lawyer whose name is no more in the roll of the Bar Association because he held office incompatible with the profession of lawyer, shall pay a new registration fee of fifty gourdes.

In that case he takes up again his previous rank.

CHAPTER I

THE PROBATIONARY PERIOD

Article 56.- A Lawyer who has taken the oath prescribed by law is eligible for probationary period.

Article 57.- A lawyer on probation shall attend regularly the sessions of the Civil Court where he is on probation. His daily presence is established by his hand set in a special register kept at the Office of the Secretary of the Bar Association, except waiving by the ~~President~~^{President}, if the lawyer on probation proves that he practises before Justices of Peace or ^{is} attached to the office or a Lawyer recorded in the roll for five years.

He develops after the manner of public discussions subjects proposed by the lecturer. He can neither plead, nor write in civil or commercial matters, however, he can plead in trials in assises or in Courts judging minor offences, He can be designated ex officio by the ~~President~~^{President} to defend prisoners at the Bar and indicted persons. *

In that case he shall be assisted by another colleague designated by the ~~President~~^{President}. Any refusal that is not justified will carry the prolongation of his probation. >

Certificates concerning the probationary period are delivered by the leader or by the Secretary.

A lawyer on probation can use the title of lawyer only if it is followed by the words "on probation", under penalty of prolongation of his probationary period.

Article 58.- Lawyers or bachelors of law who have been in office during at least two years as Judge or Public Prosecutor are exempted from probationary period.

Article 59.- The date of a registration in the roll is that of the request. A registration is subordinated to two conditions: 1) the proof that the probationary period has been made, 2) the payment of a registration fee of fifty gourdes . *

The probationary period of the lawyer continues until he obtains his registration in the roll of the Bar Association.

CHAPTER IX

THE ROLL

Article 70.- At the beginning of every judicial year, the Council of Discipline sets up the Roll of the Bar Association in accordance with law.

Article 71.- Such Roll comprises names and surnames of all registered lawyers, with, facing the date of registration. Lawyers figure in the Roll according to the chronological order of their registration.

Article 72.- ~~Lawyers~~ Lawyers on probation do not figure in the roll. They are, however, registered after. Likewise for Lawyers of other Bars exercising at Port-au-Prince.

CHAPTER X

Article 73.- A free Consulting-Office for poor people has been set up. Said Office established by the Council of the Bar Association, is composed of three lawyers and is renewable quarterly. *

The members of the office are advised of their choice, by letter of the Secretary, registered with receipt advice. The Public is informed of the composition of that office, by the Secretary, by means of an advice published in one of the daily newspaper of the Capital.

The Office fixes places, days and hours of the consultations.

Article 74.- Heneeforth, the Bar Day is instituted. The Bar Day will be celebrated on May 19 of each year, the day of St. Yves, patron of the lawyers, by the Council in office.



Position Description

Director of Legal Assistance Program

- Member of Port-au-Prince Bar Association
- Currently in Active Practice before the Courts (Tribunaux Civil) of Port au Prince
- Interested and Experienced in Haitian Criminal Law
- English Language Ability (Spanish also desirable)

The Director of the Legal Assistance Program will be selected by the President of the Bar Association and the Bar Council, subject to the approval of USAID/Haiti. The position will not be full-time, so as to permit the Director to continue, on a somewhat reduced basis if necessary, his private practice of law. The Director will be responsible to the President of the Bar and Bar Council for the organization, management and operation of the legal services office. He will hire a full-time receptionist/secretary to assist him in this regard. The position will require that the Director spend a minimum of four hours per day, five days a week (excluding recognized holidays) in the legal services office, for the purpose of consultations, case assignment and monitoring, and supervision of the legal interns ("stagiaires"). These hours must be exclusive of the regular Sessions of the Courts (10-12 AM daily) and must be regularly scheduled and posted.

The Director will be assisted in the supervision of stagiaires who are working on particular cases by at least three other practicing attorneys, who are designated by the President of the Bar for this purpose. However, he will be responsible for decisions on accepting cases, assigning cases, and monitoring their progress until final disposition. He will be responsible - in cooperation with the President of the Bar, the Bar Council, and Dean of the Law School - for the development of criteria for the selection and participation of the stagiaires, and for the eligibility of clients in the program.

The Director, and the President of the Bar, will be responsible for making all necessary arrangements with the Public Prosecutor, the Dean of the Courts, the Justices of the Peace and appropriate police authorities for the acquisition of the information necessary for the legal services office to carry out its operations (e.g. the names and locations of newly arrested/detained persons, the time and date of arrest, the charges, if any, etc.)



What is ILSA?

The Inter-American Legal Services Association is a private, nonprofit corporation, organized under the laws of the District of Columbia (Washington, D.C.). ILSA's principal purpose is to promote the delivery of legal services to under-represented persons and groups, especially the poor, throughout the Western Hemisphere.

A basic tenet of ILSA is that its mission is to facilitate a process: the development of local institutions which aim to secure effective legal representation for all persons and groups in each country. Hence ILSA does not initiate action in any area, but only responds to requests for support from already established domestic organizations. These organizations, locally directed and rooted in the political, cultural and legal traditions of the various American republics, can best perceive the problems of the under-represented and can work most efficiently to provide them with legal services.

Headquartered in Washington, D.C., ILSA conducts most of its activities through its two regional offices in Latin America and the Caribbean. These offices are directed and staffed by nationals of each region.

ILSA is independent of all governments and interest groups. It is governed by a Board of Directors, whose eleven members consist of nine lawyers and jurists from eight Western Hemisphere countries.

History

ILSA is the product of a broadly representative group of Latin American and Caribbean lawyers, scholars and jurists. In 1975, the Inter-American Judicial Committee, the judicial organ of the Organization of American States, undertook a study of "The Role of Law in Social Change in the American Republics." The American Society of International Law, whose 5,000 members include about 2,000 persons outside the U.S., agreed to assist in this work, and it assembled a panel of experts which held five major conferences between 1976 and 1978.

These conferences marked the first time that legal services practitioners and experts in the Western Hemisphere had gathered on a regional basis to discuss the extent and value of legal aid and related activities. As a result of these meetings and the findings of studies it initiated, the panel formulated a program for promoting the more effective delivery of legal services to the poor and other under-represented groups and individuals, including the establishment of an Inter-American Legal Services Association. This recommendation received the full endorsement of the Inter-American Judicial Committee, which on August 22, 1978, resolved "to support the important work which has been done to promote cooperation between lawyers, judicial and educational institutions and other organizations, for the purpose of reinforcing inter-American cooperation in the area of law and social change, and toward this end enthusiastically endorses the proposal establishing the Inter-American Legal Services Association." Following the formal incorporation of ILSA in December, 1978, the Committee resolved on February 9, 1979 "to take note with satisfaction of the creation of the Inter-American Legal Services Association and its work program, which the Committee

hopes will contribute to the objective of this resolution," namely "to improve the welfare and development of the American Republics." The Committee thus recognized that the sustained economic and social development of the Western Hemisphere depends on the creation of just and equitable legal systems that insure the participation of all citizens.

Objectives

ILSA's overall objective is to support local organizations in Latin America and the Caribbean which aim to provide legal services to the poor and other under-represented persons and groups. Towards this end, ILSA seeks the following:

- to increase financial assistance to legal services organizations in Latin America and the Caribbean;
- to foster greater communication, interaction and support among these organizations;
- to stimulate research aimed at improving the efficiency and effectiveness of legal services for the poor and under-represented;
- to obtain greater support from Latin American and Caribbean governments and bar associations for domestic initiatives to expand delivery of legal services in order to establish long-lasting programs that are consistent with national laws and development goals; and
- to enhance the process of economic and social development through effective participation of the poor.

Activities

In furtherance of its objectives, ILSA performs the following services:

- supports the fundraising efforts of Latin American and Caribbean legal services organizations by (1) providing direct financial assistance and (2) helping them to obtain funds from other sources by informing them of new financial opportunities, assisting them in formulating funding requests, and bolstering their capability to meet the recordkeeping and reporting requirements of money granting institutions;
- holds periodic conferences among Latin American and Caribbean lawyers to focus on common problems related to improving legal services for the poor and under-represented;
- sponsors training and other technical assistance by Latin American and Caribbean lawyers experienced in promoting legal services;
- serves as a reference center for groups seeking written material about legal services;
- writes and distributes a newsletter on recent developments and publications dealing with legal services;
- conducts interdisciplinary research on the relationship between legal services and law, legal institutions and development;
- works with Latin American and Caribbean governments and bar associations, as well as inter-American governmental and nongovernmental organizations, to promote the rule of law in the Western Hemisphere by designing mechanisms that guarantee the effective protection of legal rights for the poor and other under-represented groups and individuals.

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 Former Director of Legal Re-
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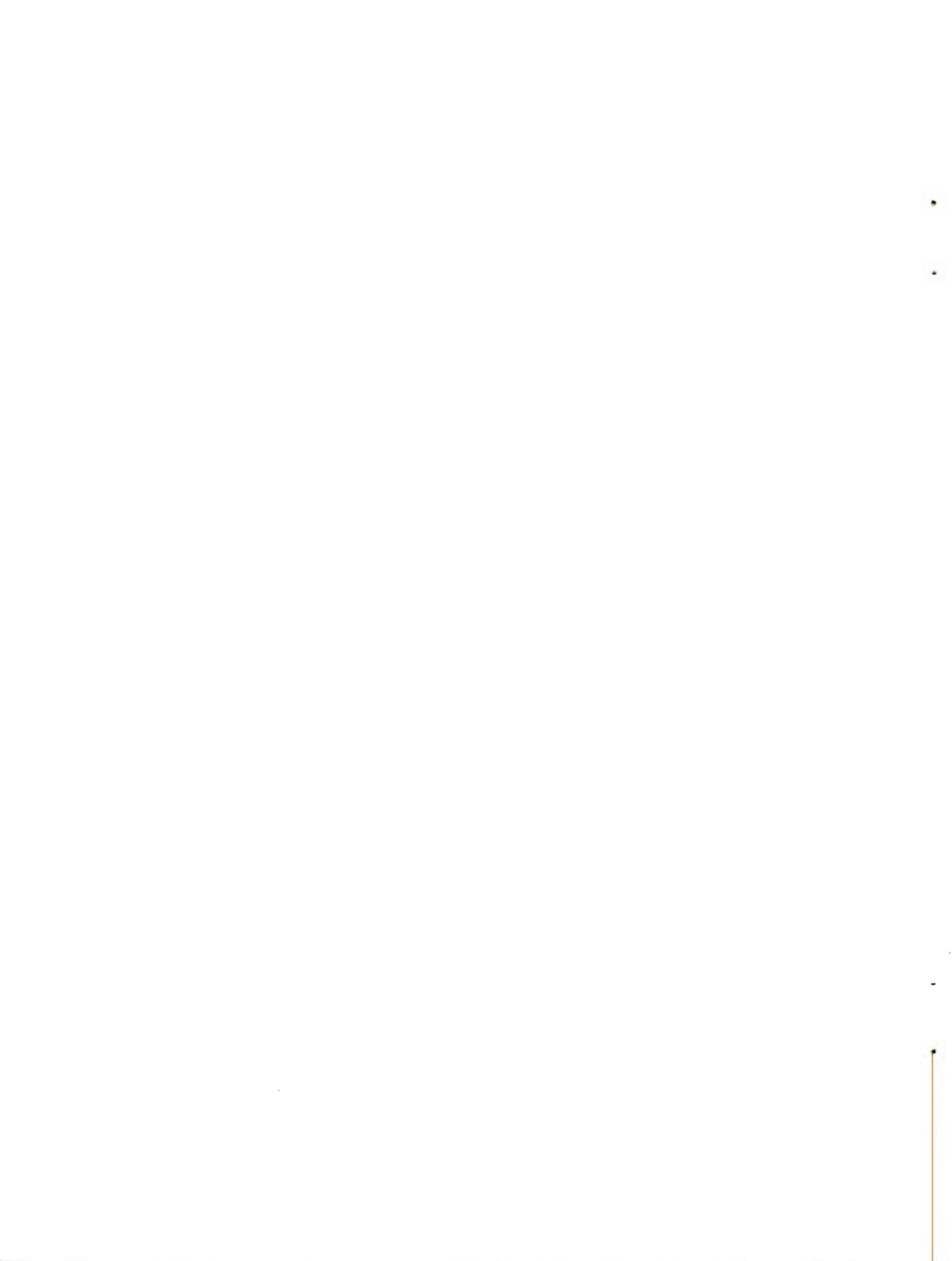
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PROJECT DEVELOPMENT

Initial discussions between U.S. Embassy and USAID Mission personnel and the President of the Port-au-Prince Bar, with regard to the legal assistance project idea, occurred during the summer of 1977. On August 30, 1977, Mr. Trouillot sent a letter (See Annex A) to Mr. Frazier Meade (Chargé d'Affaires), expressing the interest of the Bar in establishing a Legal Assistance Bureau and suggesting a possible organizational scheme (noting that the Bar rules already provided for the establishment of such an office). After some delay and further discussions, a Project Identification Document was developed by the USAID Mission and submitted to AID/W General Counsel's office for review in September 1978. GC/LAC reviewed and approved the PID, provided suggestions, and referred it to the Latin America and Caribbean Bureau project office (LAC/DR) for development into a Project Paper. The Project Paper was developed by LAC/DR and the Project Division of USAID/Haiti, and with the assistance of a Federal Public Defender Service attorney contracted by the Mission. The LAC/DR Project Officer and the FDS attorney conducted numerous interviews with practicing attorneys and justice system officials during a four-week period. The following persons were interviewed:

- Ewald Alexis, Minister of Justice and former Justice of the Haitian Supreme Court
- Ernst Trouillot, President of the Port-au-Prince Bar Association and Professor of Law
- Francois Guy Malar, Attorney-Advisor to USAID and private practitioner
- Celestin Vilvert, Dean of the Faculty of Law (Union of Haiti) and Professor of Law
- Gerard Gourque, Professor of Penal Law and Criminology and President of the Haitian League for Human Rights
- Rodrigue Casimir, Public Prosecutor (Commissaire du Gouvernement)
- Jean Vandal, Lawyer and Member of the Bar's Governing Council
- Francois St. Fleur, President of the Bar Association of Cap Haitien

- 2 -

-- Rock Raymond, Dean of the Courts for
Port-au-Prince

Discussions of the project were also held with the following attorneys
now in active practice in Port-au-Prince:

-- Ernst Malebranche, Francois Auguste,
Gerard-Raoul Rouzier, Constantin Mayard Paul,
Emmanuel Nerette, Raymond Guillaume,
Theo. Achille, Louis Lamarre, Gary Lissade,
Jacques Laroche, Rigaud Duplan, and
Dantes Colimon.

**PROJECT DESIGN SUMMARY
LOGICAL FRAMEWORK**

Life of Project:
From FY 79 to FY 82
Total U.S. Funding \$125,000
Date Prepared: August 31, 1979

Project Title & Number: Legal Assistance to the Poor (No. 521-0120)

NARRATIVE SUMMARY	OBJECTIVELY VERIFIABLE INDICATORS	MEANS OF VERIFICATION	IMPORTANT ASSUMPTIONS
<p>Program or Sector Goal: The broader objective to which this project contributes:</p> <p>To foster increased awareness of and respect for internationally recognized Human Rights in Haiti, by promoting the observance in practice of the legal rights of Haitians accused of criminal acts.</p>	<p>Measures of Goal Achievement:</p> <p>A decline in the incidence of arbitrary detention without arrest and/or formal charge and without access to legal counsel. A significant increase in the percentage of (indigent) defendants represented by attorneys.</p>	<ul style="list-style-type: none"> - OAS/Inter-American Human Rights Commission Reports - Records of the Legal Assistance Program 	<p>Assumptions for achieving goal targets:</p> <p>The Haitian Government will continue its current policy of "progressive liberalization" with regard to human rights.</p>
<p>Project Purpose:</p> <p><u>Primary:</u> To assist the Bar Association of Port-au-Prince to establish an institutionalized system for the provision of free legal services to indigent Haitians accused of crimes.</p> <p><u>Secondary:</u> To strengthen the Bar Association by supporting its role as trainer of new lawyers, through the legal assistance program.</p>	<p>Conditions that will indicate purpose has been achieved: End of project status.</p> <p>The effective operation of an institutionalized system for the provision of free legal defense services for indigents arrested or detained for alleged criminal activity in the Port-au-Prince area.</p>	<ul style="list-style-type: none"> - Records of the Legal Assistance Program - Interviews with staff and clients of Legal Assistance Program - Interviews with members of the Bar Association and relevant judicial institutions 	<p>Assumptions for achieving purpose:</p> <ul style="list-style-type: none"> - The Bar Association will maintain its enthusiasm and support for the Legal Assistance Program - The attorney-interns ("stagiaires") will be animated to provide their services on a voluntary basis. - The Public Prosecutor's Office and police authorities will be cooperative with the operations of the legal services office.
<p>Outputs:</p> <p>(1) A functioning legal services office, establishment near the courthouse, staffed and equipped to provide legal services.</p> <p>(2) A significant number of legal interns, supervised by practicing attorneys, taking cases and representing indigents in court.</p> <p>(3) A substantial percentage of indigents arrested receiving legal representation.</p>	<p>Magnitude of Outputs:</p> <p>1 Office, fully equipped 1 Office Director; 1 Secretary 10-30 Legal Interns participating 3-5 Supervisory Attorneys</p>	<ul style="list-style-type: none"> - Records of the Legal Assistance Program - Interviews with Legal Assistance Program Director and staff 	<p>Assumptions for achieving outputs:</p>
<p>Inputs:</p> <p>\$125,000 of development assistance grant funds (SDA Account) for:</p> <p>Operating Costs (Office rental utilities, and salaries) 87,200 Furniture/Equipment/Supplies 11,800 Technical Assistance 16,000 Contingency/Expansion Fund 10,000</p>	<p>Implementation Target (Type and Quantity)</p>		<p>Assumptions for providing inputs:</p>

