



FINAL REPORT: EXECUTIVE SUMMARY

HAITI CONSTITUENCY BUILDING FOR JUDICIAL REFORM ASSOCIATE AGREEMENT

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September 28, 2001 – November 30, 2004

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EXECUTIVE SUMMARY

BUILDING A COALITION FOR JUDICIAL REFORM ACROSS SECTORS OF CIVIL SOCIETY IN HAITI

Background of the Constituency Building Project: After a decade of lending to the formal justice sector and little if any improvement in the competence, fairness and independence of the justice system, a new, demand-driven approach to justice reform was taken by USAID/Haiti, in partnership with IFES. In 2001, IFES and its Haitian partners embarked on an innovative initiative to strengthen the capacity of Haitian civil society to advocate for and participate in justice reform and to build broad coalitions across society to generate demand for reform. This approach was based on the premise that popular demand for reform and broad-based coalitions in support of reform will go a long way towards promoting sustainable democratic change. This approach also responded to concerns that past investments in top-down justice reform had had little impact in the Haitian context. A congressional ban on funding for work with the government of Haiti created an additional disincentive to undertake a traditional justice reform project. This ban was lifted in the spring of 2004 after the swearing in of the interim government.

At the outset of the project, IFES undertook a participatory planning assessment using a unique survey instrument and methodology designed to (i) conduct functional assessments; (ii) identify priorities and stakeholders; and (iii) highlight consensus and disagreements. The Haiti survey focused on a number of key issues related to justice reform and the independence of the judiciary. The choice of justice reform as the central topic was guided by the large investments already made in this sector and the recognition by most stakeholders that justice reform was essential to Haiti's democratic transition. The results were tabulated and analyzed in graphic and narrative form showing overall, comparative results as well as a breakdown by stakeholder group.

Perhaps for the first time, Haitians from diverse walks of life, including the human rights, legal, business, academic and labor communities, as well as journalists, artists and students, were able to clearly see areas of common interest and concern with respect to constitutional justice and an independent judiciary. The participatory process used by IFES for the assessment, implementation and final phase of the project also gave the Haitians a concrete platform, mechanism and collaborative action plan to work together on a set of prioritized justice reform issues.

Impact of the Constituency Building Project

The overall impact of the Constituency Building Project has been the establishment of a broad-based, motivated Coalition—the Haitian Coalition for the Reform of Laws and Justice—capable of advocating effectively for priority reforms and of engaging in an active partnership with the government and the judiciary for real change within the justice sector.

IFES CIVIL SOCIETY CONSTITUENCY BUILDING FOR JUSTICE REFORM PROJECT
FINAL REPORT: September 28, 2001-November 30, 2004
RULE OF LAW AND HUMAN RIGHTS COOPERATIVE AGREEMENT (AEP A-00-99-00017-00)

Haitian political context: The IFES Civil Society Constituency Building for Justice Reform Project [the “Constituency Building Project”] was implemented successfully between 2001 and 2004 despite a context of increasing political instability. The sustained political crisis started in the aftermath of the May 2000 local and legislative elections when stakeholders, including many political parties and the international community, condemned widespread vote-counting irregularities. The ruling party, FANMI LAVALAS, refused to rerun the election for the disputed seats, thereby leaving the fraudulent results to stand. The subsequent 2002 presidential elections, which resulted in a second five-year term for President ARISTIDE, were largely boycotted by the opposition.

Following several resolutions condemning the 2000 and 2002 election processes and fraudulent results, the Organization of American States (OAS) facilitated negotiations between the government, opposition political parties and the international community. The negotiations were largely incapable of breaking the political stalemate, and the economic and social situation steadily deteriorated. The Caribbean Community (CARICOM) later engaged in negotiations that also failed to bring the protagonists to a political settlement. The inability of FANMI LAVALAS and the opposition to agree on a negotiated solution to the crisis fed the political instability and, in many cases, violent civil unrest.

Political demonstrations were met with violence and intimidation on the part of the government. Insecurity increased, and armed gangs—associated with or sympathetic to the government—roamed the streets around the country perpetrating acts of violence against opponents, journalists, businesspeople and human rights activists. Human rights violations (including arbitrary arrests, beatings and torture) became common.

In late 2003 and early 2004, the political and human rights situation steadily deteriorated, overshadowing the celebrations planned for the bicentennial of the Haitian independence. This contributed to an increased polarization of Haitian society and led the opposition and civil society to refuse a deal brokered by the international community in February that would have kept ARISTIDE in office while establishing a power-sharing structure. Gonaïves fell to armed anti-ARISTIDE groups on February 5, 2004. Throughout the month, fighting between armed groups for and against ARISTIDE escalated, as armed takeovers spread and the government tried to retake lost territory. After the failed power-sharing deal, ARISTIDE departed on February 29, 2004. ARISTIDE claims that he was forced out of office by the United States. CARICOM has called for an independent investigation of this claim.

The departure of President ARISTIDE in February 2004 was widely perceived as an opportunity for democratic change and reform in Haiti. An interim government was sworn in as required by the Constitution in March 2004. In July 2004, the interim government worked closely with the donor community and Haitian civil society to develop an Interim Cooperation Framework (ICF), which was released at a donor pledging conference. The ICF outlines the reform priorities of the interim government

and highlights specifically the need for justice reform. Key aspects of justice reform include strengthening the independence of the judiciary, fighting impunity, promoting respect for human rights and providing access to justice.

Almost eight months after the accession of the interim government, however, nothing appears to have concretely changed. In September 2004, Haiti was hit by a natural catastrophe that left thousands dead and hundreds of thousands in need of emergency aid. Against this backdrop, violence has once again risen sharply, crippling much of the economic and social infrastructures of the capital. Neither the government nor the international community has managed to demonstrate concrete progress towards the changes promised in the spring and summer of 2004. These promises appear more hollow every day.

The objectives of the Constituency Building Project: Activities under the project began in 2001 and were designed to enhance the demand for justice reform through broad-based civil society coalition building and participatory, targeted advocacy strategies. Project activities were also designed to increase the information publicly available about justice, the judiciary and human rights and to provide civil society with the knowledge, skills and tools necessary to advocate for and participate in justice reform. To achieve these objectives, IFES designed a participatory approach to civil society support in Haiti that emphasized priority and strategy setting by local stakeholders.

Objectives of the Constituency Building Project

- 1. Unifying civil society around justice reform;**
- 2. Enhancing the capacity of civil society to analyze justice issues critically and advocate for justice reform; and**
- 3. Providing civil society and the public with the tools and information necessary to understand and advocate for justice reform**

By the end of the project, IFES had met these objectives and empowered civil society partners and local stakeholders who have continuously set the direction of the project. Some of the key outputs of the project are outlined below. More detail on many of these outputs can be found in this report or in the relevant quarterly reports.

1. UNIFYING CIVIL SOCIETY AROUND JUSTICE REFORM

- A **network of sectoral working groups** focused on advocacy and education of the legal, media, human rights and private sectors on issues related to justice, human rights and civil society participation in reform as well as on setting the priorities and strategies pursued under the project;

- **Networks of professional organizations** designed around justice reform, such as the Information Network on Justice and Human Rights (RIJDH) and the Socio-Professional and Human Rights Organization Network (RESOSDH);
- A broad-based **civil society coalition for justice reform** bringing representatives of the legal, media, human rights and private sectors, including the National Association of Haitian Judges (ANAMAH) and the Federation of Haitian Bar Associations (FBH), to advocate for justice reform and work with government counterparts on priority reforms;
- A range of activities in support of an expanded **Diaspora network** that includes the Louisiana State University Law School, Tulane University Law School, and various NGOs in Louisiana and Florida; and
- **Interactions with other donors and donor-supported programs**, notably by broadcasting radio programs through the USAID-sponsored CAII community radio program, sharing human rights materials with the USAID-sponsored IFES Victims of Violence program; and close working relationships with the OAS and the UNDP-sponsored Forum Citoyen.

2. ENHANCING THE CAPACITY OF CIVIL SOCIETY TO ANALYZE JUSTICE ISSUES CRITICALLY AND ADVOCATE FOR JUSTICE REFORM

- Integrated **training program for journalists** to build their capacity to understand, investigate independently, and report objectively on justice issues;
- **Capacity building to enable civil society to advocate** for justice reform both individually and collectively through networks and coalitions;
- The publication and dissemination of numerous **advocacy reports and blueprints for reform** presenting the critical assessments and recommendations of leading Haitian experts on key aspects of justice reform, human rights and the independence of the judiciary;
- Development of **an annual monitoring and reporting tool** to promote an independent judiciary and the implementation of constitutional guarantees regarding the judiciary;
- Applied research to capture the **state of Haitian justice**, culminating in the release of a three-volume report on the state of the judiciary, the state of human rights and the impact of judicial corruption; and
- A **Human Rights Hotline** to document and investigate human rights abuses, maintained by a prominent Haitian NGO, the Lawyers' Committee for the Respect of Individual Liberties (CARLI).

3. PROVIDING CIVIL SOCIETY AND THE PUBLIC WITH THE TOOLS AND INFORMATION NECESSARY TO UNDERSTAND AND ADVOCATE FOR JUSTICE REFORM

- The publication and dissemination of numerous **advocacy reports and blueprints for reform** on key aspects of justice reform, human rights and the independence of the judiciary to raise the understanding and awareness of civil society;
- The adoption and dissemination of **ethical standards for judges and lawyers** ;
- The organization of a **series of conferences, workshops and seminars** on targeted justice reform and human rights issues;
- The **creation and dissemination of basic information** on the judiciary and human rights to include various international human rights instruments for the public;
- The broadcasting throughout Haiti of **radio talk shows and spots** on justice reform, judicial independence and human rights.

Additional outputs: In addition to meeting the planned objectives of the project, IFES also undertook miscellaneous activities designed to respond to evolving circumstances in Haiti. For example, in June 2003, IFES supported seminars on conflict resolution in Cité Soleil to address the rapid deterioration of the security situation in that part of Port-au-Prince. IFES also provided commodities (including computers, printers and telephones) to partner CSOs both during the life of the project and at the closing of the office.

Enhancing the demand and support for justice reform through a broad-based Coalition: The overarching goal of the project was to bring Haitian CSOs from diverse sectors of civil society together for the first time to formulate and implement a strategic agenda focused on justice reform. Civil society has found strength in unity after three years of increasing understanding of the stakes and underlying issues involved in judicial reform. One of the most important achievements of this three-year project is the recent establishment of the Haitian Coalition for the Reform of Laws and Justice. It constitutes the culmination of the capacity- and coalition-building strategies of the project.

The Coalition has now been acknowledged by many, including the Haitian interim government, Haitian civil society, and international actors such as UNDP and the EU, as a key player in the justice reform arena. Continued advocacy for justice reform by the Coalition and its participation in future reform efforts will be one of the most important legacies of this project. The Coalition has steadily advocated for making justice reform a higher priority on Haiti's political agenda. By the end of the project in November 2004, the Coalition had (1) built a support network of organizations in the provinces, (2) initiated dialogue with the Ministry of Justice on priority reforms, and (3) organized a workshop on the reform of the Supreme Judicial Council (CSM).

Lessons learned from the project and future prospects for Haiti: Donors have pledged their commitment to long-term aid for democratic and justice reform in Haiti.

Past experience with reform in Haiti teaches us that both sides of the equation—i.e., the formal justice sector and civil society stakeholders—need to be supported and balanced for sustainable change to take root. Given Haiti's turbulent history and its dismal track record on justice reform, failing to build and nurture the civil society support and advocacy for reform would leave reformers vulnerable to the whims of changing governments. The new Haitian government and Haitian civil society organizations strongly endorse and are active participants in this approach to reform.

Given the current uncertainty of the political situation, continued support to civil society is the best guarantee of sustainability in justice reform efforts. In transitional societies such as Haiti, a dual-track approach that combines support to the formal justice sector with support to civil society as advocates and watchdogs of reform is essential for the long-term sustainability of reform.

The attached report highlights many of the activities and outputs of IFES' project. Drawing on the impact and achievements of the project, 10 key lessons learned are presented below:

- 1. Demand-driven, civil society programming for justice reform will help create the enabling environment for reform, especially in countries with volatile political environments.** Justice reform is a long-term endeavor and is therefore vulnerable to government and policy changes. Civil society participation will provide the necessary checks on governmental and political leaders to ensure that justice reform follows through.
- 2. Priority-setting and implementation of reforms should be largely devolved to country stakeholders.** Empowering local stakeholders across sectors, including lawyers, judges, human rights activists and businesses, is essential to building the support necessary for reforms to take root.
- 3. Systematic, annual monitoring and reporting on reforms and their implementation will help keep reforms on track.** Documenting human rights abuses, measuring progress on core indicators of the state of the judiciary, tracking corruption within the judiciary are all elements of a reporting system that supports faster and fairer design and implementation of key reforms.
- 4. The successes of a Coalition require ongoing political and financial support from donors.** Without continued international support, it is unclear whether the Coalition will be able to operate financially or politically. As any nascent body, it still needs to build its capacity to interact with donors and government counterparts. The network also needs to be extended both inside and outside of Haiti.

- 5. Reforms will have a greater chance of sustainability and success if they are accompanied by public dialogue and civil society participation.** Haiti's political scene has long been marred by human rights abuses and politically charged violence. A series of community-level, public discussions may help launch a reconciliation dialogue focused on justice and human rights and may help avoid a fight against impunity, which translates into a one-sided witch-hunt. Further, the widespread mistrust of the police and judiciary should be addressed in a holistic manner to help stakeholders and citizens collaborate on reforms and programs for justice and conflict resolution.
- 6. Regardless of their priorities and strategies, interim governments only have a limited impact over the long term.** Justice reform and respect for human rights are among the top reform priorities of the Haitian interim government. This is well documented in the ICF. Haiti's interim government is committed to reform, but it is only a transitional government. All its achievements may be overturned when the elected government comes into office. A strong civil society will serve as a watchdog to successive governments.
- 7. Increased networking between and amongst civil society, enabling them to coordinate efforts and share experiences, will help increase the impact of reform efforts.** Next steps should be directed both to community-level organizations (including religious groups) and the Diaspora.
- 8. Strategic alliances between civil society and the government, including reform-oriented political leaders, will help further the reform agenda.** With the interim government, Haitian civil society is faced with the unique opportunity to engage governmental counterparts on priority reforms. The Minister of Justice has expressed interest in actively collaborating with the Coalition on a set of laws affecting the judiciary.
- 9. Access to reliable information and critical assessments allows the design of better reforms.** Information is the best weapon. The project has started a steady process of publishing critical analyses and assessments by Haitian experts on justice issues, which have been widely disseminated and discussed. These Haitian-compiled reports have been the driving force behind some of the reform priorities of government and civil society alike.
- 10. Advocacy should not stop with the identification of priority areas for reform but should evolve into monitoring the legislative processes and establishing concrete steps for implementation.**