

“WHEN YOU HAVE MONEY, YOU GET JUSTICE”

POWER AND DISADVANTAGE IN ACCESSING FORMAL AND INFORMAL JUSTICE IN HAITI

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ABSTRACT

Justice system reform in Haiti aims to reduce corruption and build public trust. Researchers conducted a formative evaluation to characterize how individuals in three communities resolve conflicts. Few respondents accessed the formal justice system to address conflicts. Wealth and status affect citizens' entry into and obtaining favorable resolutions from the formal system. Women who experienced gender-based violence commonly sought informal justice and the system treated them differently based on marital status. This evaluation identified the existence of parallel justice systems accessed differently depending on individual's "power."

BACKGROUND

FORMAL JUSTICE MECHANISMS:

- Derive power from government laws, policies, and regulations
- Are state-funded
- Resolve conflicts under laws through official courts
- Include formal legal actors such as judges, prosecutors, defense attorneys, civil attorneys, court staff

INFORMAL JUSTICE MECHANISMS:

- Derive power from social groups or community structure
- Are not part of the government
- Include decision-makers chosen by the community, such as mayors, religious leaders, gangs, community organization leaders

CONTEXT

THE HAITI JUSTICE SECTOR STRENGTHENING PROJECT

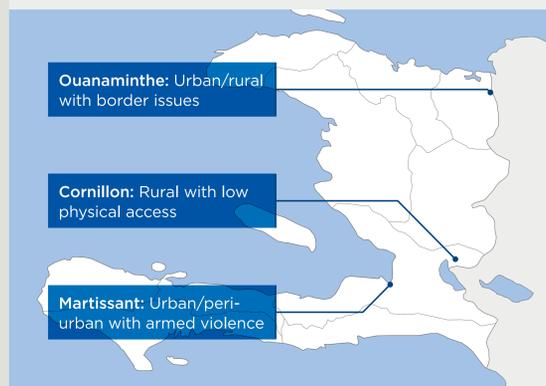
is a four-and-a-half-year (September 2016 to February 2021) USAID project to support the Haitian government and civil society to expand access to high-quality justice for Haitian citizens. The project supports the professionalization, independence, and efficiency of the Haitian justice sector; advancing core justice system strengthening while building the foundations of judicial reform, fostering political support, and addressing relevant justice issues in the short to medium term. To accomplish this, JSSP has four overarching objectives: (1) improving Haiti's legal, policy, and regulatory framework; (2) strengthening the judiciary as an independent, credible, and effective authority; (3) improving access to justice and protection of rights; and (4) strengthening civil society constituencies for reform.

STUDY QUESTIONS

- What types of conflicts are most common and concerning?
- How are conflicts resolved in practice?
- How do people perceive and trust in the formal justice system?
- How do vulnerabilities (e.g., poverty, remoteness, gender, sexual orientation, age) influence access to justice?

METHODOLOGY

A multiple method triangulation (4055 household surveys, 24 focus groups, 48 interviews and 21 key informant interviews with religious leaders, judges, community organization leaders) was used for this study, with a particular focus on understanding the needs and barriers for community members as they seek justice. The innovative approach was in conducting a cultural survey of 810 households. Enumerators were trained on all tools. Study took place in three locations: Ouanaminthe, Cornillon, and Martissant.



DEFINITIONS

HOW DO PEOPLE DEFINE “JUSTICE”?

- Freedom from fear
- Having enough to eat
- Lack of daily worries
- Social harmony

HOW DO PEOPLE DEFINE A QUALITY JUSTICE PROCESS?

- Is fair and correct
- Restores community harmony
- Is speedy
- Is affordable

FINDINGS

USE OF FORMAL JUSTICE. Of the most serious justice issues people faced in the last four years:

- 7% ever contacted police
- 4% ever contacted a private lawyer
- 2% ever contacted a state lawyer
- 12% ever contacted a court of law

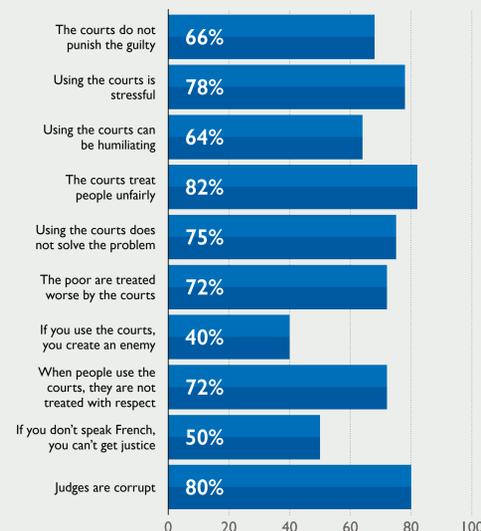
Only 10% of all justice conflicts are addressed through formal mechanisms. Some issues may begin in the informal system but move to courts if the parties cannot reach an agreement.

People who use formal justice are geographically closer to courts (19% who live closer versus 8% farther away); younger people; and those with more education (only 7% of illiterate individuals initiated procedures in courts).

WHY DON'T PEOPLE USE THE FORMAL JUSTICE SYSTEM? People want more information about the formal system but have no place to get it: When facing a justice issue, most people seek advice from friends (25%) and family (22%), who tend to recommend informal routes. Four percent contacted courts for information; 11% contacted their local assembly.

- 74% have cellphones, but 0% gathered information from the internet.
- People perceive formal justice as double suffering: from the crime and from the process. They fear harsh sentences and community reprisals.
- The process is unaffordable for most; costs of hiring a lawyer, bribes and payments, getting to court, and lost income missing work.
- People fundamentally do not trust formal justice institutions (4 to 10% trust formal justice).

WHY DON'T PEOPLE TRUST THE COURT SYSTEM?



FINDINGS - CONTINUED

WHY PEOPLE USE THE INFORMAL SYSTEM.

The informal justice system handles 90% of conflicts. Serious crimes, such as rape, are "resolved" outside the formal system. Even some formal justice actors send serious crime cases for informal resolution.

- Notables acting as mediators in each community are the heart of the informal system. They are trusted to be fairer and render more balanced judgments than the courts.
- The informal justice system is perceived as faster; affordable, better value (usually no payment required); preserves community harmony; easier physical access; and generally produces satisfactory results.
- More than 50% of people agreed magic (maji) might sometimes be useful to correct injustice.

The mixed methods data – including the high proportion of non-responses to cultural consensus items on gang activity and drugs – demonstrated the authority of gangs as an informal justice mechanism. Gang leaders can resolve conflict. They control decisions to contact police or go to court. They provide "protection" and "security" (e.g., to businesses or to women against rape). A total of 24% of people in Martissant agreed that violence was the only way to get real justice.

THE WAY FORWARD

CITIZEN PERCEPTIONS. Interviewees agreed that Haiti needs formal justice system reform, qualified and impartial judges, a national legal assistance system, and civic education on informal justice boundaries.

PROJECT APPLICATION OF FINDINGS.

This study was presented to community leaders, judicial authorities, and citizens in two remote areas. Proposed ideas led to low-cost, sustainable community-oriented initiatives that are being implemented:

1. Town hall meetings with formal and informal justice actors and citizens to exchange information
2. Civic education to the public on legal rights, mechanisms to claim them, and limits of informal justice
3. Mobile units for civic education in remote areas
4. Regular meetings of legal aid offices, civil society, and the media to spread information on legal services