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# HAITI JUSTICE SECTOR STRENGTHENING PROGRAM (JSSP)

FINAL REPORT

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# HAITI JSSP

## FINAL REPORT

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**Cover photo:** Minister of Justice Berto Dorcé and USAID Mission Director Christopher Cushing during the official handover of the *Système de gestion informatisée des cas judiciaires (GICAJ)* to the Government of Haiti (Credit: Raph Tedy Erol, JSSP)

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# ACRONYMS

AHJI	<i>Association Haïtienne des Journalistes d'Investigation</i>
ANAMAH	National Association of Haitian Judges
ASU	Arizona State University
APM	Association of Professional Judges
BAL	Legal Assistance Office
BINUH	Integrated Office of the United Nation in Haiti
CMIS	Case Management Information System
CEJA	Justice Studies Center of the Americas
CHAIFEJ	National Association of Women Judges
CMO	<i>Commission de Mise en Œuvre</i>
CNAL	National Committee on Legal Assistance
CNdP	National Steering Committee on the CMIS
CONAJ	<i>Comité National pour l'Avancement de la Justice</i>
CPD	Organization Cooperation for Peace and Development
CSO	Civil Society Organization
CSPJ	<i>Conseil Supérieur du Pouvoir Judiciaire</i>
CTC	CSPJ Vetting Commission
DAP	DIRECTORATE OF PRISON ADMINISTRATION
DCPJ	Central Directorate of the Judicial Police
DDG	Diagnostic and Development Group
EMA	<i>École de la Magistrature</i>
FBH	Federation of Bar Associations of Haiti
FEFBA	Federation of Women of Artibonite
GBV	gender-based violence
GOH	Government of Haiti
GREAS	<i>Groupe de Recherches et d'Analyses Stratégiques</i>
IT	Information Technology
IAWJ	International Association of Women Judges
JIU	CSPJ Judicial Inspection Unit
JSSP	Justice Sector Strengthening Program

M	Men
MCFDF	Ministry for the Status of Women and Women's Rights
MINUJUSTH	United Nations Mission for Justice Support in Haiti
MINUSTAH	United Nations Stabilization Mission in Haiti
MJSP	Ministry of Justice and Public Security
MOUFHED	Movement of Haitian Women for Education and Development
MOU	Memorandum of Understanding
NGO	Non-Governmental Organization
PAPBA	Port-au-Prince Bar Association
PPD	Prolonged Pretrial Detention
Q	U.S. Government fiscal year quarter
RECIDP	Réseau Civisme des Droits de la Personne
RENAMAH	Réseau National des Magistrats Haïtiens
SJSDC	Senate's Justice, Security and Defense Commission
TIP	Trafficking in Persons
UCREF	National Central Financial Unit
UEH	State University of Haiti
ULCC	Anti-Corruption Unit
UNDP	United Nations Development Program
USAID	United States Agency for International Development
W	Women
Y	Year



# EXECUTIVE SUMMARY

Throughout the Justice Sector Strengthening Program (JSSP or “the Program”) implementation period, acute political crisis, a sharp rise of gang violence and insecurity, recurrent strikes by justice sector operators, an alleged coup, the assassination of the President of the Republic and related turmoil, the COVID-19 pandemic, and a devastating earthquake in the south of the country, severely impacted the justice sector and the country at large. Despite this challenging operating environment, JSSP achieved important milestones by adopting mitigation strategies and pivoting program activities. Importantly, the Program was able to function as a driving and unifying force for the judicial sector. The Program operated with reduced funding in Y5 and Y6 and conducted its close out phase with limited staff.

JSSP supported a wide-range of strategies to support the new penal and procedural codes passage, encompassing activities such as public consultations, lobbying, technical drafting and supporting analytical reviews by a variety of stakeholders including legal professional associations and civil society organizations (CSOs) such as the Port-au-Prince-Bar Association (PAPBA), Professional Association of Judges (APM), International Association of Women Judges (IAWJ), and *Groupe de Recherches et d’Analyses Stratégiques* (GREAS). JSSP also provided technical assistance to the Haiti’s Penal Reform Commission to refine the draft penal code and penal procedural code. JSSP partner Justice Studies Center of the Americas (*Centro de Estudios de Justicia de las Américas*, CEJA) conducted two workshops for the Commission on several topics such as lessons learned in Latin America on budgetary issues relevant to the codes reform. JSSP provided significant support, including working sessions, public hearings, and consultants, to the Senate and Chamber of Deputies Justice and Security Commissions of the Parliament to move forward with passage of the penal code and the penal procedural code. In addition, JSSP organized two study tours in Chile for local stakeholders to benefit from comparative codes reforms and provided three grants for CSOs to conduct civic education for codes’ dissemination.

On June 24, 2020, the government adopted by decree the new penal code and the new penal procedural code, which the government had not revised since 1835. This was a significant milestone for the country. In Y5, the team completed reviewing the code and prepared a related list of minor errata. JSSP also examined existing laws to ensure compliance with this new code. The team completed eight executive orders and began eight others necessary for the codes’ enforcement. However, implementation of the codes is being delayed by the ongoing political crisis. The Magistrates’ School (*École de la Magistrature*, EMA) and Federation of Bar Associations of Haiti (FBH) will need to train all judges and lawyers in the country on the provisions of the

During its period of performance, 2016-2022, JSSP significantly contributed to some of the most important justice reforms in our history, including the modernization of the penal code and penal procedural code, the development and implementation of the case information system (CMIS), and the law on legal assistance for those in need.

— BERTO DORCÉ, MINISTRY OF JUSTICE AND PUBLIC SECURITY

new codes. JSSP assisted the EMA, the FBH and the PAPBA in completing their draft strategic plans to undertake this significant task.

JSSP completed the draft legislations that accompany this penal reform, including the draft law to provide greater autonomy to prosecutors and the draft law to establish a specialized section of the Port-au-Prince First Instance Court, tasked with prosecuting financial crimes in all jurisdictions. JSSP also completed the draft law on the Ministry of Justice and Public Security (MJSP), as its current decree is outdated and has not been updated since 1984.

Until recently, Haiti's judicial system relied exclusively on paper-based filing. The government lacked effective means to manage criminal cases and judicial operations. JSSP has fulfilled its contractual obligation to implement the CMIS in 13 jurisdictions. Simple dashboards and alert system allow the monitoring of judges' and prosecutors' performances to combat prolonged pretrial detention (PPD). A total of 49,756 cases were entered in the system during the life of the program. JSSP also installed the CMIS offline system in all 13 courts, allowing users to operate the system without internet. Additionally, in Y6 the team transferred the CMIS database from a server in the U.S. to a JSSP-purchased server now located free of charge at the Central Bank. This is a critical step for ensuring local, sustainable system ownership. Furthermore, JSSP completed the draft web portal for additional institutions, including the National Central Financial Unit (UCREF), the Anti-Corruption Unit (ULCC), the Central Directorate of the Judicial Police (DCPJ), and the Directorate of Prison Administration (DAP). These institutions will have access to key functionalities of the CMIS. As part of the transition plan, JSSP held a ceremony on January 25, 2022, to officially hand over the CMIS to the Government of Haiti (GOH).

Justice delivery relies on the quality of legal education to sector operators. On June 28 and 29 2017, JSSP provided support for the first workshop on the state of Haiti's legal education. 54 experts (44 men (M) and 10 women (W)) took part in this event, including representatives from the Dominican Republic's Judicial Training Institute, and the Province of Quebec's Bar Association School who shared lessons learned and best practices. On January 31, 2020, JSSP presented findings from its legal education study to sector stakeholders. According to the study, there are currently 61 institutions in Haiti that provide legal education. The institutions average six teachers per institution, with some teaching up to 10 subject matters. As a result of this study, on March 31, 2020, the State University Rectorate issued an executive order that addressed key study findings and provided key recommendations for law schools nationwide. On August 24, 2020, the Executive Board of the Rectorate established a 12-member committee, which includes a JSSP representative, to conduct follow-up on the study, the executive order, and other related issues. As a result of this work, some law schools have taken serious steps to comply with the executive order, which would improve the Haitian legal education. A prominent law school was sanctioned for not abiding to the executive order, and this case is ongoing.

In Y5, JSSP and the FBH jointly completed an assessment of lawyers in Haiti to identify issues and recommendations related to the practice of law. The study includes numerous important findings. For instance, 67.5% of lawyers are practicing another profession and 49.3% are also teachers. Recommendations include adopting a new law on the profession of lawyers to replace the current obsolete one and organizing a national state exam. On December 10, 2021, 27 participants (20 M and 7 W) attended the presentation of the study online. The lack of doctrine in Haitian law is flagrant and hinders advancement of some of the most significant issues that Haitians face. On December 30, 2021, a jury from the PAPBA awarded the \$5,000 *Prix Batonnier*

Dorval to Gabriel Raphael for his manuscript on “Public Administration in Haiti”. The aim of this initiative supported by JSSP is to encourage the production of legal doctrine.

Many justice sector operators, including clerks and prosecutors, have not received initial trainings to perform their duties. In accordance with the law, judges should benefit from one week of continuing education every year. JSSP has provided extensive support to the EMA to conduct trainings including the first initial training for clerks (40 participants - 34 M and 6 W), three weeks continuing education program for 63 prosecutors (54 M and 9 W), and a five-week financial crime training for 82 judges and prosecutors (49 M and 33 W). JSSP also provided 6 training sessions at the EMA on gender base violence for 55 judge trainees (44 M and 11 W). In addition, the program supported trainings with bar associations for lawyers on various topics including ethics, money laundering, judicial guarantees, and gender. Several members of the judiciary received trainings on the CMIS. In total, JSSP provided support for the training to 1,897 justice sector operators (1,449 M and 448 W).

JSSP provided robust support to the High Judicial Council (*Conseil Supérieur du Pouvoir Judiciaire*, CSPJ) to fulfil its mandate to manage, oversee and discipline the judiciary. Assistance included the development of the evaluation program for judges, the career and promotion system, the first gender policy for the judiciary, protocols and management guides and related trainings. JSSP provided logistics for 63 CSPJ Vetting Commission (CTC) field visits in 218 towns. Interviews conducted during the CTC fact-finding missions focused on the moral and professional integrity of judges and prosecutors. In addition, JSSP assisted in developing tools and guides for the CSPJ Judicial Inspection Unit (JIU) and supported 24 field inspections. JSSP also provided equipment to the JIU and the CTC.<sup>1</sup> Unfortunately, the CSPJ Board has not actively followed up on the reports, the JIU recommendations, nor the CTC vetting reports. Since its inception in 2012 the CSPJ has not performed as expected.

To avoid prosecution in corruption cases, officials often provide instructions to judges and prosecutors. JSSP supported activities to strengthen the independence of the judiciary including on March 20, 2020, a workshop with the National Association of Women Judges (CHAIFEJ) for 67 participants (16 M and 51 W), and on December 14, 2020, a workshop on the statute of the prosecutors with the Haitian APM with 86 sector operators (65 M and 21 W). If adopted, this proposed legislation will provide prosecutors with a 7-year mandate like judges. At the moment, prosecutors can be removed at any time, and as such they are subject to political pressure.

At the request of the MJSP, JSSP Consultant Mr. Patrick Pierre Louis prepared a draft strategic plan for the MJSP. The plan emphasizes the importance of redefining the MJSP's role with the CSPJ's advent. Joel Guitton, a former chief prosecutor from France, conducted an assessment in early 2019 on the structure and operations of prosecutors' offices. MJSP implemented some of his recommendations with JSSP support, including the development of guidelines for clerks on how to properly fill registers, and related professional trainings.

JSSP supported important events and international conferences. As part of celebration for the 200th anniversary of the Court of Cassation, in November 2017 JSSP supported two days of academic session for 250 participants (195 M and 55 W) including many law students. From December 4 to 9, 2017, JSSP supported the week-long, 32nd International Conference of Bar Associations. The event brought together lawyers from Africa, France, Canada, and Switzerland.

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<sup>1</sup> Equipment provided to the JIU includes 1 printer, 3 laptops, 1 projector, 5 desks, 5 office chairs, 2 visitors' chairs, 7 file folders, and one safe. Equipment provided to the CTC include 4 laptops, 1 desktop, 8 visitors' chairs, 10 office chairs, 2 fireproof file cabinets, and one water cooler.

The two-day continuous learning program, part of the conference, included 298 young lawyers (232 M and 66 W). The event received wide local and international media coverage. JSSP supported the FBH's 6th annual conference, from November 17 to 19, 2017. 70 participants (68 M and 2 W) took part in the event. A segment of the congress focused on the draft penal code and draft penal procedure code. On May 4, 2019, the National Association of Haitian Judges (ANAMAH) held the forum entitled "Corruption in the judicial system". 142 participants (112 M and 30 W) took part to the event. High profile CEJA representatives such as Juan Jimenez Mayor, Former Prime Minister and Minister of Justice of Peru shared experiences combatting corruption within the judicial systems of various Latin America countries. Finally, in conjunction with the "Union International des Avocats", from May 16 to 19, 2019, the FBH conducted a conference on the "Repression of Transnational Crimes." JSSP, alongside other donors, supported this event. 320 participants attended (219 M and 101 W), including lawyers from Canada, France, Burkina Faso and Guatemala.

In September 2018, with significant support from JSSP, Parliament passed historic legislation on legal assistance. This was a significant milestone, considering that legal assistance had previously been entirely donor-funded for 20 years. JSSP assisted in drafting the law, which provides free legal assistance for both indigent persons in conflict with the law and victims of crimes.

Awareness-raising sessions around the country disseminated the legislation to justice sector operators, with JSSP support. A total of 208 participants (175 M and 33 W) took part in these sessions. JSSP also provided technical, logistical, and material support to the National Committee on Legal Assistance (CNAL), the body established by the new law to manage legal assistance. JSSP consultants completed the draft of the CNAL's internal rules, budget, and processes for staff evaluations. While drafting and passing the law, and concurrently setting up the CNAL; JSSP supported Legal Assistance Offices (BALs) in Port-au-Prince, Croix-des-Bouquets, Cap-Haitian, Fort-Liberté, and Saint Marc. These five BALs provided free legal assistance to 6,158 detainees (4,906 M and 1,252 W), of which 924 (725 M and 199 W) were convicted, 1,450 (1,161 M and 289 W) were acquitted, and 3,784 (3,020 M and 764 W) were freed without judgment. Additionally, BALs provided legal representation, consultation, and mediation to 4,187 individuals (3,833 M and 354 W). The BALs of Fort-Liberté and Saint Marc, previously supported by JSSP, are now fully state-funded through the CNAL. JSSP has achieved its goal – these BALs are now sustainable.

In Y1, the Program concluded a grant agreement with the FHB to support victims of Hurricane Matthew in Jeremie and Coteaux who had lost their civil status documents. The temporary legal assistance office assisted a total of 2,712 beneficiaries (1,324 M and 1,388 W).

The number of pretrial detainees is extremely high in Haiti – 87% of detainees. JSSP supported multiple efforts to combat PPD. In Y1, the MJPS launched the "*Plan Themis*" to combat PPD, and JSSP assisted with the plan preparation and provided logistical and technical support for its implementation. Through related hearings that started on June 20, 2017, a total of 92 detainees received trial assistance from JSSP leading to 64 convictions, and 28 acquittals. On January 18 and 19, 2019, JSSP supported the MJPS's Action Plan on PPD launch ceremony. JSSP had previously assisted with drafting the MJPS's Action Plan. Fifty participants (35 M and 15 W), including prosecutors, judges, police and prison authorities attended. From January 11 to 13, 2021, JSSP, alongside the United Nations Development Program (UNDP) and Integrated Office of the United Nation in Haiti (BINUH), provided technical and financial support for the MJPS National Workshop to support their 2021 Action Plan on PPD. This plan originated from the MJPS's Action Plan mentioned above. 247 participants attended the three-day event.

JSSP also supported special hearings to combat PPD in its five target jurisdictions. JSSP assisted in organizing special intensive criminal hearings in Port-au Prince, from March 13 to April 12, 2017. 116 detainees received trial assistance from JSSP – 41 were convicted, 19 acquitted,<sup>4</sup> referred to jury, 7 rescheduled (no hearing took place), 23 suspended (hearing began but judge suspended it), and 2 cases recused. In Y2, JSSP provided support for criminal trials with and without jury in Port-au-Prince Saint-Marc, and Croix-des-Bouquet, leading to the conviction of 46 detainees and acquittal of 48. In December 2017, JSSP provided logistic support for jury sessions, including printers, for procedures for criminal hearings with jury assistance in Croix-des- Bouquets. Of the 21 scheduled cases, 16 (14 M and 2 W) were tried. This resulted in 11 convictions and 5 acquittals. In Y3 JSSP provided technical and logistical support for the criminal trials with and without jury assistance in Port-au-Prince, Saint-Marc, Croix-des-Bouquets and Fort-Liberté, leading to the conviction of 144 detainees and the acquittal of 88.<sup>2</sup> In Y5, JSSP supported correctional hearings in Saint-Marc. A total of 24 cases involving 31 detainees (30 M and 1 W) were heard, resulting in 12 acquittals, 16 convictions, and 3 postponements. In Fort-Liberté, with JSSP BAL support, correctional hearings took place - 13 cases were heard, resulting in 8 convictions and 5 acquittals. To speed up judicial process, JSSP has supported prison hearings in Croix-des-Bouquets and Fort-Liberté. In Fort-Liberté, five persons were tried, two were released, and three were convicted. Again, on June 8, 2020, correctional hearings took place at the city police station adjoining the prison. During these hearings, nine persons (all M) were tried. Legal assistants represented four of these detainees. In addition to the special hearings, JSSP supported prisons visits in Port-au-Prince, Hinche, Jacmel, and Croix-des-Bouquets.

In response to the COVID-19 pandemic, the Ministry of Justice, with other justice institutions and international partners established a plan to decrease the number of inmates in prisons using criteria such as prisoners of sixty years and older. As a result, the Minister of Justice received two lists totaling 2,214 detainees. Unfortunately, due to the judges' strikes, the lack of involvement of the CSPJ, and other factors, this process was never implemented. To decrease prison overcrowding during the COVID-19 period, the judges' association Réseau National des Magistrats Haïtiens (RENAMAH) developed a project to utilize videoconferencing for certain hearings. Given JSSP's experience with the development and implementation of the CMIS, JSSP's CMIS experts joined the Task Force to provide technical support. Unfortunately, because of the country's turmoil this initiative never took off.

In Y1, local firm Diagnostic and Development Group (DDG), in cooperation with Arizona State University (ASU), conducted a study on types of conflicts and their resolution through formal and informal justice mechanisms in remote, underserved and rural areas. The study revealed that 10% of responder's resort to formal justice mechanisms, while 90% prefer informal resolution at the community level – even for serious crimes such as rape. In Y2, Y3, and Y4 JSSP conducted activities to address the issues identified in the study, including holding town hall meetings, organizing visits by justices of the peace in remote areas. The CSOs, with JSSP support, prepared a "cahier de charges". The "cahier" contains a set of demands that press judicial authorities to take concrete measures towards achieving a quality, accessible justice system inclusive of vulnerable people in remote and poorly served areas. Both the study and the "cahier de charges" were presented to high judicial authorities. Subsequently, a series of activities took place to press judicial authorities and the GOH to implement the

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<sup>2</sup> Material assistance was provided in Saint-Marc and Croix-des-Bouquets for these hearings.

recommendations within the “cahier de charges”. This included open letters and an online petition.

In Y1, JSSP conducted a mapping of 86 CSOs in its target jurisdictions, evaluated their lobbying and monitoring capacities, and trained 14 selected CSO representatives (18M and 9W) to perform court monitoring. To further empower civil society, JSSP also awarded grants to two CSOs from its network of 14, GREAS and the *Réseau Civisme des Droits de la Personne* (RECIDP). In Y3, GREAS and RECIDP completed their twelve-month contract to conduct activities and programming aimed at increasing citizen awareness of five justice-related themes, including access to justice and new penal reforms. GREAS conducted 38 activities, including three conference-debates and 35 awareness-raising sessions for 1,111 participants (508 M and 603 W). Additionally, GREAS representatives held eight radio and four television programs to discuss the grant’s 5 themes and broadcasted four audio spots on Radio Vision 2000 in Port-au-Prince. RECIDP also conducted activities on the topics mentioned above, but in the North. They held radio spots, organized mock trials and public theaters sessions, developed social media posts, and produced and ran radio shows on the grant’s topics.

Women in Haiti are often subjected to injustice and violence, with limited awareness of legal rights. In Y5, JSSP supported several activities as part of the UN’s activism campaign against gender-based violence. These activities included debates on societal stereotypes that create inequalities, the role of the Ministry for the Status of Women and Women’s Rights (MCFDF), participation in a radio show to discuss femicide and ways for women to seek justice in cases of gender-based violence (GBV) and participating in an event in Ferrier to commemorate International Day for the Elimination of Violence against Women. 152 participants (39 M, 78 W, 14 boys, and 21 girls) attended this event. On March 24, 2021, JSSP provided technical support to the Federation of Women of Artibonite (FEFBA) to organize a seminar on the “National and International Legal Framework of Women’s Rights” for 85 participants (10 M and 75 W). On March 24, 2021, JSSP supported a follow-up session for 50 attendees (24 M and 26 W).

Investigative journalism is critical to inform the public and hold public officials accountable. JSSP organized week-long trainings on investigative journalism in the justice sector for 22 journalists (20 M and 2 W) from radio, the written press, television, and online media.<sup>3</sup> In Y3, JSSP provided 4 continuing education trainings to 67 journalists (53 M and 14 W). Training topics included the organization and functioning of the Haitian judicial system, financial crimes, trafficking in persons (TIP), and gender within media. A total of 230 journalists (200 M and 30 W) benefitted from JSSP trainings. To further boost interest of journalists in the justice sector, JSSP organized multiple investigative journalism contests. The jury-led award ceremonies received wide media coverage. In Y4, JSSP assisted in establishing the Haitian Association of Investigative Journalists (AHJI) including the development of the bylaws and internal regulations. On March 20, 2021, AHJI held its first training for 21 (15 M and 6 W) investigative journalists on “Habeas Corpus”. From May 27 to 29, 2021, JSSP helped AHJI organize a three-day training on “Investigative Journalism on Corruption and Money Laundering Crimes” for 29 journalists (9 M and 20W).

Check and balance mechanisms in the justice sector are insufficient, and existing institutional ones are weak. In 2019, CSO Movement of Haitian Women for Education and Development (*Mouvement des Femmes Haïtiennes pour l’Education et le Développement*, MOUFED) received a subsequent grant. MOUFED observers completed 209 monitoring reports, including 72 for peace courts, 75 for First Instance courts, 56 for prosecutor’s offices and 4 penal cases. On July

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<sup>3</sup> JSSP investigative journalism initial trainings August 1-5, 2017, April 15 to 20, 2018, August 4 to 9, 2019.

31, 2020, MOUFHED held a press conference for the media and general public, sharing observations on the functioning of justice institutions.

## SECTION I

# PROGRAM ANALYSIS

### OPPORTUNITIES AND CHALLENGES

The justice sector often faces particular challenges, as public officials often intentionally keep the judiciary under their control and influence. This was the case during the JSSP period of performance, as officials wanted to avoid prosecution in corruption (ex. Petrocaribe) and assassinations cases (ex. President Jovenel Moise, Port-au-Prince Bar President Monferrier Dorval, and La Saline). Consequently, many prefer the status quo as opposed to strengthening the justice sector. Judicial officials are selected that lack leadership and/or the will to serve their interests in key justice institutions and within the judiciary. An effective and independent judiciary would be impermeable to pressure in such type of cases. According to some sector observers, it is not a lack of political will but the “Will to have a weak judiciary”.

This challenge was exacerbated by civil unrest, gang violence and related kidnappings, justice sector operators' recurrent strikes (clerks', prosecutors', judges and lawyers' associations), demonstrations related to the mismanagement of the Petrocaribe funds, COVID-19 pandemic, an alleged coup leading to the arrest of one judges of the supreme court and the illegal forced retirement of two others, the assassination of the President of the Republic and related institutions crisis, gas shortages, and a catastrophic 7.2 earthquake in the South of Haiti killing 2,248 individuals and injuring 12,763 others. In some instances, this forced justice sector institutions and JSSP's office to close. Several of these events occurred in Y5 and crushed what was already a very weak state and justice sector. Insecurity and impunity now prevail. Political instability has also led to important turnovers in the justice sector particularly at the prosecutor's level. They do not benefit from a mandate like the judges, and they can be removed at any time. As such they are vulnerable to political pressure. There have been 7 different ministers of justice during the Program period. This lack of continuity is a major hurdle to strengthening the justice sector.

Prime Minister Henry has not been able to obtain a large consensus around the agreement that he signed in 2021 with some political parties for a transitional government to organize elections. Consequently, some CSOs and other members of the opposition have developed another plan, the “Accord de Montana”, to resolve the crisis. The political deadlock is further fueled by the investigation of the President's Moise assassination targeting high officials including Prime Minister Henry. The situation is not conducive to process daily administrative decisions in the sector. For instance, the penal and penal procedure codes' implementation is significantly delayed. Close to 85 judges' renewal mandates are currently pending. Some of these judges have been waiting for months to have their mandate renewed and cannot in the meantime manage their cases. This is severely impacting prolonged pretrial detention.

On January 13, 2020, terms for all deputies and most senators ended. Since then, the country has been without an effective Parliament, preventing the adoption of important draft laws, including the JSSP-supported law on prosecutors. Because of this, the Executive Branch has adopted numerous legislations by decree, including the penal code and penal procedural code. This approach has been severely criticized by CSOs, including legal professional associations like the FBH, who has requested for the government to withdraw all decrees, including the penal code.

JSSP activities were negatively impacted by this overall situation. For instance, the CTC and the JIU postponed and cancelled some of their field investigation visits, the CMIS expansion became increasingly challenging, and initiatives to combat pretrial detention were hindered. Nevertheless, JSSP developed several mitigation strategies to maximize activities and maintain program continuity; for example, legal assistants focused on prisons and police stations as protests and strikes paralyzed courts. JSSP also introduced a process for CMIS data entry specialists to enter data remotely and securely into the CMIS from the office or home and used video conference and other technologies to organize trainings. JSSP's role in such crises was critical since local counterparts lacked the necessary coordination and capacity to address the challenges presented. For instance, JSSP proactively assisted in resolving justice sector operators strikes, primarily through facilitation and negotiation. In Y5 and Y6 JSSP was able to conduct most of its activities, although some, such as legal assistance had less impact than seen in previous years. There is concern that gains made in previous years may be at risk due to the collapse of the state and institutions. JSSP recommends that the United States Agency for International Development (USAID) keeps monitoring achieved milestones to ensure their impact and sustainability, especially the CMIS.

The CSPJ, tasked with managing, evaluating, and disciplining judges, is one of the main partners in Haitian judicial sector reform with the MJPS. Despite robust JSSP assistance, the CSPJ made minimal progress – issuing few vetting decisions, practically no follow up on inspection unit reports, and failing to adopt a judge evaluation process and career promotion plan. According to various Haitian judicial sector observers, a lack of political will, political interference, and board member hesitation to sanction their peers caused this nonperformance. JSSP attempted various mitigation strategies to garner CSPJ board member commitment. However, employing the strategy of using mid-level management proved successful in the case of the CMIS. As reported by an independent USAID-commissioned mid-term evaluation, “JSSP sought to institutionalize key reforms at the CSPJ, but did not find a willing partner.” Ultimately due to the CSPJ’s minimal engagement, USAID and JSSP made the decision to reduce funding to the CSPJ in 2018. Several sector operators are suggesting to review the CSPJ law to find ways to make it more effective.

## APPROACH

### Path to progress

As part of its “Mutual Accountability and Partnership Strategy”, JSSP is tasked with facilitating the signing of Memorandums of Understanding (MOU) between JSSP and key USAID partners. Due to various external factors, USAID was unable to approve the signing of the MOUs during the life of the Program. In Y3, USAID agreed that JSSP would develop and sign MOUs between the Program and other institutions, in parallel to the USAID memorandums. The draft MOUs were prepared, approved by USAID, presented to the MJPS and the



Figure 1: Launch/Press conference for CONAJ

CSPJ, and signed by both institutions.<sup>4</sup> JSSP demanded greater involvement from the GOH to take ownership of key activities to achieve sustainability. In this last year of the Program, JSSP successfully deployed various efforts and strategies to meet these goals, particularly regarding legal assistance and the CMIS (see Objective 2). In Y2, JSSP developed a preliminary assessment of the “necessary conditions” and basic assumptions of what the GOH and other Haitian stakeholders must fulfill for JSSP to track partner progress and achieve desired results, as stipulated in the JSSP contract. The Program regularly updates this table and shares it with USAID (see Annex I).

### **Path to coordination**

On November 16, 2017, JSSP supported the official launch of the *Comité National pour l’Avancement de la Justice* (CONAJ). JSSP initiated and facilitated the establishment of this five-member, high-level coordination group.<sup>5</sup> The role of the CONAJ is to serve as visionaries, planners, and advisors that focus on addressing systemic and sustainability issues in the justice sector such as corruption and illegal pretrial detention. Frequent changes of Ministers of Justice and CSPJ members negatively impacted the momentum. Due to various challenges, the CONAJ eventually ceased activities. JSSP continued to advocate for its existence, but the extremely challenging political and security situation in the country prevented the initiative’s relaunching.

## **OBJECTIVE I: LEGAL, POLICY, AND REGULATORY FRAMEWORK IMPROVED**

### **IRI.I: THROUGH MULTI-STAKEHOLDER ADVOCACY, NEW AND IMPROVED PENAL AND HUMAN RIGHTS LAWS AND POLICIES ARE PASSED**

Observers have long stressed that outdated 1835 penal and penal procedural codes in Haiti lead to severe violations of human rights including PPD. The Council of Ministers adopted new codes by decree on April 11, 2020, and the official gazette, *Le Moniteur*, published them on June 24, 2020. JSSP has successfully implemented a wide-ranging strategy, encompassing activities of a variety of stakeholders, to support passing the draft codes, including organizing public hearings for Parliament justice codes for professional associations; hosting two study tours in Chile (see Objective 2.2), and three grants to non-governmental organizations (NGOs) to conduct civic education campaigns. Through these activities JSSP staff ensured they did not provide personal views on the content of the codes. The codes include measures to bolster the effectiveness of the criminal justice system, which could drastically reduce pre-trial detention and more effectively combat corruption and modern criminality. A new sentencing scale introduces new rights for victims and minors. Unfortunately, political instability and related insecurity has significantly delayed the establishment of the Codes’ Implementation Commission (*Commission de Mise en Œuvre*, CMO). More importantly, a political agreement will lead to the review of the codes, this could significantly push back their implementation.

### **The Penal Reform Commission**

At the request of the MJPS, the United Nations Stabilization Mission in Haiti (MINUSTAH) and JSSP supported two consultants each to the Commission (JSSP supported Mr. René Magloire and

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<sup>4</sup> On March 7, 2019, Jean Roudy Aly, Minister of Justice, signed the MOU, and on July 18, 2019, Mr. René Sylvester president of the CSPJ, signed the CSPJ MOU.

<sup>5</sup>Minister of Justice, President CSPJ, President FBH, Presidents of the two Parliamentary Justice and Security Commissions.

Mr. Jean Joseph Exumé) for two days per week for a six-month period through August 2017. In Y1, the Commission refined sections of the two codes, began drafting laws to operationalize parts of the penal codes, and met with various professional groups to promote the codes, such as the business community.<sup>6</sup> The Commission also began to examine the budgetary aspects of code implementation. From June 5 to 9, 2017, JSSP partner CEJA provided international expertise on penal reform budgeting to two Commission consultants hired by MINUSTAH subsequent to a first trip by CEJA on January 2017 in which they shared with the Commission and other stakeholders (MJPS, CSPJ, parliamentarians) their lessons learned on penal code reforms in Latin America.



Figure 2: Jaime Arellano, Executive Director CEJA, during a working session with the members of the Penal Reform Commission

### Coder Analysis

In order for legal professional associations to conduct in-depth analysis on penal code reforms, JSSP provided support to the associations as detailed below.

- Haitian Chapter of the International Association of Women Judges (CHAIFEIJ). JSSP supported the CHAIFEIJ's annual Congress (December 8-10, 2017). Many recommendations resulting from the discussions related to proposed refinements of provisions of the penal and penal procedure codes were made. Members presented their recommendations to the Justice Commissions of the Senate and of the Chamber of Deputies (see Annex 2).
- IAWJ. JSSP partner IAWJ completed an analysis of the penal code and its treatment of gender-based violence (see Annex 3). In general, IAWJ viewed the new draft penal code as a considerable advancement over Haiti's existing code. They recommended better defining "consent" (sexual assault) in the code and noted that often what defines consent may be specific to time and circumstance. They suggested modifying sentencing for prostitution and child pornography as the penalties in the current draft are too lenient as compared to international norms.
- PAPBA. At the request of Stanley Gaston, President of the PAPBA, JSSP engaged French expert Judge Armand Riberolles to assist the PAPBA in conducting an analysis of the draft codes and their conformity with international standards regarding pretrial detention (see Annex 4). His analysis revealed that the draft codes met the highest standards of international safeguards regarding pretrial detention. With the support of JSSP, Patrick Pierre-Louis, a local expert, completed a broader analysis of the two draft codes together



Figure 1: Members of the IAWJ analyzing the codes during a working session.

<sup>6</sup> On May 15, Me Jean Joseph Exumé was a guest speaker at a PAPBA activity on the impact of the draft codes on investment in Haiti (374 participants; 247 M/127W) which JSSP supported in providing food for participants and lodging for guest speakers.

with PAPBA President Gaston (see Annex 5). The PAPBA agreed with the modernization of some procedures to combat pretrial detention but disagreed with aspects of how the codes conform with French penal procedure reform. The PAPBA recommended going further in the reform process by removing the position of investigative judge, as many countries in Latin America and the Caribbean did. The PAPBA provided both analyses to the Penal Reform Commission and to the Parliamentary Commissions on Justice and Security.

- **APM.** On August 24 and 25, 2017, the APM conducted a workshop on the draft penal code and draft penal procedure code. The objective of this workshop was to obtain members' comments on the codes submitted to Parliament. 110 participants (83 M and 27 W), mostly judges from around the country, took part in the event. JSSP provided logistical support for the event. Some of the main recommendations were: 1) partially legalize abortion; 2) reduce the age of sexual maturity to 16 years of age; 3) reinforce dispositions on kidnapping; and 4) penalize the phenomenon of "zombification".<sup>7</sup> The APM compiled these recommendations and presented a report to the Penal Reform Commission and parliamentarians (see Annex 6).
- **ANAMAH.** On September 28, 2018, ANAMAH in conjunction with JSSP and the U.S. Embassy, organized a conference to push for the modernization of criminal law mainly for the passage of the new codes. 140 participants (100 M and 40 W) took part in this event. Panelists included a member of the former Penal Commission who drafted the codes, the President of the Senate Justice, Security and Defense Commission, and a CSO representative. There was a wide consensus that Parliament must rapidly adopt the new codes. However, some participants would like to see some changes particularly to the penal responsibility of judges in cases of abuse of authority.

### Codes dissemination

Following a competitive process, JSSP awarded a grant to local organization GREAS to organize a debate on the new draft code provisions and to advocate for their adoption (see Annex 7). In July 2017, GREAS conducted a workshop in each of JSSP's five target jurisdictions to inform civil society about the content of the codes. Two hundred and seventy-nine participants (171 M and 108 W) took part in these events including CSO representatives, lawyers, university professors, students, and religious authorities.<sup>8</sup> Issues that were raised included: 1) is the use of scientific evidence (e.g., DNA) in courts possible; 2) is defamation/libel being addressed; and 3) are there special procedures to protect the rights of juveniles? GREAS also completed a series of seven radio and three TV shows (Radio Vision 2000, TNH and Tele 20) to educate the general public about the codes GREAS held two "Q and A" sessions on the codes in Port-au-Prince.<sup>9</sup> 165 participants took part in these events. Participants included representatives from NGOs, media, bar associations, and law students. On September 25, 2017, GREAS met with members of the Justice and Security Commission of the Senate to advocate for the passage of the codes and share the concerns expressed by professional organizations and grassroots CSOs during their various activities.

### Support to Parliament public hearings on the codes

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<sup>7</sup> The process of turning into a zombie. In voodoo belief, a corpse that has been reanimated, especially by means of a supernatural power or spell.

<sup>8</sup> July 12, 2017 Port-au-Prince 45 (35M, 10W), July 14, 2017 Croix-des-Bouquets 30 (19M, 11W), July Saint-Marc 31 (22M, 9W, July 25 Cap-Haitien 76 (40M, 36W), July 26 Fort-Liberté 97 (55M, 42W).

<sup>9</sup> First August 16, 2017: seventy-two (47 M/25W). Second debate date august 18, 2017: Ninety-two (61 M/28 W/three TGI).

In July and August 2017, JSSP supported the Parliament's Senate Justice and Security Commission to hold five public hearings, or "caravans" on the draft penal and penal procedure codes in the five Courts of Appeal jurisdictions around the country. These caravans enabled the Commission to meet with and seek stakeholder input on the draft codes. A total of 842 participants (658 M and 184 W) took part in these events. Attendees included judges, prosecutors, lawyers, law professors, mayors, notaries, students, journalists, as well as representatives of the police and civil society.<sup>10</sup> Common recommendations stemming from these caravans included: 1) reducing fines participants deemed too high; 2) translating the codes into Creole; 3) maintaining the age of sexual consent at 18; 4) rejecting euthanasia; 5) decriminalizing abortion in cases of rape and danger to the life of the mother or the fetus; and 6) defining the phenomenon of "zombification".<sup>11</sup> Overall, the proposed codes satisfied the participants . JSSP supported local lawyer Mr. Leon St. Louis to assist the Senate Commission with preparing its reports (see Annex 8).

In Y2, JSSP also supported six working sessions between the Penal Reform Commission and the Senate's Justice and Security Commission (November 22 and 27, December 13 and 18, 2017 and January 10 and 16, 2018) to introduce the modifications proposed by the Senate Commission as a result of the five public hearings mentioned above.<sup>12</sup> Mr. Leon St-Louis and JSSP staff also attended these working sessions. Amendments to the draft penal code were prioritized since the Senate intended to proceed to vote on the penal code first. Both SJSDC and the Penal Reform Commission members agreed, for example, to include heavier penalties in the penal code for kidnapping-related deaths and insider crimes; to introduce "new" offenses such as violence during protests, jury member corruption, and "zombification".<sup>13</sup> On October 3, 2018, the Commission submitted its penal code report to the President of the Senate. On October 31, 2018, the Commission, supported by JSSP, organized a workshop for 303 participants, where they presented proposed code modifications following the public hearings. Senators discussed some of the most salient offenses retained in the new code such as: moral and sexual harassment, pedophilia, "zombification", and fiscal evasion. The vote on the code was scheduled to begin in November 2019, but political tension linked to the civil and political unrests delayed the vote.

### **Justice, Human Rights and Public Security Commission of the Chamber of Deputies**

In Y2, the Justice and Public Security Commission of the Chamber of Deputies launched similar public code consultations as those conducted by the SJSDC. The goal was to inform the public about the novelties of the codes and to listen to their concerns and recommendations. JSSP provided logistical support for visits to Gonaives and Port-de-Paix (total 63 participants, 50 M and 13 W).<sup>14</sup> On December 20, 2018, the Justice Commission of the Chamber of Deputies also organized a workshop in Cap-Haitien for thirty-two participants (24 M and 8 W) to obtain feedback and buy-in on the new codes.

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<sup>10</sup> June 30 Cap Haitian, 203 participants (159 M/44 W); July 7 Hinche 164 participants (136M/28 W); July 14 Gonaives, 112 participants (92 M/ and 20 W); July 19 Les Cayes, 169 participants (122 M and 47 W); Port-au-Prince August 24 107 (81M, 26W); and 25 August, 87 (68M, 19W).

<sup>11</sup> Idem 7.

<sup>12</sup> JSSP provided support for these five public hearings.

<sup>13</sup> On November 10, 2017, JSSP supported a working session organized by SJSDC, to discuss the issue of zombification with local experts. 13 participants (8 M and 5 W) took part to the event.

<sup>14</sup> Gonaives September 13, 2018 (33 participants 2 5M and 8 W), Port-de-Paix September 15, 2018 (30 participants 25M/5W).

## Codes' review

In Y5 Q1 and Q2 Mr. Rene Magloire, a JSSP consultant, completed a thorough review of the 1,364 penal procedural code articles to verify that the version made public on December 15, 2020, is identical to the version prepared by the Joint Technical Committee and presented to President Martelly in 2015. The review confirmed that the Executive made no substantial modifications to the code. After reviewing, Mr. Magloire prepared a list of minor errata consisting of grammatical errors, inaccurate references, additions that create redundancies, and misplaced edits. He prepared modifications for 130 articles. This list of errata and related proposed modifications were presented to the GOH during the JSSP closing event on January 25, 2022.

## Executive orders

The new penal and penal procedural codes introduced new procedures which require executive orders to enforce the codes. In Y5, Mr. René Magloire, JSSP consultant, identified the 31 executive orders required to draft and adopt. Along Ms. Sabine Boucher, JSSP training advisor, he began drafting some of the executive orders. In Y6 Q1, they completed eight of them: the sexual offender registry, community services, the judiciary police's special powers in pedo-pornography cases, company registration requirements, establishment of the CMO, establishment of the parole services, modernization of clerks and courts, and the protection of persons benefiting from exemption or sentence reduction.

Ms. Boucher and Mr. Magloire also began developing eight additional executive orders. They are not yet completed: the electronic signature, the anonymity of police agents in terrorism issues, the order on the use of telecommunication means during judicial procedures, the distribution of inmates' work, the protection of persons benefiting from reduced sentences, the procedure on sentence adjustment, the disciplinary regime of detained persons, sentenced or in pre-trial detention, and the DNA registry. The executive orders were presented to the GOH at the JSSP closing event on January 25, 2022.



Figure 4: Ms. Sabine Boucher and Mr. René Magloire preparing an executive order.

## Other legislation

In Y4, at the request of the MJSP, JSSP completed drafting the draft law on prosecutors (see Annex 9). This law would provide a 7-year mandate to prosecutors who currently can be removed at any time and thus are vulnerable to political pressure. The bill contains objective recruitment criteria, as well as evaluation and discipline processes. It also includes the creation of a General Directorate of Prosecutor's Offices and a National Financial Prosecutor's Office with exclusive jurisdictions over such cases.

In general, judges in Haiti have little experience and expertise handling financial crime cases. At the request of the MJSP, JSSP also completed the draft law establishing a specialized section within the First Instance court of Port-au-Prince, that holds national jurisdiction over financial and economic crimes (see Annex 10). If adopted, this section will work in collaboration with the National Financial Prosecutor's Office earlier mentioned. Finally, JSSP completed the draft law on the MJPS (see Annex 11). Since the inception of the law establishing the CSPJ in 2007, and its

subsequent establishment in 2012, the MJSP was divested of all its responsibility regarding judges; it remains in charge of prosecutors and the overall justice policy. Consequently, the Decree of the MJSP of March 30, 1984, needed an update to reflect this reality.

At the request of MJSP, JSSP drafted an “*arrêté*” to establish the EMA Board, which was never been set up in accordance with the 2007 EMA law (see Annex 12). JSSP also drafted an “*arrêté*” to establish the Board of CNAL, as requested by the 2018 law on legal assistance (see Annex 13). Finally, JSSP also prepared an introductory memorandum for the draft law on prosecutors and the law on the special crimes’ prosecution section, both mentioned above.

Unfortunately, the collapse of state institutions in Y5 and the absence of a functional parliament since January 2020 prevented the adoption of these draft laws, “*arrêté*”, and executive orders.

## **IR1.2: NEW AND EXISTING CRIMINAL CODES IMPLEMENTED IN TARGET JURISDICTIONS**

### **Strategic planning**

In Y2, JSSP provided support for a strategic planning for the EMA, the FBH, and the PAPBA. These efforts included a two-day conference with each of the institutions.<sup>15</sup> The main objective of the workshops was to strengthen these institutions’ organizational capacity, partially by assessing the strengths and weaknesses of the institution through the various strategic planning exercises (Human and Institutional Capacity Development/internal, political economy analysis/external). Follow-up committees were appointed to further develop the recommendations and suggestions that came out from the workshops, and to draft the strategic plan to adopt next quarter. In Y2, JSSP assisted the EMA and the FBH PAPBA in completing their draft strategic planning (see Annexes 14 and 15).

Both codes entail a 24-month transition period before enforcement. They include numerous new procedures and institutions, requiring significant human and financial resources for proper implementation. To oversee this process, the codes call for the establishment of the CMO which is not yet established. Furthermore, as a result of the latest political agreement by Prime Minister Henry with some opposition parties, the codes will be reviewed – which will significantly delay the process. Once the current codes are modified, or new ones are adopted by Parliament, a transition period will also be needed prior to implementation. The 24-month transition was deemed by several sector operators too short to effectively train all actors and put in place new institutions. Most countries in Latin America needed 5 years to complete that process.

## **OBJECTIVE 2: THE INDEPENDENCE, CREDIBILITY, AND EFFECTIVE AUTHORITY OF THE JUDICIARY STRENGTHENED**

### **IR2.1: COURT CASE ADMINISTRATION IMPROVED**

#### **CMIS**

The Haitian justice system currently lacks an effective system to manage criminal cases and overall justice sector operations. Court documents are often stockpiled in file folders with no logical order, and the paper registers currently used in courts do not allow for court leadership

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<sup>15</sup> PAPBA October 24-25, 2017, for 18 participants (16 M and 2 W), EMA January 19-21, 2018, 19 participants (7 M and 12 W), FBH 15 to 17, 2018, 30 participants (28 M and 2 W).

to monitor judges' and prosecutors' caseloads and case processing times. It opens the door for corruption and is contributing to PPD.

PROJUSTICE, the previous USAID governance-and justice-related program in Haiti, began the CMIS implementation in 2015. JSSP took over in October 2016, and in Y6 achieved its contractual obligation of implementing the system in 13 courts.<sup>16</sup> A total of 49,756 cases have been entered in the system. The Program provided everything for CMIS in the 13 courts, including all hardware, software, internet access, and staffing training. The CMIS developer has created dashboards for the chief judges and chief prosecutors to obtain case status and flow data, to oversee performance of investigative judges and prosecutors on key steps of the penal procedures. The dashboards also provide alerts for cases that go beyond the prescribed legal timeframe to combat PPD, the capacity to search a case by number, name, offense, judge, and the possibility for the chief judge to assign cases to judges. The cloud houses this system, allowing for remote access including by smartphone. This is essential for a country like Haiti, where courts may be partially or completely closed due to political crises, natural disasters, and pandemics, including COVID-19 or when the internet in court is down.

Sonel Jean-Francois, Director of the JIU noted how CMIS is transforming the work within the unit. "We can track judges' performance remotely and access data that aren't available in the traditional paper registry system," he said. "We also save time and money as we don't have to visit courts as often. I'm a click away from even the most isolated courts. The system also addresses several other critical needs. For example, Haiti does not have an official criminal record system. Thus, judges, prosecutors, and police officers have no way of determining whether an individual has convictions in other jurisdictions. Data collected in the CMIS now makes this possible. The CMIS team implemented an offline system in all 13 courts to work when the internet is down. JSSP assisted developing WhatsApp groups for court CMIS users. These groups allow for swift and effective coordination as well as remote support."

To ensure the GOH will uphold the system, JSSP's system design requires very little equipment (six computers per court). The cost is affordable (approx. \$15,000 per court) and several Minister of Justices have told JSSP that the GOH wants to pay to install the system in the seven remaining Courts. The CMIS is currently based in open-source software, which minimizes recurrent expenses.

### Transfer of CMIS database



Figure 5: CMIS Expansion and ownership phase press conference

"I have been wishing all my career of such a revolution in the justice sector in Haiti. The CMIS is a dream come true."

— MAGZEDA PAUL ANDRE,  
PROSECUTOR IN GRANDE-  
RIVIERE-DU NORD

<sup>16</sup> The 13 courts are: Fort-Liberté, Cap-Haïtien, Port-au-Prince, Grande Riviere du Nord, Saint-Marc, Croix-des Bouquets, Petit-Goâve, Jacmel, Hinche, Mirebalais, Gonava, Les Cayes and Port-de-Paix.

In Y5, to achieve sustainability JSSP transferred the CMIS from the U.S., where it was hosted for eight years to a local server in Haiti purchased by JSSP. The team first finalized installing the ALPHA software on Haitian servers and transferred the CMIS database, as well as related programs, from the U.S. server to one in Haiti. On December 29, 2021, JSSP finalized the installation of the server at the Central Bank data center. The server is now located, free of charge, in a secure location with permanent electricity in this GOH facility. This is a milestone that guarantees the security and sustainability of the CMIS for years to come. In Y6, the CMIS Task Force with IT technicians of the NJPS and CSPJ were trained on how to use and maintain the server.

### MOU Web portal

In Y4, JSSP completed the web portal for institutions, including the UCREF, the ULCC, the DCPJ, and the DAP. Connecting these institutions will improve their effectiveness, as they will now have quick access to information they do not currently possess.<sup>17</sup> JSSP drafted MOUs to sign between each of these institutions and the MJPS, the CSPJ, and the Ministry of Finance. It is now up to the National Steering Committee on the CMIS (CNDP) to approve and sign the MOUs with these institutions.

### CMIS Transition to the GOH

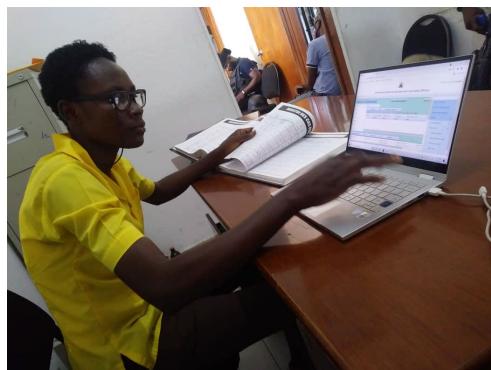


Figure 6: Rosemira Joseph, clerk at the Croix-des-Bouquets court, using the CMIS.

In Y3, JSSP signed MOUs with the CSPJ and the MJPS including on sharing costs (see Annexes 16 and 17). In Y4, JSSP, alongside MJPS and CSPJ CMIS Task Force representatives, developed the “CMIS transition and ownership plan” (see Annex 18). The plan provides a detailed roadmap for all stakeholders and a tool to track and monitor progress. The team, working alongside CSPJ and MJPS financial units, also prepared a budget to transfer the entire system. In Y5, the MJPS and CSPJ leadership agreed that their respective financial units would collaborate on a final detailed budget, as they will split responsibility for covering all CMIS-related costs. Unfortunately, the assassination of President Moise and related political instability

impeded the transition process, including securing the budget. There have been two different ministers of justice in Y6 Q1 and the new members of the CSPJ, sworn in on October 1st, 2021, have not yet managed to fulfill their mandate because of the on-going crisis. Nonetheless, JSSP managed to organize meetings of the CNDP, which includes members of the leadership of the MJPS and CSPJ. These meetings focused on the last transition steps including budget and operating costs, management of web portal with other institutions (see above), and the January 25, 2022, ceremony to officialize the CMIS transition to the GOH. Key stakeholders including representatives of the U.S. Embassy, USAID, the CSPJ, the MJPS, judges, prosecutors, court staff, CSOs, and the press attended the event.

### Promotional video

While the CMIS is a significant achievement in the justice sector, it remains relatively unknown to the public. Consequently, in Y5 JSSP commissioned local firm KREYATIF to produce a short eight-minute promotional video on the CMIS. After review, the MJPS, CSPJ, and USAID all

<sup>17</sup> Web Portal Link: [http://216.81.202.94/gicaj\\_portal/\\_gicaj\\_portal.a5w](http://216.81.202.94/gicaj_portal/_gicaj_portal.a5w)

provided approval to air the video. TNH aired the clip eight times a week for two months and also featured the video on its YouTube page.<sup>18</sup> Dissemination has been successful as the MJPS, CSPJ, and the Ministry's websites published the video. The video is also posted on various websites and social media. Furthermore, the TNH produced a 20-minute documentary on the CMIS to provide an in-depth overview of the system. In Q3 and Q4 the TNH aired short segments of the documentary. All five short clips are available through an online link.<sup>19</sup>

An independent mid-term evaluation (95 stakeholders interviewed) conducted by Social Impact on behalf of USAID reported the following: (...) CMIS is starting to have a positive effect on prolonged pretrial detention and has significant potential (...) Perceptions of CMIS have been favorable overall. 'CMIS is revolutionary!' declared a senior government official. The team concluded "JSSP's successful work to complete the CMIS system has improved the efficiency of the Haitian justice sector in the initial five jurisdictions, and CMIS is likely to have the same effect in six more jurisdictions before the activity ends in February 2021."

## IR2.2: HUMAN RESOURCES EFFECTIVELY DEVELOPED AND MANAGED

### Strengthening Training Capacity

On June 28 and 29, 2017, JSSP provided technical and logistical support for the first workshop on the state of Haiti's legal education. 54 experts (44 M and 10 W) took part in this event, including heads of local bar associations, law schools, the EMA, as well as representatives from judges' association, and the MJPS. Representatives from the Dominican Republic's Judicial Training Institute, and the Province of Quebec's Bar Association School shared lessons learned and best practices.

### Strengthening legal education

In Y3, following the recommendations of the workshop above, JSSP and the FBH completed a joint study on the state of legal education in Haiti (see Annex 19). On January 31, 2020, JSSP and the FBH presented the study on legal education through an event attended by 99 key stakeholders (82 M and 17 W). The study contains many concerning findings that provide a better understanding of why legal education is so weak in Haiti. For instance, there are currently 61 institutions providing legal education, with an average of six teachers per institution, some of which teach up to 10 subject matters each. Only 3% of these teachers have a PhD degree. On March 31, 2020, to address some of the issues revealed by the study, the Executive Board of the State University of Haiti (UEH) issued an executive order. The order directly refers to the JSSP-supported legal education study. On August 24, 2020, the Executive Board of the UEH established a 12-member committee to follow up on the study, the executive order and related issues. A prominent University was sanctioned for not abiding to the executive order.

### EMA trainee judges training



Figure 7: Gary Juste, USAID Mission director providing opening remarks at the presentation of the study on legal education.

<sup>18</sup> [https://drive.google.com/file/d/1hr07-4A0fUJLtm\\_IFV5RiFL18M9V6y9/view](https://drive.google.com/file/d/1hr07-4A0fUJLtm_IFV5RiFL18M9V6y9/view) and <https://youtu.be/XSmB-0wGoJI>

<sup>19</sup> <https://drive.google.com/drive/folders/1adU172YpID5W4ZjZNEQaZIM0ureLnxu6?usp=sharing>

Quality of the justice system primarily relies on the quality of the trainings of its operators. JSSP has supported several trainings at EMA including six training sessions entitled “Gender and Support to Victims of GBV” for 55 (44 M and 11 W) trainee judges.<sup>20</sup>

### **Prosecutors' trainings**

In Y3, the EMA, with JSSP support, completed a continuing education program to strengthen the capacity of prosecutors around the country. Several prosecutors in the country are politically appointed and do not have the expertise nor experience necessary to successfully carry out their tasks. Three out of four sessions were conducted with JSSP financial and technical support. A total of 74 (62 M and 12 W) prosecutors benefited from that training.

### **Training clerks EMA**

The clerk's office is the heart of the court. Unfortunately, these offices are dysfunctional in Haiti. On June 29, 2018, the EMA held a graduation ceremony for 40 clerk students (34 M and 6 W). Students are law degree holders selected following a competition. It is the first-ever training for clerks in Haiti. The training partly supported by JSSP consisted of three months of theoretical training at the EMA and three months of internship.

On December 14, 2020, JSSP provided financial and technical support for the Association of Clerks (*Association Nationale des Greffiers d'Haiti*) and EMA joint clerk trainings on “Ethics of clerks” and “Case Management Technology”. 29 participants (20 M and 9 W) attended.

### **Financial crimes trainings**

French honorary judge, Armand Riberolles, led five sessions of specialized trainings on financial crimes for 82 judges and prosecutors (49 M, 33 W) in Port-au-Prince and Croix-des-Bouquets assigned to financial crimes. Judge Riberolles presented key financial offenses from national and international legislations. He provided several examples from his long experience, and prepared case studies.

### **Training of lawyer's money laundering and anti-corruption**

On July 27 and 28, 2021, JSSP provided a two-day training on money laundering crimes for 15 lawyers (5 M and 10 W) of PABPA. Ms. Boucher presented different national and international legislation and anti-money laundering institutions and followed her presentation with practical cases. On August 18 and 19, 2021 JSSP provided two-day trainings on corruption for 14 lawyers (3 M and 11 W) of the PAPBA with a similar approach as the first training.

### **Trainings of lawyers on gender and ethics**

At the request of the PAPBA, on April 29 and 30, 2021, JSSP Gender advisor Francoise Vital Metelus conducted a “Gender and Ethics” training for 25 lawyers (1 M and 24 W) from the Port-au-Prince and Petit-Goave Bar Associations. Ms. Boucher focused on ethics in the legal profession, and participants discussed the different ethical dilemmas that lawyers often face.

### **Training of lawyers on judicial guarantees**

At the request of the Saint-Marc Bar Association President, JSSP provided financial support to train 93 lawyers (79 M and 14 W) on “judicial guarantees and ethics”. The two-day training, which took place from March 25 -26, 2021, covered the following topics: judicial guarantees in

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<sup>20</sup> The first session was held on April 19, 2021, the second session on April 26, 2021, the third session on May 3, 2021, the fourth session on May 17, 2021, the fifth session on June 2, 2021, and the sixth session on June 7, 2021.

international and national legislation, the importance of procedures in court, and deontology in the profession of law.

### **Study Tours**

Chile has a reputation for being the most successful country in penal reform implementation within the region. JSSP, along with JSSP partner organization, CEJA, organized a Study Tour for four CSPJ members held from the 19th to 22nd of March 2018 (see Annex 20). The tour provided CSPJ members with lessons learned in the management, budgeting, discipline, promotion and career system of their Chilean counterpart's judicial institutions. With the support of JSSP, a debriefing for all CSPJ Board members took place on April 13, 2018, with the presence of the Ambassador of Chile to Haiti and the USAID/COR.



Figure 8: Haitian justice sector delegation in Chilean Parliament during the September 2019 study tour.

From September 7 to 14, 2019, CEJA, with financial and logistical support from JSSP, organized a second study tour in Chile (see Annex 21). JSSP identified 10 dynamic local counterparts who would champion reforms upon return from the tour. Participants attended court hearings and visited the Chilean Supreme Court, Public Prosecutor's Office, Public Defender's Office, and Forensic Institute.

### **Anti-trafficking in persons**

On January 29, 2019, the EMA, under the auspices of the MJSP and with support from JSSP, organized a brainstorming session on ways to increase prosecution of TIP cases. 56 participants (38 M and 18 W) attended the event. They set forth recommendations, including the establishment of a multi-disciplinary committee to accompany justice sector operators handling TIP cases. JSSP provided support to establish this committee, but political instability hampered that process.

### **MJSP strategic plan**

At the request of the MJPS, JSSP Consultant Mr. Patrick Pierre Louis prepared a draft strategic plan for the MJSP (see Annex 22). The plan, divided into two parts, emphasizes the importance of redefining the MJSP's role with the CSPJ's advent, frames a seven-point action plan establishing clear coordination between the MJPS and the CSPJ, and outlines a reformed legal framework of the MJPS. The plan also provides detailed indicators and calendars of activities. On February 1 and 2, 2019, JSSP organized a workshop presenting the plan to senior Ministry officials to obtain their comments and buy-in. None of the ministers of justice in office during the JSSP program had sufficient time in office to implement the plan. Political instability leads to the lack of continuity.

### **Assessment of the Prosecutor's Office**

At the request of the MJSP, Joel Guitton, a former chief prosecutor from France, conducted an assessment of the structure and operations of prosecutors' offices from February 19 to March 2, 2018 (see Annex 23). According to Mr. Guitton, much progress could be achieved in the prosecutor's office by simply improving organization and oversight. He proposed measures to tackle the issues of cases registration, human rights standards, including illegal pretrial detention,

the physical organization of the Prosecutor's Office, and the lack of oversight and monitoring by the MJSP. Some of these measures were implemented with JSSP support including the development of guidelines and related trainings for clerks (see above).

### **Protocol and management trainings CSPJ**

In Y1, Mr. Henri Dorléans, former Minister of Justice and JSSP senior advisor to the CSPJ, completed the protocol training for 17 CSPJ administrative staff. This training provided CSPJ staff with skills like those in the highest levels of the two executive offices (Prime Minister and President's Office) and the legislative branch.<sup>21</sup> On September 27, 2017, Me Henri Dorléans facilitated a training session on leadership and management for chief judges, presidents of the Court of Appeals, members of the CSPJ, and representative of judges' associations. 28 participants (22 M and 6 W) attended this session which focused on ethics, the development of a culture of results and initiative, and the importance of strategic planning.

### **Annual Report on Justice**

In Y1, Mr. Dorléans led a team of five JIU members to prepare the CSPJ's 2016-2017 annual report on justice, a report which the CSPJ is required by law to provide to the public. Mr. Dorléans and the CSPJ team developed questionnaires to gather information for the report from chief judges and prosecutors around the country. The CSPJ Board member never made the appropriate follow-up.

### **Strengthening CSPJ administration**

Since its inception in 2012, the CSPJ has been run by its board members. To fulfill its mission, the Board must delegate some of its current responsibilities to its administration to strengthen the capacity of CSPJ mid-level management. In Y3, Mr. Dorléans, completed two training manuals on organizational behavior and ethics (see Annexes 24 and 25). In Y4, he led a training on "Institutional Behavior" and "Ethics" for 21 (7 M and 14 W) mid-level staff members of the CSPJ and the EMA as part of JSSP's mandate to strengthen the capacity of the CSPJ. On February 17, 2020, an award ceremony took place to present certificates to all training participants.

Mr. Dorléans also completed a guidebook on internal procedures for the CSPJ administration, including the Technical Secretariat (see Annex 26). The manual includes a detailed classification of the positions within the CSPJ administration, and rules governing recruitment (including gender quotas), leave policies, working hours, continuing education, salaries and transfers. He completed a training for the CSPJ's 37 administrative staff (18 M and 19 W) on advancing their personal and professional development within the Council.

### **CSPJ Budget**

The justice sector uses less than 1% of the national budget. The CSPJ lacks resources to conduct its mandate independently. In Y2, a local expert and JSS consultant, Eddy Labossière, assisted the CSPJ in completing that year's amended budget and the 2018/2019 budget (See Annexes 27 and 28).

### **CSPJ gender policy**

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<sup>21</sup>On March 31, 2017, a ceremony was held to provide certificates to the 17 administrative staff that had completed the 30-hour training.

On April 20, 2018, key CSPJ members launched the Council's gender policy during a press conference. 40 participants (19 M and 21 W) attended the event; including the Minister of Women Condition, USAID representatives, members of the judiciary and representatives of civil society organizations.

Currently, less than 12% of the judiciary are women and they few hold key positions. Marie Francoise Vital, JSSP's Gender and Social Inclusion Advisor, completed the draft gender policy for the judiciary which includes several recommendations to respect implementation of the constitutional "at least 30% quota" of women in public institutions and promote gender at large in the sector.<sup>22</sup> This is the first gender policy prepared for the justice sector (see Annex 29).

### Career and promotion path for judges.

At the moment, no career and promotion plan exist for judges, leaving an open door for arbitrary treatment. At the request of the CSPJ, JSSP recruited consultant Quesner Stephen to develop a career and promotion plan for judges. In Y2, Mr. Stephen completed a draft report of his analysis of the status of the legislations and made recommendations on the tasks to perform next (see Annex 30). He also completed a guidebook on career and promotion (see Annex 31).

From October 8 to October 12, 2018, JSSP and the United Nations Mission for Justice Support in Haiti (MINUJUSTH) supported a five-day retreat to complete the career and promotion plan for judges, as well as the evaluation process launched in FY 2018 with JSSP support. Under the lead of the JIU, and with the support of JSSP consultant Mr. Riberolles, the draft resolution on a judge's career and promotion plan was finalized.<sup>23</sup> These draft guidelines provide a transparent and objective process for the promotion and evaluation of judges. CSPJ has not yet adopted this critical plan nor the evaluation process.

### Support the capacity of bar associations

The JSSP study on conflict resolution conducted in 2017 (see below) revealed that high level of distrust of lawyers by citizens. In June 2020, the President of the Federation of Bar Association requested support from JSSP to conduct a study on the profession of lawyers (see Annex 32). Two consultants were recruited to conduct this joint FBH and JSSP study. They developed two questionnaires, one filled by all 18 bar presidents and the other by 500 lawyers. Interviews were also conducted with key stakeholders. On December 10, 2021, 27 participants (20 M and 7 W) attended the online presentation of the study. The study contained several findings such as: the total number of lawyers in the country which was unknown: 4,457 (1550 are in Port-au-Prince); interns: 649; 13% of lawyers are women; the ratio of 1 lawyer for 2,468 citizens; 64% of lawyers also have a degree in another field; and that bar school internships varies from 4 to 24 months.

<sup>22</sup>Examples of recommendations: the development of a gender curriculum for the Magistrates' School and the law schools, sensitization of the Executive and the Legislative Branches on the importance of appointing more women to the bench, assignment of a gender point person in each court/jurisdiction.

<sup>23</sup>Three inspectors of the JIU one representative of MINUJUSTH as well as JSSP's Administration of Justice, and international consultant to the JIU, and Judge Riberolles, worked extensively in October to complete this document. See Annex 8 for reference.



Figure 9: Jules Cantave, President of CSPJ and Eunide Innocent minister of MCFDF during the adoption ceremony of the gender policy for the judiciary.

Key recommendations included: reviewing the obsolete law on the profession of lawyers; developing a code of ethics for lawyers; standardizing the rules for accessing the bar membership throughout the jurisdictions and subjecting them to a national state exam. A discussion among participants followed the presentation. They all agreed that the study serves as a solid basis for reform of the lawyer's profession.

### **Independence of the Judiciary**

On March 7, 2020, with JSSP support, CHAIFEJ conducted a workshop on judiciary independence. 67 key stakeholders (16 M and 51 W) participated, including representatives of the CSPJ, MJSP, and other judges' associations. The main recommendation from the workshop was to develop a common advocacy agenda for the judiciary's strengthening, potentially including passages of the draft prosecutor autonomy law, the judge evaluation process, and the judge career and promotion process, all developed with JSSP support.

### **Independence of the prosecutors**

Haiti currently has no laws regarding prosecutors' autonomy. As such, they can be removed at any time, which is particularly concerning regarding high profile cases involving government officials. On December 14, 2020, JSSP supported the Haitian APM with a workshop on the statue of the prosecutor with regards to the independence of the judiciary. 86 justice sector operators (65 M and 21 W) comprising primarily of judges and prosecutors participated. Three experienced former prosecutors assessed the current situation and presented various models adopted in Europe and Latin America as potential resolutions to the issue. The APM took advantage of this event to elect their new board members.

### **200th Anniversary of the Court of Cassation**

From November 20 to 22, 2017, the Court of Cassation celebrated its 200th anniversary. As part of the celebrations, JSSP supported a conference including two days of academic sessions on the role of the highest court in the country as guarantor and protector of last instance of individual rights through the issuance of well-documented decisions, and the independence of the judiciary. 250 participants (195 M and 55 W) including many law students, actively participated in the conferences.

### **Congress of the International Conference of Bar Associations**

From December 4 to 9, 2017, JSSP supported the week-long, 32nd Congress of the International Conference of Bar Associations, held for the first time ever in Haiti. The event brought together lawyers from Africa, France, Canada, and Switzerland. The two-day Continuous Learning program, part of the Congress, included 298 young lawyers (232 M and 66 W) with renowned practitioners from countries mentioned above to discuss a variety of topics ranging from professional ethics to evidence in criminal law. The event received wide local and international media coverage.

### **FBH's 6th Annual conference**

JSSP supported the FBH's 6th annual congress held from November 17 to 19, 2017.<sup>70</sup> 70 participants (68 M and 2 W) took part in the event. A segment of the event focused on the draft penal code and draft penal procedure code. Participants also discussed the draft law on the legal profession, which Patrick Pierre Louis drafted, who referred to a number of innovations in the text regarding the accountability of lawyers.

### **Corruption in the justice sector**

On May 4, 2019, the ANAMAH held the forum entitled "Corruption in the Judicial System". 142 participants (112 M and 30 W) took part in the event. Three high profile CEJA representatives gave presentations: Sebastian Hamel Rivas, Deputy Chief Judge of the Court of Appeal of Santiago in Chile, Jaime Arellano, Executive Director of CEJA and former Deputy Secretary of Justice of Chile, and Juan Jimenez Mayor, Former Prime Minister and Minister of Justice of Peru. They shared experiences combatting corruption within the judicial systems of various Latin America countries, focusing on forms and contributing factors of corruption, best practices to combat corruption, and propositions that should apply to Haiti. Propositions ranged from the creation of an independent public prosecutor office to the creation of an international mission similar to the Support Mission Against Corruption and Impunity in Honduras.



Figure 10: Michel J. Sison, US Ambassador to Haiti, presenting opening remarks at the ANAMAH workshop on corruption.

### **Conference on Transnational Crimes**

In conjunction with the "Union International des Avocats", from May 16 to 19, 2019, the FBH conducted a conference on the "Repression of Transnational Crimes." JSSP, alongside other donors, supported this event. 320 participants (219 M and 101 W), including lawyers from Canada, France, Burkina Faso and Guatemala, attended.

### **Support for the publication of doctrinal works**

The lack of doctrine in Haitian law is flagrant and hinders advancement of rectifications for the most significant issues that Haitians face. In Y5, the PAPBA President relaunched the doctrinal books initiative, which aims to encourage the production of legal doctrine by rewarding four works. One winner per year receives \$5,000 to cover the costs of publishing their books. The Association also agreed to rename the prize to "Prix du Batonnier Monferrier Dorval", in honor of the Bar President assassinated on August 28, 2020. The award ceremony took place on December with 30 participants (21 M and 9 W). Mr. Emmanuel Raphaël received the "Prix du Batonnier Monferrier Dorval" for his manuscript on the Haitian public administration.

## **IR2.3: ACCOUNTABILITY AND OVERSIGHT STRENGTHENED**

### **CTC**

According to a 2017 JSSP-sponsored survey, Haitian citizens do not trust the judiciary. Proper vetting of judges and prosecutors is critical for bolstering the credibility of the justice sector. JSSP has supported 63 CTC fact finding missions in 218 towns. Interviews conducted during these missions focused on the moral and professional integrity of judges. Once the CTC completes its report, files are then transferred to the CSPJ Board, who make vetting decisions.

JSSP also provided equipment to the CTC including 4 laptops, 1 desktop, 8 visitors' chairs, 10 office chairs, 2 fireproof file cabinets, and one water cooler. On October 26, 2020, the CSPJ published the names of 44 judges and prosecutors who were vetted using CTC reports. 25 judges and prosecutors passed the vetting (57% of those vetted) while 19 failed (43% of those vetted). To date, only 120 judges and prosecutors have been vetted out of approximately 1,300. The main issue is that the CSPJ Board is not taking much follow up actions on the CTC report's recommendations.

## JIU

The lack of oversight in courts contributes to PPD and corruption. An effective JIU is essential to rectifying these issues. In Y1, and Y2 Judge Armand Riberolles, former French Judge and Judicial inspector (JSSP consultant) assisted in developing JIU inspection tools guides for first instance courts, the court of appeals and justice of the peace's courts. The structure of the content of the guide allows the inspection unit to identify improvements where dysfunctional and ineffective practices can be improved. Judge Riberolles trained all the members of the JIU, provided on-site mentoring during the inspection field missions, and assisted them in drafting related reports. JSSP provided logistical support for 24 JIU field inspections. In line with JSSP's mutual accountability strategy, JSSP and the CSPJ shared most of the inspection costs. JSSP also provided equipment to the JIU including 1 printer, 3 laptops, 1 projector, 5 desks, 5 office chairs, 2 visitors' chairs, 7 file folders, and 1 safe. In Y2 Q3, JIU members completed an evaluation of the assistance provided by JSSP. An average of 96% reported that the trainings improved their job skills. As for the CTC above, the main problem is that the CSPJ Board does not implement significant follow up actions following the report's recommendations.

## Coordination in the jurisdictions

JSSP's regional coordinators in Port-au Prince, Croix-des Bouquets, Saint-Marc and Cap-Haitian organized several activities to facilitate the collaboration among justice sector operators to improve communication. 16 forums between key stakeholders took place and included follow-up committees to ensure the implementation of the recommendations from these forums. Some of them focused on specific topics, including one in Saint-Marc on March 21, 2018, on pretrial detention with 60 participants (56 M and 4 W), one on Habeas Corpus in Croix-des-Bouquets on April 25, 2018, with 33 participants (27 M and 6 W), and another on in person trafficking in Fort-Liberté on May 16, 2018, with 46 participants (42 M and 4 W). In Y3, five forums between key stakeholders were organized on topics including ethics, sexual violence, access to justice, gender and prolonged pretrial detention.<sup>24</sup> JSSP has also increased follow-up committee coordination by initiating WhatsApp groups among them.<sup>25</sup>

## OBJECTIVE 3: ACCESS TO JUSTICE AND PROTECTION OF RIGHTS IMPROVED

### IR 3.1. INCREASED INFORMAL AND FORMAL LEGAL SERVICES TO KEY VULNERABLE POPULATIONS

#### Legal assistance legislation and CNAL

<sup>24</sup>October 5, 2018, Croix-des-Bouquets 31 persons (24 M and 7 W). October 24, 2109, Fort-Liberté 36 participants (29 M and 7 W), October 25, 2018 Cap-Haitien with 28 participants (23 M and 5 W), December 12, 2018, Saint-Marc 79 participants (71 M and 8 W), July 5, 2019 Croix-des-Bouquets 29 persons (18 M and 11 W).

<sup>25</sup>Such WhatsApp groups were initiated in Fort-Liberté and Saint-Marc in Y1, and in Port-au-Prince, Cap-Haitien and Croix-des-Bouquets in Y2.

Legal assistance to indigent Haitians seeking advice, legal representation, information and mediation have been problematic for many years. Assistance has been donor-funded since the 1990s without government support, except for the short-lived MJSP program. With significant JSSP support, on September 10, 2018, the law that established a state-owned national legal assistance program was adopted. It is the first of its kind in Haiti, institutionalizing legal assistance as a responsibility of the State for both indigent persons in conflict with the law and victims of crime, as well as providing consultations and mediation services free of charge. In Y1, Helga Klein, JSSP's Deputy Chief of Party, assisted Mr. Rene Magloire, the MJPS's Senior Advisor on Legal Assistance/Consultant supported by JSSP, completed the draft legislation. In Y2, JSSP provided continuous technical, logistical and financial support to facilitate passage of the draft law in Parliament.

On September 29, 2020, the National Gazette (*Le Moniteur*) published the decree, drafted with JSSP assistance, appointing the five board members of the CNAL. This independent institution, under MJPS supervision, is tasked with ensuring that legal assistance is provided in accordance with the 2018 law to indigent persons through legal assistance offices (BALs). In parallel to the CNAL's establishment, the Ministry of Finance and Economy has budgeted 50 million gourdes in its 2021 national budget for the CNAL. This is a significant achievement considering that legal assistance was entirely donor-funded for the past 25 years and, therefore, not sustainable. JSSP has advocated for this incremental funding since program inception, first introducing it in an MOU signed with the MJSP. More importantly, as part of the JSSP/USAID "mutual accountability approach," in Y3, the Program reduced half of its financial support to the BALs to motivate the GOH to find appropriate funding.

In Y2, Y3, and Y4, prior of the appointment of the CNAL members, JSSP consultant Mr. Magloire provided significant support to Judith Bazile, the CNAL's Administrative Director, and her team to establish this new body. He continued to assist them in Y5 and Y6, helping develop the CNAL strategic plan (2021-2026) and its related budget, develop recruitment and training requirements for BAL coordinators and legal assistants, identify BAL premises in the different jurisdictions, open the state funded BALs, and draft an assessment report for newly appointed board members. In Y3, Mr. Leon Saint-Louis, JSSP consultant, completed the draft internal rules for the CNAL (see Annex 33), and Mr. Eddy Labossiere, a financial specialist recruited by JSSP, assisted with budget (see Annex 34).

### Awareness-raising sessions

To disseminate the legislation to justice sector operators, awareness-raising sessions took place in the five jurisdictions of the court of appeals. JSSP supported the sessions in Cap-Haitien on November 20, 2018 (52 participants, 48 M and 4 W) and in Gonaives on December 7, 2018 (53 participants, 48 M and 5 W). MINUJUSTH aided with the sessions in Hinche and Les Cayes. Both institutions supported the event in Port-au-



*Figure 11: Legal assistant supporting a beneficiary in court in Port-au-Prince.*



*Figure 12: Mr. Rene Magloire, JSSP consultant, presenting the new law on legal assistance to participants in Cap*

Prince on December 20, 2018 (103 participants, 79 M and 24 W). Mr. Rene Magloire (JSSP consultant), who outlined the law on legal assistance to justice sector operators, led the five sessions.

### JSSP-supported BALs

While the GOH established their state-owned BALs in Y5, JSSP provided support from Y1-Y5 to legal assistance offices through local bar associations in five target jurisdictions (Port-au-Prince, Croix-des-Bouquets, Saint-Marc, Cap-Haitien, and Fort-Liberté) helping 10,345 Haitians to receive legal aid (8,739 M and 1,606 W). With JSSP assistance, two of these BALs are part of the CNAL system state-funded and therefore sustainable. To date the CNAL has opened 9 BALs.<sup>26</sup>

In Y4 and Y5, the sociopolitical crisis and sector operators' recurrent strikes, which often paralyzed courts around the country impacted the four BALs. Nonetheless, JSSP developed strategies with the BALs so they could continue to provide services to citizens, which focused on police stations, prisons, and peace courts. The four BALs also actively participated in various initiatives to decrease prison populations in relation to COVID-19.

### BAL services

BAL services were conceived in alignment with the new law and findings of the JSSP/MINUSTAH Y1 legal assessment. Offered services include free legal representation for indigent persons, free consultation services in civil and criminal matters, mediation for out-of-court settlements in civil matters, mobile units to bring legal services closer to the people ("proximity justice"), and civic education in response to the needs of remote, rural, and underserved communities.

- *Legal representation:* JSSP-supported BALs provided free legal assistance to 6,158 detainees (4,906 M and 1,252 W), of which 924 (725 M and 199 W) were convicted, 1,450 (1,161 M and 289 W) were acquitted, and 3,784 (3,020 M, 764 W) were liberated without judgment. 23% were acquitted while 61% were liberated.
- *Mediation.* The BALs conducted 485 mediations for 915 individuals (559 M and 356 W) in cases related to debt, child support, land conflict, work conflict and cattle issues. On May 13, 2021, as part of the continuous training of bar associations lawyers, JSSP provided a training on mediation for 11 lawyers (7 M and 4 W) from the Port-au-Prince BAL. The training began with a presentation of different concepts linked to mediation then focused on the dynamic of a conflict, the mediation process, and the required skills of a mediator (see Annex 35).
- *Mobile units.* 1,204 individuals (946 M and 258 W) benefited from mobile unit services that tackled topics such as gender-based violence, citizens' rights and duties, juvenile justice, judicial guarantees, responsible parenthood and rent.
- *Civic education.* The BALs held 291 civic education sessions for 6,318 participants (3,191 M and 3,127 W). Sessions covered topics such as the role of witness in trials, rent, penal

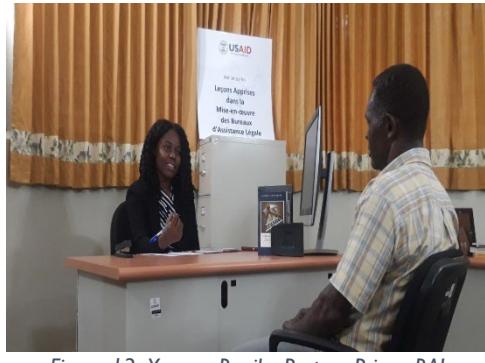


Figure 13: Yvonne Bazile, Port-au-Prince BAL Coordinator, providing legal consultation to a beneficiary.

<sup>26</sup>Fort-Liberté, Petit-Goave, Les Cayes, Miragoane, Cap-Haitien, Gonaives, Port-de-Paix, Jacmel, and Port-au-Prince.

responsibility, juvenile justice, judicial guarantees, access to justice, TIP, GBV, child support, paternity, citizen rights, and citizen duties. During the pandemic, beginning in March 2020, the number of participants in these events did not exceed 10 participants, as per GOH COVID-19 regulations.

- *Victim assistance.* The number of victims that come forward to launch judicial proceedings is low due to traditional attitudes and a lack of corollary services for victims. 556 victims (242 M and 314 W) received services from the BALs for cases such as assault, death threats, GBV, and breaches of trust.
- *Legal consultations.* The BALs provided 1,688 legal consultations (888 M and 800 W) for cases such as child support, work conflict, purchase of land, rape, and debt.
- *Temporary Legal Assistance for Hurricane Matthew victims in the South:* In Year 1, the Program executed a grant agreement with the FHB to assist hurricane victims in Jeremie and Coteaux who had lost their civil status documents, in either obtaining duplicates or retracing data allowing them to have those documents re-issued. This temporary legal assistance office provided assistance to a total of 2,712 beneficiaries (1,324M and 1,388 W). The program faced the overall challenges of the justice and civil registry system which are inefficient and corrupt, and it can take months, sometimes years, to obtain legal documents.

### Multiple actions to combat PPD

Most prisoners in Haiti are in pretrial detention, with a national average of 87% of the total prison population.<sup>27</sup> Throughout the program, JSSP has supported numerous initiatives to combat prolonged pretrial detention:

**Action plan to combat PPD.** In Y1, the MJPS launched the “Plan Themis” to combat PPD. JSSP assisted with preparation of the plan and agreed that it would provide logistical and technical support for the first “quick impact” element of the Themis plan for eight weeks including: 1) assistance to the PAPBA through 24 legal assistants assigned to represent individuals unable to afford the services of a lawyer at court; 2) provision of fuel for the court generator to ensure intensive sessions run effectively; 3) transportation for court personnel to return home after late-night hearings; and 4) IT equipment to allow court staff to prepare and complete files, and related documentation. Through the hearings that started on June 20, 2017 but were interrupted by periods of strikes alternatively from court clerks and judges, a total of 92 detainees received trial assistance from JSSP leading to 64 convictions, and 28 acquittals.

On January 18 and 19, 2019, JSSP supported the launch ceremony for the MJPS’s Action Plan to combat prolonged pretrial detention drafted with JSSP assistance (see Annex 36). 50 participants (35 M and 15 W), including prosecutors, judges, police and prison authorities attended. The plan has four major components with innovative, decisive short- and medium-term actions, such as conducting criminal hearings in rooms of the Port-au-Prince Bar “House of Lawyers” to



Figure 14: Jean Rudy Aly, Minister of Justice and Public Security, providing opening remarks at the launch of the MJPS plan to combat prolonged pretrial detention in January 2019.

<sup>27</sup>Stats obtained from the national prison authorities.

compensate for inadequate space at the courthouse. JSSP provided equipment for rooms used for special hearings.

From January 11 to 13, 2021, JSSP, alongside UNDP and BINUH, provided technical and financial support for the MJPS National Workshop to support their 2021 Action Plan on PPD (see Annex 37). This plan was based on the one mentioned above, 247 participants attended the three-day event. Participants provided recommendations that include systemically using the 1927 law on immediate hearings, conducting court hearings on weekends, and organizing court session via videoconference. The event received wide media coverage. Throughout Y5 and Y6, sector operators' strikes, insecurity and political instability have partly or entirely paralyzed court activities preventing from implementing the plan.



Figure 15: Special hearings supported by JSSP in Croix-des-Bouquets

**Special hearings.** To address the acute problem of pre-trial detention in Port-au Prince, special intensive criminal hearings took place from March 13 to April 12, 2017. 116 detainees received trial assistance from JSSP of whom: 41 were convicted, 19 acquitted,<sup>4</sup> referred to jury,<sup>7</sup> rescheduled (no hearing took place), 23 suspended (hearing began but judge suspended it), 2 recusal cases. In Y2, JSSP provided support for the criminal trials with and without jury in Port-au-Prince Saint-Marc, Croix-des-Bouquet leading to the conviction of 46 detainees and acquittal of 48. JSSP also supported the provision of BAL lawyers for

special correctional hearings, and criminal hearings with and without jury assistance at the Courts of First Instance in its five jurisdictions. JSSP provided logistic support for jury sessions for procedures for one-week-long criminal hearings with jury assistance in Croix-des- Bouquets from December 11 to 20, 2017. Among the 21 scheduled cases, 16 persons (14 M and 2 W) were tried. This resulted in 11 convictions and 5 acquittals. In Y3, JSSP provided technical and logistical support for the criminal trials with and without jury assistance in Port-au-Prince, Saint-Marc, Croix-des-Bouquets and Fort-Liberté, leading to the conviction of 144 detainees and the acquittal of 88.<sup>28</sup> In Y5, JSSP supported correctional hearings in Saint-Marc. A total of 24 cases involving 31 detainees (30 M and 1 W) were heard, resulting in 12 acquittals, 16 convictions, and 3 postponements. In Fort-Liberté, with JSSP BAL support, correctional hearings took place - 13 cases were heard, resulting in 8 convictions and 5 acquittals.

**Prison hearings.** To speed up the judicial process, JSSP supported prison hearings in Croix-des-Bouquets and Fort- Liberté. In Fort- Liberté, a space for correctional hearings was set up at the local police station, adjacent to the prison. Five persons were tried, two were released, and three were convicted. Again, on June 8, 2020, correctional hearings took place at the city police station adjoining the prison. During these hearings, nine persons (all M) were tried. Legal assistants represented four of these detainees.

**Prison visits.** From May 7-8, 2020, JSSP supported a two-day mission to Hinche for a delegation of magistrates and clerks from the Port-au-Prince Prosecutor's office to hear a group of inmates from their jurisdiction incarcerated at the Hinche prison. The delegation was tasked with assessing the inmates' eligibility for the prison decongestion program, set up by the Ministry of Justice. The same assistance was provided to the Chief Prosecutor of Port-au-Prince to visit the prison of Jacmel from May 14-15, 2020. JSSP provided logistical, financial, and technical assistance

<sup>28</sup>Material assistance was provided in Saint-Marc and Croix-des-Bouquets for these hearings.

for these missions, providing consultation through the JSSP Pretrial Detention Advisor. In Croix-des-Bouquets, during Y3 Q1, JSSP assisted in establishing an ad hoc group of local stakeholders including DAP representatives, BAL lawyers, and BAL prosecutors. The group was tasked with identifying detainees in the three prison locations, searching registers for detainee files without a court decision, and accelerating the issuance of final indictments.

**COVID-19.** In Y4, many of JSSP efforts regarding PPD connected with COVID-19. On March 25, 2020, the Haitian Prime Minister issued Circular No. 001 detailing concrete measures to take to combat COVID-19, including the need to address prison overcrowding. In response, the Ministry of Justice, with other justice institutions and international partners, including JSSP, OPC, BINUH, FBH, and Office of Human Rights in Haiti, established a plan to decrease the number of inmates in prisons using criteria such as ‘prisoners of sixty years and older’. As a result, the Minister of Justice received two lists totaling 2,214 detainees. Unfortunately, due to the judges’ strikes, the lack of involvement of the CSPJ, and other factors, this process was never implemented.

**Video Conference initiative.** To decrease prison overcrowding during the COVID-19 period, RENAMAH developed a project to utilize videoconferencing for certain hearings. This initiative was to be overseen by the CSPJ and supported by the BINUH, UNDP, JSSP, Office of Human Rights in Haiti, and civil society. Given JSSP’s experience with the development and implementation of the CMIS, the CMIS Team joined the Task Force to provide technical support to the DAP, CSPJ and MJSP for a simulation, via Zoom, of a Habeas Corpus hearing. JSSP also assisted in drafting the executive order, which to-date has not been adopted. Finally, JSSP prepared a list of necessary IT equipment and accessories complete with costs to help RENAMAH and its partners prepare a budget. Because of the ongoing overall crisis, this initiative has not yet been implemented.

### **IR 3.2. INCREASED ADJUDICATION OF DISPUTES AT THE SUB-DISTRICT LEVEL**

#### **Study on type of conflicts resolutions in remote and underserved areas**

Remote, rural and underserved communities are not effectively served by the formal justice system. In Year I the local firm DDG, in cooperation with ASU, conducted a JSSP-commissioned study on different types of conflicts and their resolution through formal and informal justice mechanisms in remote, underserved and rural areas (see Annex 38). The data collection consisted of 4,055 household surveys, 24 focus group discussions, 48 one-on-one discussions and 21 key informant interviews in three selected study sites: Martissant, Cornillon and Ouanaminthe, followed by quantitative and qualitative data analysis and preparation of a final report. The study revealed that 10% of responder’s resort to formal justice mechanisms, while 90% prefer informal resolution at the community level even for serious crimes such as rape. Financial considerations, low physical access, lack of information about formal court mechanisms and procedures, and the low esteem of justice sector operators currently have among the population largely impacts the choice for informal conflict resolution. According to the study, a large majority of the population (90%) would resort to formal justice mechanisms if some of the impediments mentioned above were eliminated.

JSSP organized two workshops in the remote area of Charette and underserved zone of Cité Soleil to present the study and its findings to community leaders, judicial authorities and citizens and obtain feedback.<sup>29</sup> In Y2 and Y3, JSSP conducted activities to address the issues identified in

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<sup>29</sup>May 7-8 Charette (20 participants, 14 M and 6 W), May 10 Cité Soleil (15 participants, 10 M and 5 W).

the study, including holding town hall meetings and organizing visits by justices of the peace in remote areas.<sup>30</sup> In addition, CSOs with support from JSSP prepared a “*cahier de charges*”. The “*cahier*” contains a set of demands that press judicial authorities to take concrete measures towards achieving a quality, accessible justice system inclusive of vulnerable people in remote and poorly served areas. Both the study and the “*cahier de charges*” were presented to high judicial authorities. In Y4, a network of CSOs, with JSSP support, engaged in a series of activities to press judicial authorities and the GOH to implement the recommendations within the “*cahier de charges*”. An open letter was sent to judicial authorities and the Prime Minister’s Office. In a letter dated August 7, 2020, the Prime Minister’s Office responded to the CSOs’ open letter, acknowledging the serious challenges of access to justice in Haiti, which, he states, are concerns also shared by his government. The letter explained however, that the government’s response to the pandemic has required significant funds which has delayed implementation of the government’s plan to address these challenges in the justice system. Nevertheless, he cited the recently voted law on legal assistance as a beacon of hope of which the government is working hard to implement.

To further support the open letter and the *cahier de charges*, the network of CSOs, with JSSP technical support, launched an online petition posted on the network website, ROSCH.<sup>31</sup> RECIDP’s proposed web application to support the online petition to garner public support through signatures has snowballed into a larger project of creating a CSO network website entitled ROSCH.<sup>32</sup> These CSOs have contributed financially to the development of the application as well as for the hosting of the site, and have begun using the website by posting articles, press releases and videos. Unfortunately, in Y5 and Y6 insecurity and political instability prevented to further move forward these initiatives and launch new ones.

## **OBJECTIVE 4: CIVIL SOCIETY CONSTITUENCIES FOR REFORM STRENGTHENED**

### **IR 4.1. PUBLIC AWARENESS OF RIGHTS AND JUDICIAL PROCEDURES INCREASED**

The three branches of government, including the judiciary, are weak in Haiti and cannot fulfill their check and balance functions. This was particularly prevalent in Y5, as institutions became partially or totally dysfunctional due to political crisis and related instability. In such circumstances, civil society must play an active role in monitoring these institutions.

#### **Advocacy Index**

Throughout the life of the Program, there was an annual evaluation based on the Advocacy Index (see Annex 39). For instance, in September 2020, JSSP completed its annual evaluation based on the Advocacy Index for the year 2018 – 2019, examining 14 civil society organizations.

#### **Strengthening CSOs advocacy capacity**

JSSP strengthened the capacity of civil society to lobby for critical sector reforms and empowered them to play a greater role in court accountability. In Y1, JSSP conducted a mapping of 86 CSOs in its target jurisdiction, evaluated their lobbying and monitoring capacities, and trained 14 selected CSO representatives (18 M and 9 W) to perform court monitoring. From

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<sup>30</sup>Townhall in Fond Verrettes (jurisdiction of Croix-des-Bouquets), Charette (jurisdiction of Saint Marc and Meillac (jurisdiction of Fort Liberté).

<sup>31</sup><http://www.roschaiti.org/?page=p%C3%A9titon&id=14491>

<sup>32</sup>[www.roschaiti.org](http://www.roschaiti.org)

May 22 to 24, 2018, 14 CSO representatives (10 M and 4 W) participated in an intensive training on justice issues and methodology for developing and implementing effective advocacy campaigns. To further empower civil society, JSSP also awarded grants to two CSOs from its network of 14, GREAS and RECIDP.

### Civic education



Figure 16: Participants to a GREAS conference-debate in Port-au-Prince

In Y3, GREAS, and RECIDP completed their twelve-month grants to conduct activities and programming aimed at increasing citizen awareness of five justice-related themes, including access to justice and new penal reforms. The grantees operated in all five JSSP target jurisdictions and provided services for populations in remote and rural areas. GREAS conducted 38 activities, including three conference-debates and 35 awareness-raising sessions for 1,111 participants (508 M and 603 W). Additionally, GREAS representatives held eight radio and four television programs to discuss the grant's five themes and

broadcasted four audio spots on Radio Vision 2000 in Port-au-Prince. RECIDP also conducted activities on the topics mentioned above, but in the North. They held radio spots, developed social media posts, and produced and ran four radio shows on the grant's topics. RECIDP also disseminated main campaign messages throughout the streets of Cap-Haitien and Fort-Liberté on a sound mobile and organized two mock trials focused on the new penal code and procedural code. 99 individuals (77 M and 22 W) attended these two activities. The activity was captured through a published article in the online newspaper [www.mediateurhaiti.com](http://www.mediateurhaiti.com).<sup>33</sup> Lastly, this year RECIDP organized two public theatre sessions in the commune of Trou-du-Nord in Fort-Liberté and in the Place des Armes du Cap-Haitien in Cap-Haitien with 256 individuals in attendance (93 M and 163 W).

### Gender base violence awareness

Women in Haiti are too often subject to injustice and violence, and few are aware of their legal rights. In Y5, JSSP supported several activities as part of the UN's activism campaign against GBV. These activities included debates on societal stereotypes that create inequalities, the role of the MCFDF, participation in a radio show to discuss femicide and ways for women to seek justice in cases of GBV and participating in an event in Ferrier on November 25 to commemorate International Day for the Elimination of Violence against Women. 152 participants (39 M, 78 W, 14 boys, and 21 girls) attended this event. On March 8, 2021, as part of the International Women Rights' Day commemoration, JSSP supported various activities including a conference organized by PAPBA. 100 participants (46 M and 54 W) attended the event titled "Female lawyers and Women's Rights". On March 8, 2021, JSSP moderated the conference-debate entitled "Women in Haiti: Challenges and Prospects" at the EMA on for 54 trainee judges (42 M and 12 W).

JSSP also provided technical support to the CSO CPD, moderating the panel on "Gender and Inequalities in Society" on March 8, 2021, for 40 participants (14 M and 26 W). Finally, on March 24, 2021, JSSP provided technical support to the FEFBA, helping organize a seminar on the "National and International Legal Framework of Women's Rights" for 85 participants (10 M and

<sup>33</sup><https://lemediateurhaiti.com/plaidorama-le-proces-mi-homme-mi-loa-pour-lurgence-de-nouveaux-codes-penal-et-de-procedure-penale/>

75 W). On March 24, 2021, JSSP supported a follow-up session for 50 attended (24 M and 26 W).

## IR 4.2. STRENGTHENED CIVIL SOCIETY NETWORKING, MONITORING, AND ADVOCACY CAPACITY

### Investigative journalists

Investigative journalism is critical to inform the public and hold officials accountable, including in the justice sector. The program has conducted several activities to strengthen the capacities of investigative journalists.

- *Initial trainings:* JSSP organized three-week long trainings on investigative journalism in the justice sector for 22 journalists (20 M and 2 W) from radio, the written press, television, and online media.<sup>34</sup> The trainings conducted by Ronald Wimer, former “60 Minutes” producer and journalist, focused on providing Haitian journalists with tools and methodologies on research, fact-finding and investigation to conduct factual, in-depth reporting on issues relevant to the Haitian justice system.
- *Continuing education:* In Y3, JSSP provided four continuing education trainings to 67 journalists (53 M and 14 W) from radio, the written press, television, and online media outlets. Training topics included the organization and functioning of the Haitian judicial system, financial crimes, trafficking in persons, and gender within media. An online training on how to conduct investigation journalism from home during the pandemic was also organized in Y5. The training shared examples of sites used by American and other international journalists to collect COVID-19 data. Social media platforms such as blogs, Twitter, Facebook, Instagram, Snapchat, and TikTok were discussed as tools to help journalists build an audience for their stories.
- *Investigative journalism competitions:* To further boost interest of journalists in the justice sector, JSSP organized in Y1, Y2, and Y3 investigative journalism contests. Each of the submitted entries to be evaluated by members of a jury which selected winners in three categories: best audio, best written report, and best audio-visual. Topics included court clerks’ challenges, PPD, judges’ working conditions, and increased rape in Artibonite. The award ceremonies received wide media coverage.
- *Investigative journalist association:* Prompted by JSSP, a group of 27 journalists who participated in the project initial investigative journalism trainings decided to create the first organization of investigative journalists. In Y4, JSSP assisted in establishing the Haitian Association of Investigative Journalists (AHJI) including by developing the bylaws and internal regulations. On March 20, 2021, AHJI held its first training for 21 (15 M and 6 W) investigative journalists on “Habeas Corpus”. From May 27 to 29, 2021, JSSP helped AHJI organize a three-day training on “Investigative Journalism on Corruption and Money Laundering Crimes” for 29 journalists (9 M and 20W). It is imperative that investigative journalists have the tools necessary to conduct thorough investigations on financial crimes, particularly as citizens request greater transparency and accountability from state officials.



Figure 17: Ruth Cadet and Weseley Antoine, receiving their awards at the 2017 JSSP investigative journalism award ceremony.

<sup>34</sup>JSSP investigative journalism initial trainings August 1-5, 2017, April 15-20, 2018, August 4-9, 2019.

## Court monitoring

The MJPS and the CSPJ are not providing sufficient oversight in courts to ensure their effectiveness and their transparency. In Y2, JSSP awarded a grant to CPD to observe the functioning of courts and other actors in the criminal chain. On December 4, 2018, JSSP and CPD signed, by mutual consent, a grant termination agreement due to various difficulties in activity implementation, and persistent weaknesses despite JSSP's efforts to strengthen CPD capacities. In 2019, CSO MOUFHED was awarded a subsequent grant. MOUFHED completed the eight-month court monitoring grant in Port-au-Prince and Croix-des-Bouquets, Haiti's two largest jurisdictions. The team of MOUFHED observers completed 209 monitoring reports, including 72 for peace courts, 75 for First Instance courts, 56 for prosecutor's offices and 4 penal cases. On July 31, 2020, MOUFHED held a press conference for the media and general public, sharing observations on the functioning of justice institutions (prosecutor's offices, courts of first instance, peace courts and police stations). MOUFHED provided recommendations that included calls for the CSPJ and MJSP control of the courts and prosecutor's offices, an increase in budgetary allocation to justice, and capacity building for judicial officials.



Figure 18: Members of MOUFEDH presenting to the public the findings of their JSSP funded court monitoring program.

## DONOR COORDINATION

Throughout program implementation JSSP participated in monthly donor rule of law coordination meetings with UN agencies, USAID, INL State Department and other international stakeholders. JSSP has worked closely with BINUH and UNDP to support the CNAL, and to support the MJPS workshop on PPD.

## SECTION 2

# CONCLUSION

Political instability, gang violence, sector operators' strikes, the COVID-19 pandemic, the assassination of the President of the Republic and subsequent institutional crises, as well as a deadly earthquake significantly impacted courts and justice sector institutions during JSSP period of performance. At program inception in 2016 no one could have predicted such a downturn for Haiti. This situation has hindered progress on reforms, limited citizen access to justice, eroded judiciary independence, and increased prolonged pretrial detention. JSSP managed to conduct most of its planned activities and achieved milestones by developing mitigation strategies and facilitating resolution of sector crises. In such challenging times for the sector, JSSP acted as a unifying and driving force.

JSSP used wide-ranging strategies with various stakeholders which led to the adoption of the modern penal and penal procedural code to replace the outdated 1835 versions. The codes' implementation will improve delivery of justice. Legislations to accompany the codes, such as the law on prosecutor, and the executive orders to operationalize them are drafted and ready to be implemented. Unfortunately, the process has slowed down due to political instability. Sector operators and civil society need to be further engaged and supported to push for the codes to be implemented. Haiti cannot continue to operate with 1835 codes, which are not in line with the individual liberty philosophy which governs criminal policy around the world since the adoption of the Declaration of Human Rights in 1948. The country needs a functional justice system for its citizens to emancipate and economic development to flourish and bring Haiti out of extreme poverty.

The CMIS was successfully implemented in 13 jurisdictions. More importantly, the transition process to the state has been completed to ensure the system's sustainability. The transfer of the CMIS database from a server in the U.S. to a server located free of charge at the Central Bank is the symbol of the commitment of the GOH to sustain the system beyond the life of JSSP. By establishing the CMIS in courts throughout the country, JSSP has revolutionized court operations and the justice sector at large. Still, the GOH will need to overcome its recurrent budgetary and structural challenges to maintain the CMIS. This won't be easy, for instance the MJPS is often fails to provide new paper registry when they are completed in courts. Maintaining a computerizing system is much more costly, even though JSSP designed the CMIS to be scaled with limited equipment. If the State really intends to combat prolonged pretrial detention and significantly improve court effectiveness and transparency, the CMIS will be a cornerstone of this effort. As reported by a USAID commissioned mid-term independent evaluation, there is clear evidence that the use of the CMIS is improving justice delivery.

Oversight and discipline are critical for the effective and transparent operations of any institution, including in the justice sector. JSSP has provided robust support to the CSPJ vetting unit and inspection unit and helped prepared career and promotion plan for judges and a related evaluation process for the Council. JSSP has also assisted in developing the CSPJ, the first gender policy for the judiciary. Unfortunately, the CSPJ Board members have not implemented these documents and handed down very few vetting decisions and have rarely followed on the inspection unit recommendations. The Board is politicized, and its members are hesitant to sanction their peers. Reviewing the law of the CSPJ is necessary to ensure its board is not influence by the executive branch. This situation is no stranger to the main issue in the sector with the lack of independence of the judiciary. Officials are afraid to of prosecution and as such

are keeping the upper hand over the judiciary including the CSPJ. The issues at stake at the moment, including corruption and assassination cases involving officials, are so high that it is very challenging to impact them. There is no political will to improve the justice sector, but rather a firm effort to control and even crash it according to some observers. Civil society will need to be further strengthened in order to successfully push for changes in that regard. JSSP was the first out of four USAID rule of law programs to have a civil society component. Providing greater importance to this component should be a priority in future programming. The need exists for greater focus on demand than on offer.

The adoption of the law on legal assistance and the opening of the nine offices funded by the state is a major milestone. Legal assistance is now fully sustainable and citizen access to justice improved. In fact, when looking back at all JSSP achievements, legal assistance can be seen as the only activity which really impacted the life of everyday citizens on a large scale. This should lead USAID to explore other avenues using people centered justice approaches with an aim to directly benefit justice system users. This method, fundamental to several newer USAID justice projects, is an approach that puts people at the center: designing new avenues for seeking justice, reforming existing justice institutions, and incorporating actors and systems not typically

associated with justice into the justice process. Sourcing and implementing citizen-centered rule of law solutions will help promote public trust in the justice system. USAID rule of law programming over the past 25 years in Haiti, including with JSSP, was largely focused on institution strengthening. It had limited impact on the daily life of citizens. The time has probably come for a shift of paradigm.



Figure 19: Members of the JSSP team



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