

JURISPRUDENCE OF EQUALITY PROJECT - JEP

INTERNATIONAL WOMEN JUDGES FOUNDATION

INTERAMERICAN DEVELOPMENT BANK

ATN/SF-5449-RG

CONSOLIDATED REPORT

based on the

EVALUATIONS

in

ARGENTINA, BRAZIL, CHILE, URUGUAY

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INTRODUCTION

A. The Project

Project ATN/SF-5449-RG for judicial education (JEP) was approved by IDB in December 1996, as a grant for US\$ 650,000 with a local contribution of US\$ 100,000. The regional project is executed by the Associations of Women Judges in Argentina and Brazil, each of which received US\$ 250,000. The International Women Judges Foundation received US\$150,000 for project design, development of training materials and trainer support. Project components are: (a) Training the trainers' workshops, (b) JEP Seminars, (c) Teaching Materials, and (d) Dissemination. For a project description see the Annex.

B. Report Purpose and Methodology

The purpose of this report is to distill the findings and conclusions from the JEP evaluation in Argentina, Brazil, Chile and Uruguay. The evaluation was meant to find out to which extent the project is being implemented as planned, identifying any difficulties during implementation, and ways to overcome them. It has also assessed the effect that project activities are having in achieving the project goal.

Apart from document review and interviews in Washington and in the four countries visited in March-April 2000 with relevant stakeholders, the evaluation relies on two main instruments for each country:

(a) a survey, applied to trainers and seminar participants. The questionnaires were designed with the close cooperation of the Washington IWJF director and the education director, as well as in consultation with other stakeholders in the field, and the IDB in Washington and Country Offices;

(b) a series of focus groups carried out separately with trainers and seminar participants. Each group was presented with an open question on how to improve the project.

While the questionnaire contained specific questions about project components, the open question of the focus groups was meant to freely elicit participants ideas on issues that they consider important to improve the JEP. The question was written on a flip chart, and participants generated ideas individually. All ideas were written down and discussed. At the end of the meeting group members voted individually for the most important ideas.

The drafts of the four evaluation reports were shared with stakeholders in the respective countries as well as with IDB and IWJF for verification of facts and comments. These reports, containing specific findings and recommendations for each country, are available separately and are not part of this report.

C. Report Organization

This report is organized as follows: Chapter I: Execution of the project components, Chapter II: Main issues: Project management, resistance to the project, and JEP in Ecuador. Chapter III: Project sustainability, and Chapter IV: Conclusions and recommendations.

CHAPTER I: EXECUTION OF PROJECT COMPONENTS

This chapter will describe the execution status of the main project components. JEP has completed the training of trainers, and held 31 seminars out of the 44 planned. The training materials were developed in advance of other activities. The dissemination via Internet is still pending. Activities in Ecuador have not started yet, for reasons beyond JEP, as will be discussed in Chapter II.

A. Training the Trainers Workshops (3Ts)

The first workshop took place in Washington, two were held in Argentina and one in Brazil (two workshops consolidated into one), for a total of 46 trainees (40 women, 6 men) from the participating countries. Table 1 shows the distribution of trainees by workshop and country.

Table 1. Trainees by country

Country of origin	Washington workshop	Argentina workshop 1	Argentina workshop 2	Brazil workshop	Total
Argentina	2	4	4	4	14
Brazil	4	2	2	5	13
Chile	2	2	2	2	8
Ecuador	1 ¹	0	0	4	5
Uruguay	2	0	2	2	6
Total	11	8	10	17	46

Trainers have evaluated the senior trainers as excellent or very good, both in their technical and pedagogical skills. Teaching materials also received high marks, as did the workshops organization. The number of 46 trained trainers compares favorably with the number of planned participants for five countries, which was 44 (project report, para. 3.6).

Each trainer usually works in partnership with another, and they commit themselves to facilitating two seminars. Trainers were chosen by the Task Force, based on a candidate's background. The list of selected trainers was submitted to the IDB for approval.

¹ Two participants started the training but one left without completing the workshop.

B. JEP seminars

Thirty seminars have been held so far, with the following distribution:

Table 2. JEP Seminars

Country	No. of seminars planned	No. of seminars executed	Total No. of participants	Average No. of particip. p/seminar
Argentina	12	13	251	19
Brazil	12	7	152	22
Chile	8	6	141	24
Ecuador	6	0	0	0
Uruguay	6	5	121	24
Totals	44	31	665	21

In Argentina, five of the 13 seminars were held in Buenos Aires and the rest in the interior; in Chile, two were started in Santiago² and four others in three interior cities. In Brazil, seminars took place in or near Sao Paulo, and in the states of Minas Geraes and Mato Grosso. In Uruguay, four seminars were held in Montevideo and one in Punta del Este. The pending five seminars in Brazil, two in Chile, and one in Uruguay are expected to be completed in the next few months. As for Ecuador, seminars will be held as soon as a new arrangement for their management is agreed upon between the Task Forces in Argentina and Brazil, as will be explained in Chapter II.

Seminar Costs

In Argentina and Chile, the average cost of a seminar is estimated at US\$ 2,500, although this limit is easily surpassed depending on travel costs, need for materials, etc. In Uruguay, the allotment per seminar is US\$2,000 and in some cases this has been more than sufficient, due to strong local support. In Brazil, the average cost of the first three seminars was US\$ 17,400, and of the last three US\$ 3,300³. Using this experience as a baseline, it seems reasonable to assume that three main variables should be taken into account to calculate the seminar costs in future projects: (1) the local cost of living,

² One was cancelled for lack of participation.

³The Task Force explains that the great disparity in costs between the first seminars and the latter ones is due to their inexperience in running such sessions, and the perceived need to invite and pay for the costs of high-ranking guest speakers to give status to the seminar. The fifth and sixth seminars had local sponsorship and thus lower costs. New seminars are held close to where the trainers live, and no speakers are invited.

(2) the need for travel and hotel expenses of trainers and/or seminar participants, and (3) the expenses expected to be absorbed locally.

C. Teaching Materials

Teaching materials were developed by IWJF prior to other project activities. Trainers who took the workshops and received the materials to use in the seminars were expected to use the basic manual and other materials, and adapt them to the local needs, making changes as needed and adding local jurisprudence and cases.

In Argentina, in response to the questionnaire question about teaching materials, their usefulness was rated as "excellent" by three of the seven trainer respondents, and "useful and appropriate" by four. To the question of what were the most useful training and teaching materials, seven responded the manuals, five the practical cases and exercises, and five the pedagogical contents and techniques that helped identify risk indicators. Training materials were praised and not mentioned among areas that need improvement. The only change suggested was in their distribution, ahead of time, to allow participants to arrive at the seminars better prepared. Respondents in the other three countries shared this view.

In Chile and Brazil trainers stated that they would like to have the freedom to choose the content of seminars in accordance with the local needs and problems. Since trainers are expected to make changes in the teaching materials to adapt to the local needs and include local jurisprudence and cases, these statements in two countries indicate that this aspect was not well understood by some trainers.

D. Dissemination

The project included a dissemination component with the setting up of two specialized centers, one in Argentina and one in Brazil, in AMJA and in ANM. The dissemination was to be done by INTERNET to post decisions issued by JEP-trained judges and others in which the human rights conventions were used in cases involving violence and/or discrimination against women, and other human rights materials. Equipment for both centers has already been provided by the project, although work on the development of the web-sites is still pending.

The responsibility to develop two web-sites was originally of the Argentinean Task Force, but this responsibility was passed on to Brazil, for budgetary reasons. Brazil is having difficulties executing the project in Ecuador, since Brazilian financial regulations - enacted when the project was already underway - prevent dollar transfers out of the country. Thus, instead, Brazil was assigned responsibility to develop the web-sites, using the JEP funds originally assigned to pay for the seminars in Ecuador.

The development of the WEB sites is urgent, for two main reasons:

(a) the need to publicize JEP, both the seminar and the decisions based on Human Rights laws reached by participating judges, to interest and engage more judges in the project; and

(b) because JEP participants in all countries need to have a network to connect with their peers in the project ?among other information needs. Since the first seminars started in 1997, and some participants have not heard from the project since then, there is a risk of losing the interest of some motivated people by the delay in reestablishing contact.

CHAPTER II: MAIN ISSUES

As explained in Chapter I, all the project activities are underway and are in an advanced state in four of the five countries. The level of satisfaction with the quality of project components is generally high. This chapter will elaborate on the issues that were found where JEP could be more efficient and effective.

A. Project Management

Task Forces from AMJA in Argentina and ANM in Brazil manage JEP. AMJA is supervising the project in Argentina, Chile, and Uruguay. Brazil was assigned responsibility for supervising the project in Brazil and Ecuador. In Chile the Women Judges Association was in charge of overseeing project activities. In Uruguay the representative of IWJF is in charge of this oversight. The executive director of the International Women Judges Foundation (IWJF) monitors all JEP activities.

In Argentina the AMJA Task Force is composed of eight members, who meet once a week to coordinate tasks. AMJA has shown strong management skills as well as frugal spending practices in project execution so far. Project activities in Argentina have been completed, but not in Uruguay, where one seminar is pending, and in Chile, where there are two seminars pending. The project completion date has been extended until September 2000, and it could be extended even further, particularly if Argentina will take over the Ecuador part of the project.

In Brazil the Task Force is made up of three people: the head of the Task Force in Cuiaba, (Mato Grosso state), one member in Belo Horizonte (Minas Geraes) and one in Sao Paulo. Most of the project work is done by the members in Cuiaba (mainly in charge of operations), and Sao Paulo (in charge of finances); the Belo Horizonte member was in charge of a past seminar and possible future ones in her geographical region. The project has had an uneven development and a number of difficulties. After the fourth seminar in February 1999, no project activities took place until June 2000, when three more seminars were held, bringing their number to seven (out of 12 planned). The Task Force members explained that they have had personal problems and other priorities during this time. The fact that Task Force members are located in different states, may account for project organizational problems as well as their differences in understanding project work; for instance, it was not clear between members whether seminars should be organized by the Task Force or by trainers.

In Chile project activities are coordinated by the former president of the Chilean Association of Women Judges. This Association is no longer operational. After the last president resigned in 1996, no new authorities have taken over. The Chilean Task Force was composed by four members of the

Association, who still play an advisory role with trainers, but are not involved in running the seminars. Trainers in Chile are in charge of the logistics of seminars, as well as the teaching. They are paid directly by the Argentinean Task Force. This arrangement is unsatisfactory to both parties: having to organize and run the seminars, trainers spend more time and effort than was originally expected, since the responsibility of trainers is to facilitate the seminars, not organize them. Long distance supervision is also burdensome and time consuming for the Task Force members.

In Uruguay the IWJF representative has had fewer difficulties dealing with the supervision from Argentina. Only one seminar is pending in Uruguay, and it has been scheduled for November.

It must be pointed out that Task Force members and supervisors manage JEP ad-honorem. The project lacks a responsible person or entity paid by the project, i.e. an executing agency, with clear definition of responsibilities, in charge of running the day to day operations, making timely payments, coordinating logistics, and making sure information gets to the people who need it, when they need it. The way it is now, the project is not a first priority for anybody involved in its management. It is commendable that in spite of such weak management structure, the project has advanced as it did.

B. Changes in Seminars

The seminars are considered successful, in need of only a couple of minor changes. These are the inclusion in the seminar program of a planning exercise for follow up by participants, and the distribution in advance of teaching materials. The first of the above will be discussed in the next chapter. As for the distribution of materials in advance of the seminars, it was suggested that it would be more efficient if the materials were sent in advance of the seminars, for the participants to become familiar with their content, considering the limited time allowed in the seminars to cover each subject.

C. Resistance to the project

In some cases it was difficult to recruit seminar participants. There are several factors that explain this reluctance:

C.1. Societal Resistance

The project has faced resistance based in part on three perceptions: that the seminar is (a) feminist, or (b) anti-establishment, or (c) imperialistic.

(a) Feminist (in its negative connotation of being anti-male): This perception may hide a denial by men and women that women face violence and discrimination problems, and that such problems deserve special attention. In Belo Horizonte, Brazil, this issue had been pragmatically dealt with by changing the name of the seminar from "Human Rights for Women" to "Human Rights". The content of the seminar remained unchanged.

(b) Anti-establishment: In Argentina and Chile, the concept of Human Rights is associated with the political left. The judges are considered a conservative group, and as such inclined to dismiss the subject. This was the case at the start of the project in 1997. However, with the consolidation of democracy this negative attitude towards human rights is changing and the subject is gaining more respectability.

c) Imperialistic. The project is seen as an attempt by the U.S. government to change the legal systems of Latin American countries, imposing the Common Law-based system of the North.⁴

This last reason was reported in Brazil, and it may not be a real issue in other countries. If this is the case, and considering that the subject of human rights is gaining higher regard in the region, then the only main reason for societal resistance is the perception of the project as feminist. Reluctance to deal with long ingrained biases about female and male roles needs to be assessed carefully in each location, and discussed in workshops and seminars.

C.2. JEP Competes with Other Training

Both in Chile and Argentina the project was better received in the interior than in the capitals for a number of reasons. In the interior judges tend to have a lighter workload, and have a limited offer of any training, so they welcome and are eager to attend training in a new subject such as JEP ? even when they have to do it on their own time. In Santiago, judges not only have an abundant ongoing opportunity for training, but they are under the obligation to take one course a year, among those offered by the Judiciary Academy. For this training judges receive special leave and pay. Since JEP is not part of this system, the courts do not authorize leave to attend the seminars, and judges and other court professionals have to use their personal time if they want to attend. Adding to this the judges? heavy workload, it is unlikely that many would choose to attend JEP training. For the second seminar in Santiago 11 participants enrolled, but it was cancelled the third day due to poor attendance.

In Argentina the official support was different in the provinces and in the Federal Capital (Buenos Aires). In the provinces the courts or superior courts supported JEP in several ways: issuing a resolution stating the interest of the seminar for the provincial courts, providing the building facilities or monetary support, and by members of the provincial superior court either opening or closing the seminar, thus giving a high profile to both the seminar and the subject of human rights. In at least two seminars the number of participants was 30. No such support was received in the capital.

⁴This argument was only voiced in a group meeting in Belo Horizonte, Brazil. The participants assured the evaluator that this perception was not theirs, but came from ?others?.

D. JEP in Ecuador

Brazil was expected to supervise and fund the project activities in Ecuador; namely six seminars for 20 to 30 participants each. ANM started contacts with the Ecuadorian National Women Judges Association, and a detailed plan and budget were prepared in 1997. But in 1997 the Brazilian government forbade the remittance of foreign currency abroad, as part of a financial plan to respond to an economic crisis. On its part the IDB did not allow a money transfer abroad, since the project beneficiary was in Brazil and the contract with IDB did not foresee such a transfer. Since the project only has funds in Brazilian currency (Reais), all expenditures must be made in Brazil, and therefore cannot be transferred to Ecuador. ANM requested two disbursements that were turned down by the IDB. At this point the IDB sent a mission from the Regional Technical Cooperation Division, to study alternatives together with the IDB Country Office, but this effort was not successful. As a consequence, the IDB and the IAWJ agreed that Argentina would take over the project supervision in Ecuador. This arrangement has not been finalized yet, and activities in Ecuador have not started as of the date of this report.

CHAPTER III: PROJECT SUSTAINABILITY

Both trainers and seminar participants see the seminar as a first step in a difficult job aimed at changing behavior -their own and that of other people involved in the cases. This is a difficult task at best and will succeed only with much support, time and information about what others are doing. Two subjects came up in all meetings with JEP participants: the need for follow-up and networking amongst themselves, and the need to involve other professions in human rights education.

A. Help from Within JEP: Follow-up and Networking

Both trainers and seminar participants, in the four countries, voiced their interest in having a system of networking, not only among colleagues in the seminar but also with JEP participants from the other countries. The seminar served to create consciousness of the problems of domestic violence and inequality, and when it was over there was no follow up.

In Uruguay trainers believe that permanent information and communication between all participants is essential, and that they could start holding periodic meetings to exchange ideas on how they have used the new knowledge, and about weaknesses in the application of human rights laws. After sharing this common concern in the evaluation meetings, they agreed that it was up to them to start such interactions. Similarly in Chile and Argentina project participants and trainers expressed the need to exchange experiences, or have a project's second phase, or have an ongoing exercise to deepen knowledge and exchange experiences.

This concern arose out of JEP professionals' frustration with the implementation of the human rights laws, which is difficult, not only because it is a new subject, but because it involves changing behaviors.

They find themselves isolated doing difficult work. During the seminar they did not anticipate this future need, and when they did, it was not easy to reassemble the group of participants. Participants are avid to learn not only from each other but also from what is happening in other provinces and other countries in the region in the implementation of the human rights conventions, as well as the JEP.

In Brazil some of the statements on this subject were: *It is necessary to have a nucleus, home page, technical-judicial information, jurisprudence in cases of human rights.... Trainers should know the experience of other trainers to join forces. JEP does not encourage the added value of joint energies?*

B. Help from Outside: Widening the Reach of JEP

JEP instructs judges on how to apply the human rights conventions. After the seminar, when they try to apply their new knowledge, judges find themselves operating in a vacuum, since other judges, other parts of the legal system and/or society are not aware of the human rights violations women experience, or do not know that the laws protect them. For JEP judges it is an uphill battle, in the midst of their overworked agendas. That is why a common concern was the need to *widen the range of professions participating in JEP*.

In Buenos Aires it was stated that judges cannot make decisions beyond what they are requested, thus the importance of having lawyers learn about the constitutional stand of human rights laws⁵. As for other professions, it was considered important that police, social workers, doctors, etc. learn about the practical ways taught in the seminar for detecting abuse, or about more sensitive ways of interrogation. It would also be a way of extending the knowledge of human rights to the population at large.

Since JEP was designed to reach mainly judges, it cannot be said that the narrow focus is a project weakness. Nevertheless, participants believe that its range of recipients should be expanded. Now that JEP has proven effective at accomplishing its goals, perhaps a complementary project could be designed, to reach a wider range of professionals with the subject of human rights implementation. Another way to address a wider dissemination of JEP contents would be to include its teachings in present projects for democracy strengthening, or modernization of the state, that are being carried out or planned in many countries in Latin America. The JEP methodology and teaching materials could thus be adapted to reach this wider audience, as was foreseen in the JEP project report.

JEP contains a dissemination component that, when in place, will fill some of these needs. But it is necessary to go beyond the posting of information about human rights laws implementation. It has to connect personally those involved in JEP.

⁵ In most cases judges in civil law jurisdictions can cite human rights conventions as authority for resolving an issue, even if the convention was not initially raised by a lawyer in the case (Source: IWJF).

CHAPTER IV: CONCLUSIONS AND RECOMMENDATIONS

A. CONCLUSIONS

Project activities are well underway in four of the five countries, and scheduled to be completed in the foreseeable future. Most participants have rated the quality of the activities high. Except for their management, this evaluation has found only minor corrections to improve project activities. Taking into account that this is a new kind of project, its execution can be considered a success. But for JEP to succeed in its goals, the project needs to be sustained. The JEP seminar was the first activity in a new, challenging area of human activity and judiciary work; it was also the last. Participants feel committed and at the same time discouraged at finding themselves motivated to promote change, when little if anything around them seems to change. Participants have identified actions that are well within the possibilities of future JEPs to carry out.

The main weakness found in project execution is lack of a manager or executing agency in charge of managing the project in the field. People who work ad-honorem have done a commendable job, but still, when problems arose --as in the case of Brazil-- or when communication and coordination became too burdensome --as in the case of Argentina as supervisor of Chile? the weakness of the system was apparent.

On the other hand some suggestions made by participants to strengthen the project could be carried out by a sponsoring organization such as the local Women Judges Associations. Better communications with judges and superior judges, project promotion, exploration of interest with the education system could become the tasks for the sponsoring organization. Since this work would be ad-honorem, it could be done at the convenience of those involved, and any difficulties would not impair project execution.

The seminar enjoys a high degree of approval from all involved. A few changes would make them even better: (a) distribution in advance of materials, (b) better attention paid to the adaptation of teaching materials to address local needs, including local cases and jurisprudence, and (c) the inclusion of planning of follow-up and networking by participants.

B. RECOMMENDATIONS

Since the project is almost finished (except in Ecuador) the following recommendations are made for Ecuador, and for future similar projects:

1. Project Coordination in Ecuador

If AMJA will finance and supervise long distance the project in Ecuador, it is recommended that a local manager or coordinator be appointed, compensated with JEP funds, to carry out the day to day tasks of project management, including seminar organization, and reporting to the Task Force in Argentina.

Ecuadorian trainers should be in charge of facilitating the seminars and preparing materials, for review by senior trainers, in advance of each seminar.

2. Project Management

It is recommended that future JEPs be managed by an executing agency, with clear lines of accountability and responsibility. Such agency should be located in one of the participating countries, with local coordinators in each of the countries taking part in the project.

3. Project Sponsorship

A Task Force from a specialized organization such as the local association of women judges could fulfill an important role in the following areas:

a. Project Promotion

- ? with judges: to attract judges to participate in the seminars, as well as to contact higher court judges and seek their endorsement;
- ? with NGOs working in fields related to human rights for women: to coordinate activities;
- ? with the education system: to explore interest in adopting JEP.

b. Follow-up activities, mainly networking both within each country and with other countries where JEP is taking place.

c. Quality control: In close consultation with IWJF, develop selection criteria for trainers, participate in their selection, and attend seminars as supervisors.

4. Seminar Attendance and Local Ownership

To improve seminar attendance and foster local ownership of JEP, it is recommended that the Task Force engage all trainers, under the leadership of senior trainers, in developing a program of their activities previous to the seminars, that would allow for: (a) advance dissemination of seminar goals and methods, (b) contacts with prospective participants, (c) timely distribution of seminar materials, (d) learning about local needs to be addressed during the seminar, (e) collection of local cases and jurisprudence to be used during the seminars, and (f) partnership with local professionals to engage them in seminar logistics and content.

5. Seminar Follow-up

Trainers and seminar participants in every country cited a need to develop the means to consult with each other, for mutual support and learning, after the seminars are over. It is recommended that in future seminars some time be allowed to make participants aware of this future need, and encourage them to

establish their own follow-up system, whereby they could meet regularly or communicate in any other way. While this local follow-up should be left to the responsibility of participants, the JEP leadership should look after follow-up between different regions and countries, and establish a communication mechanism. The web site will in part serve this purpose.

6. JEP Beyond the Judiciary

A majority of participants have indicated the need to extend JEP beyond the judiciary. It is recommended that, in the present and future JEPs the Task Force and/or IWJF search for possible projects being implemented or planned in the countries, with financial support from IDB or others, in which JEP content and methodology could be adopted. Possible projects are those addressing democracy strengthening, modernization of the state, conflict management, as well as violence and crime prevention.

ANNEX

JURISPRUDENCE OF EQUALITY PROJECT DESCRIPTION

The objective of the Jurisprudence of Equality Project (JEP), is to provide information and training to professionals in justice administration and/or judiciary education on how to apply women's international regional human rights laws. The first JEP in South America, started in 1997, is being executed by the Asociacion de Mujeres Juezas de la Argentina (AMJA) and the Asociacao Nacional de Magistradas (ANM) in Brazil. AMJA is supervising the project in Argentina, Chile, and Uruguay. Brazil was assigned responsibility for supervising the project Brazil and Ecuador. The executive director of the International Women Judges Foundation (IWJF) monitors JEP activities. IWJF was responsible for project design, preparation of teaching materials and provision of technical support to trainers. IDB contributed \$ 650,000 and the local contribution was US\$ 100,000.

The specific project activities are:

- (a) Workshops: Training the Trainers (3Ts): The first workshop took place in Washington, facilitated by the IWJF Human Rights Education Director, with the participation of a judicial educator to train the methodology of facilitating interactive seminars for judges, and an expert on domestic violence litigation. Future trainers from the participating countries attended this first workshop. Two of the participants from Argentina became senior trainers, who subsequently trained future trainers in three 3Ts workshops. These trainers facilitated the seminar "Towards a Jurisprudence of Equality" for judges and law professors. Two more workshops were held in Argentina and one in Brazil.
- (b) Seminars: To conduct seminars for judges, academics and other actors involved in the judicial process, to prepare them to apply women's international regional human rights laws to cases involving discrimination and/or violence on the basis of gender. Each seminar was expected to have between 20 and 30 participants.
- c) Develop training material for use in the workshops and seminars, with a view to use them, subsequently, in other public or private institutions in the region (this part of the project is the responsibility of IWJF), and
- d) Disseminate materials via electronic bulletins and INTERNET, for the use of judges and other actors in the legal/judicial community. This project component, originally the responsibility of Argentina, is now carried out by Brazil.