

# Cambodia Criminal Justice Assistance Project – Phase 3

## Criminal Justice Advisory Group 3<sup>rd</sup> Mission Report

31 October 2008

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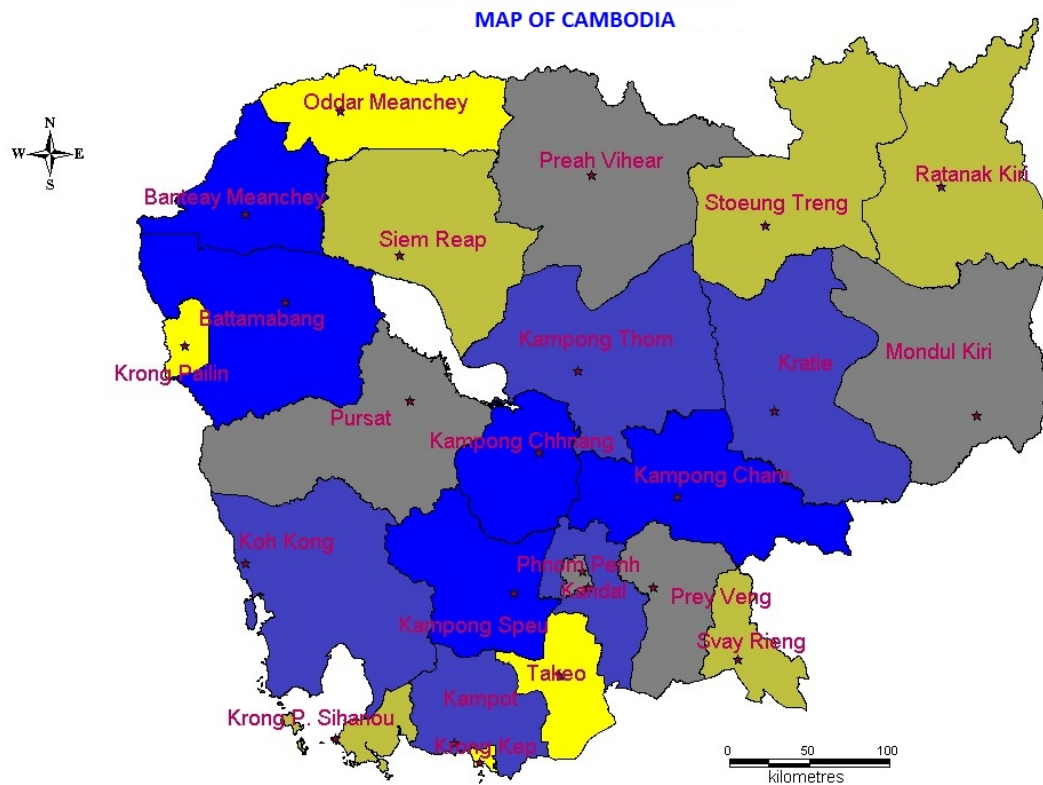
## Abbreviations

AGD	Attorney General's Department (Australia)
AFP	Australian Federal Police
ATD	Australian Technical Director
ATL	Australian Team Leader
AusAID	Australian Agency for International Development
CCJAG	Cambodia Criminal Justice Advisory Group
CCJAP	Cambodia Criminal Justice Assistance Project Phase 3
CDRI	Cambodia Development Resource Institute
CLJR	Council for Legal and Judicial Reform
CNP	Cambodia National Police
CPCS	Crime Prevention and Community Safety
D&D	Deconcentration and Decentralisation
DANIDA	Danish International Development Agency
DIHR	Danish Institute for Human Rights
DTL	Deputy Australian Team Leader
FSF	Flexible Support Fund
GDoP	General Directorate of Prisons, Ministry of Interior
GOA	Government of Australia
IWDA	International Women's Development Agency
JICA	Japan International Cooperation Agency
LJRS	Legal & Judicial Reform Strategy
M&E	Monitoring and Evaluation
MEF	Monitoring and Evaluation Framework for CCJAP
MoEF	Ministry of Economics and Finance
MOI	Ministry of Interior
MOJ	Ministry of Justice
MOSAVY	Ministry of Social Affairs, Veterans and Youth
MWA	Ministry of Women's Affairs
NMB	National Management Board
O&M	Operations and Maintenance
OECD	Organisation for Economic Cooperation and Development

<b>PAR</b>	Public Administration Reform
<b>PCP</b>	Police-Courts-Prisons
<b>PFM</b>	Public Finance Management
<b>PKKO</b>	Ponleu Koma Kampuchea Organisation (Cambodian NGO)
<b>PMU</b>	Project Management Unit (supporting the CLJR)
<b>RGOC</b>	Royal Government of Cambodia
<b>SCA</b>	Save the Children Australia
<b>TA</b>	Technical Assistance
<b>TWGLJR</b>	Technical Working Group on Legal and Judicial Reform
<b>UNODC</b>	United Nations Office of Drug Control
<b>WAB</b>	Work Activity Briefing (Capital Works)
<b>WofG</b>	Whole of Government
<b>WV</b>	World Vision

## Map of Cambodia

CJAP partner provinces: Kandal, Prey Veng, Battambang, Banteay Meanchey and Kampong Thom.



## Basic Project Data, Acknowledgement and Disclaimer

<b>Country:</b>	Cambodia
<b>Activity Name:</b>	Cambodia Criminal Justice Assistance Project Phase 3
<b>Program:</b>	Bilateral
<b>Location of Activity:</b>	National level, Kandal, Battambang and Prey Veng provinces, with other provinces to be decided as implementation progresses
<b>Counterpart Agencies:</b>	Ministry of Interior; Ministry of Justice; Council for Judicial and Legal Reform
<b>Managing Contractor:</b>	Global Justice Solutions
<b>3<sup>rd</sup> CCJAG Team Members:</b>	James Mc Govern (Team Leader); Ms. Mak Solieng (Community Development Specialist); Ms. Kirsten Bishop, Law and Justice Advisor, AusAID, Canberra; Mr. Rath Sophak (Capital Works Specialist), Mr. Russell Burke (Capital Works Advisor).

### Key Dates:

Mobilisation	5 February 2007
Implementation	1 July 2007
Revised Strategic Framework	May 2007
1 <sup>st</sup> Annual Plan	June 2007
1 <sup>st</sup> CCJAG review	Oct-Nov 2007
2 <sup>nd</sup> CCJAG review	March 2008
3 <sup>rd</sup> CCJAG review	October 2008

### Approved Cost of Activity as per Subsidiary Arrangement

Government of Australia	AUD \$ 30 million
Royal Government of Cambodia	AUD \$ 4.2 million
Danida	AUD \$ 1 million

*(the latter two amounts are approximate conversions from the respective national currencies)*

### Acknowledgement and Disclaimer

The CCJAG members would like to thank all those consulted for giving their time to provide valuable advice and analysis. Special thanks is also extended to AusAID staff in Phnom Penh and Canberra whose support allowed the mission to proceed smoothly.

This report only reflects the views of the CCJAG. It does not necessarily reflect the views of the Government of Australia, the Royal Government of Cambodia or any of the agencies or people consulted during the mission.

## Executive Summary

### Progress

1. Seen as part of the GoA's assistance to RGOC legal judicial reform efforts, the Cambodia Criminal Justice Assistance Project Phase 3 (CCJAP, or the Project) continues to make progress in supporting important reform initiatives. Advances have been made working closely with the NMB to support FSF-funded initiatives in the CNP, the GDoP, the MoJ, and to support the work of the PMU in coordinating the LJRS' implementation. In particular finalisation of the Sector Planning Manual and its expected approval by the MoEF is an extremely positive interim outcome. The Project continues to be underpinned by strong working relationships, particularly with the MOI and the PMU. Specialist technical training, including in forensics is being professionally delivered, and key efforts focussing and cross-cutting issues of juvenile justice and gender, HIV/AIDS, and anticorruption are underway. Good work is being progressed on CPCS and its integration into the D&D processes, particularly as the Project establishes its activities in partner provinces. Executive development assistance is being provided and HRM advice to Courts is about to commence. Preparation for capital works activities at provincial sites continues to be progressed. The Project continues to work well with Australian WofG partners, including the AFP and the AGD, and the Project's advisors continue to provide key support and advice to key RGOC institutions, including the MOI, MOJ and the PMU. Some lessons learned have been incorporated into the Project's work.

### Challenges

2. The Project continues to face a number of important challenges that require attention. Project management issues, including staffing and recruitment, HRM, and accessing a broader range of skill sets, for staff in both management and advisory positions will require ongoing vigilance. The Project continues to under perform both from a strategic Australian WofG perspective, and from an RGOC perspective, with some impact dissipated due to unrecognised and unrealised opportunities. For example, the Project needs to increase its efforts to support central RGOC coordination of line agencies' and provincial authorities' implementation of the LJRS, particularly through the PMU. Key opportunities exist for the Project to facilitate information sharing, planning, and budget processes by facilitating entry points and links between the PMU, central line agencies, such as the MOI, and provincial authorities. Further, the Project's staff members need to be equipped with tools to work with and support important complementary donor supported RGOC reform initiatives, such as the PFM Reform and the Civil Service Reform, as these reform initiatives seek to address some of the 'machinery of government' type issues, which may lie beyond the scope or the Project's resources, but which nonetheless apply to the justice sector and hamper the Project's impact.

3. Increased Project focus on Aid Effectiveness Principles is also required, particularly in the context of expansion of Project activities into partner provinces. Ownership and alignment principles need to be more stringently applied, for example in capital works planning and implementation, particularly at provincial sites, where a development approach that integrates with and strengthens existing procurement systems is required. More attention to participative Project planning and commensurate design of Project M&E systems is required to increase the level of integration with and support for the RGOC's own planning and M&E efforts; this should be mainstreamed throughout the Project's staffing establishment. Care is need to articulate Project planning and M&E as a subset of RGOC's own efforts, highlighting the contribution that CCJAP assistance is making to the RGOC reform effort.

4. The Project needs to increase its efforts to communicate with other donors participating in the sector across both the executive and the judicial branches, (France, Japan and the USA); AusAID also needs to ensure that donor harmonisation is maximised. Adoption of a closer partnership

approach between the Project's management team and AusAID will necessitate more frequent and better quality two way communication between AusAID and Project management and advisors to ensure that the Project maximises opportunities within the sector. AusAID in particular, and the GoA in general, needs to strengthen its participation in the RGOC-GoA partnership to achieve greater coherence to its approach in the legal and justice sector. Increased attention to the Project is required on the part of AusAID, and this may require additional resources for AusAID.

### **Future**

5. At approximately two years into its five-year term CCJAP faces a number of challenges, which require sustained and increased attention by project management and by AusAID. The Project's implementation is subject to external factors, such as evolving RGOC policy and legal frameworks and reforms and the political realisation of the causal link between Cambodia's low regional ranking against governance indicators and its prospects for continued prosperity, particularly for its rising middle class.<sup>1</sup> CCJAP's current operating environment is nonetheless dynamic and exciting, with increased attention by RGOC to the law and justice sector through a number of initiatives at both national and sub-national level, including D&D providing opportunities for engagement and entry points. The Project needs to position itself to seek out and use such opportunities to support the RGOC's efforts in the sector in a strategic and coherent manner.

6. The GoA is currently finalising its Country Strategy for Cambodia, and anticipates a program review in 2010, including of CCJAP's impacts and achievements. In light of the challenges currently facing CCJAP, further management attention, including addition of staff members with variant skill sets, and a new partnership approach by both AusAID and Project management are warranted. Such changes, combined with guidance from RGOC partners, would lead to tangible improvements in Project performance and outcomes.

### **Recommendations**

7. Recommendations are set out in Annex 3.

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<sup>1</sup> World Bank Indicators of Governance for Rule of Law rank Cambodia third last in a regional ranking as follows: Singapore, Hong Kong, South Korea, Taiwan, Malaysia, Macao, Brunei, Thailand, China, Vietnam, Indonesia, Laos, Cambodia, Timor-Leste, Myanmar.



## 1. INTRODUCTION

### 1.1 Background

1. The Cambodia Criminal Justice Assistance Project Phase 3 (CCJAP 3) began transitional activities from 5 February 2007 and full implementation from 1 July 2007. Phase 1 ran from April 1997 to March 2002, and Phase 2 from May 2002 to May 2007. All three phases have adopted a systemic approach that links three key agencies in the criminal justice system: police, courts and prisons. In Phase 2 there was a stronger focus on vertical integration with activities at community level, and this has been continued in Phase 3. Phase 3 adopts a strong focus on addressing the needs of juveniles and other vulnerable groups in the criminal justice system in order to reinforce the integration of efforts across the system.

2. CCJAP 3 works with both the Ministry of Interior (MOI) and Ministry of Justice (MOJ), and with the Project Management Unit (PMU), which is the secretariat to the Council for Legal and Judicial Reform. Cooperation and funding support from the Royal Danish Government, which commenced in Phase 2, has been strengthened in Phase 3, setting up a mechanism that has the potential to incorporate funds from additional donors.

### 1.2 Purpose and method of review

3. The Cambodia Criminal Justice Advisory Group (CCJAG) conducted its first mission in October-November 2007. A review mission followed in March 2008, which assessed progress in Phase 3 and made a number of recommendations. The purpose of this third mission was to assess progress across all CCJAP Components, with a particular focus on support being delivered in provinces and capital works. Strategic and cross cutting issues have also been considered and opportunities for improvement identified. This third mission of the CCJAG builds on earlier missions and is intended to contribute constructively to the ongoing implementation of CCJAP by providing advice and suggestions for strengthening the overall effectiveness of GoA assistance to RGOC legal judicial reform efforts.

## 2. PROGRESS AGAINST COMPONENTS

### 2.1 Component 1: Legal and Judicial Reform

4. Good progress has been made in finalising the Sector Planning Manual, which has involved supporting increased PMU engagement with the Ministry of Economics and Finance (MoEF). These efforts need to be sustained and the relationship between the MoEF and justice sector agencies further supported and developed. While a strong relationship between the PMU and MoJ is emerging, further assistance could be provided to strengthen the relationship between the PMU and MoI agencies (Cambodian National Police (CNP) and General Department of Prisons (GDoP), at both national and provincial levels), as well as with the CCJAP National Management Board (NMB). This would strengthen the role of the PMU in facilitating and coordinating the implementation of the Legal and Judicial Reform Strategy (LJRS). Opportunities exist for further collaboration between CCJAP and DANIDA in supporting the development of the LJRS Indicator Monitoring System. An assessment of the extent to which the CCJAP component "Support to Legal and Judicial Reform" has progressed through the outputs articulated in the Annual Plan follows.

### **PMU capacity strengthened and coordination activities effectively supported**

5. While a strong relationship between the PMU and MoJ is emerging, further assistance could be provided to strengthen the relationship between the PMU and Mol agencies (CNP and GDoP) at both national and provincial levels, as well as with the NMB. This would strengthen the role of the PMU in facilitating and coordinating the implementation of the LJRS. For example, as a means of identifying champions for reform, CCJAP supported executive development initiatives should be used strategically to facilitate points of entry in the justice sector ministries to help strengthen PMU's engagement with leadership in line areas at both national and sub-national levels.

### **Sector planning manual developed and usage supported**

6. The Sector Planning Manual is now at the stage of being finalised and approved by MoEF. There has therefore been only very limited opportunity for agencies to consider, with CCJAP support, how they will make use of the manual. Efforts to date have centred largely on the MoJ, however consideration should be given to supporting the PMU to build its engagement with the Mol.

7. CCJAP's support to the PMU in developing the Sector Planning Manual appears to have fostered increased PMU engagement with the MoEF. These efforts need to be sustained and the relationship between the MoEF and justice sector ministries further supported and developed. For example, there may be opportunities for MoEF to work with the PMU in taking forward the RGOC Public Financial Management (PFM) reforms within justice sector ministries, which CCJAP might usefully support, as appropriate.

### **Key performance indicators developed and usage supported**

8. Modest progress is continuing in the development of the LJRS Indicator Monitoring System (IMS), in what is necessarily a complex and long term process. Opportunities exist for further collaboration between CCJAP and DANIDA in supporting the efforts of the PMU in developing the IMS, including to foster stronger engagement with justice sector ministries and, where appropriate, with relevant central agency representatives.

9. For example, in implementing the CCJAP MEF, CCJAP should look for opportunities to integrate more closely with the work of the PMU. Closer collaboration of this kind will help ensure that the CCJAP MEF increasingly aligns with, and supports the development of, the IMS. The processes used to collect CCJAP MEF data should also be undertaken in a manner that strengthens the sector's own monitoring and reporting processes. Where such processes are weak or yet to be developed, the approach should seek to stimulate consideration of the sector's accountability requirements (and capacities) in the context of RGOC broader public sector reform. CCJAP should also consider options for improved coordination and collaboration with the M&E efforts of other donors (eg the forthcoming USAID funded Rule of Law program working on data management within Courts).

### **Aid effectiveness and executive capacity development support provided to relevant agencies by other Australian funded activities ie Public Financial Management Reforms, Public Administration Reforms linkage**

10. Progress in implementation of key RGOC reforms, particularly the PFM reforms, appears to have focused strongly on central agencies to date and is yet to have a significant impact on the line agencies, including those in the justice sector. This is reflected by the very limited extent to which CCJAP (or other Australian funded programs) are supporting the justice ministries to identify and address capacity constraints across critical areas of public administration, such as planning and budgeting, financial management and human resource management.

11. As noted elsewhere, CCJAP should look for opportunities to support the justice ministries and their central agency colleagues to work together in taking forward the public sector reform agenda, including identifying key capacity constraints and possible areas for further assistance (whether from CCJAP or through other donor-funded programs). It is important that all CCJAP advisers understand the broader RGOC public sector reform agenda and look for opportunities to foster stronger collaboration and coordination between line and central agencies on these issues. For example, the work plan of the HRM/D short term adviser shortly to commence work with the MoJ/Courts should reflect this approach.

#### **Current situation of corruption risk assessments trialled and tested**

12. Progress on corruption risk assessments has not proceeded as originally envisaged due to RGOC concerns about the proposed CCJAP anti-corruption strategy, linked to delays in the new RGOC anti-corruption legislation coming into force. A revised *"Interim Ethics & Governance Strategy"* has been developed, which includes proposals to support the inspectorate functions within agencies, to strengthen the administrative systems underlying CCJAP supported activities at the sub-national level and to generally strengthen existing CCJAP activities that support improved transparency and accountability within justice ministries. More specific support (including the originally proposed corruption risk assessments within justice ministries) will be identified once the Anti-Corruption Law comes into force.

13. The CCJAG was unable to meet with the relevant short-term adviser to discuss the details of this approach. While the interim strategy appears sensible in that it identifies a range of entry points and includes a strong focus on systems strengthening, it is apparent that limited, specific progress has been made to date. It is also unclear to what extent RGOC partners are supportive of or are providing leadership of the approach. In this context, it is probably unlikely that short-term technical inputs will be effective in supporting RGOC to drive progress on these issues. A mainstreamed approach across all components (ie a focus on systems strengthening across the board) is more likely to contribute to improved accountability and transparency at this stage.

14. However, as noted elsewhere, CCJAP should consider how it might take a more strategic and holistic approach to the strengthening of key underlying public administration systems, linked to the RGOC public sector reform agenda – this is a fundamental capacity constraint which ultimately limits the sustainability of all CCJAP assistance. In this context, stronger awareness of the RGOC reform agenda, and those donor-funded programs that are currently supporting it (whether in central agencies, or at sub-national levels), should be a priority for the CCJAP team to enable stronger CCJAP engagement on these issues and to avoid duplication of efforts (particularly in relation to D&D processes).<sup>1</sup>

#### **Progress on these outputs is contributing to the overall objective of this component**

15. While some progress is being made against outputs in this component there is a range of areas, as noted above, where CCJAP could reposition and strengthen its assistance to the PMU and across the line ministries in order to maximise overall impact. In particular, CCJAP could take a more strategic approach across all components to foster greater collaboration and consolidation of effort and to look for opportunities to leverage assistance and engagement in certain areas in order to support progress in others.

16. CCJAP should also work towards more clearly aligning its assistance behind RGOC policy priorities, including a more central focus on supporting implementation of the LJRS, as well as other key reform programs such as the Civil Service Reform and Public Financial Management Reform. To support the implementation of these core RGOC reforms and to address the capacity constraints

underlying all areas of service delivery, CCJAP capacity building efforts need to focus more on strengthening and, over time increasing integration with, RGOC's annual planning, budgeting, monitoring and reporting processes.

17. In this context, CCJAP assistance would be enhanced by alignment of its budget cycle with that of the RGOC. The Sector Planning Manual will be a critical tool to underpin and inform these efforts. Similarly, as noted above, CCJAP monitoring and evaluation processes should also more clearly support RGOC's own efforts to track progress against the LJRS, as well as tracking CCJAP's contribution to that progress in terms of its impact in building local capacity.<sup>11</sup>

18. Currently the legal and judicial reform is well articulated with a comprehensive action plan which outlines the types of activities that are needed to achieve the seven outcomes and ultimate goal of the reform and in turn meet the objectives of the National Strategic Development Plan. Whilst this explains *what* needs to be implemented and goes some way to describe *in what order* this needs to occur within specific outputs there are no guides as to what *is able* be implemented.

19. For the LJRS to be implemented successfully so that it meets the objectives of Cambodia's National Strategic Development Plan, activities need to be implemented nationally and financed from the RGOC budget. From the RGOC's perspective, clarification of what the fully reformed sector will cost to develop and to maintain is required to determine budget requirements over the long term. The Project could assist the PMU to prioritise, sequence and cost reform initiatives, in part to support a quickening of the pace of reform implementation, and in part to ensure the Project's activities are harmonised with other donors.

## 2.2 Component 2: Crime Prevention, Community Safety and Justice

20. CCJAP continues to establish and facilitate constructive engagement on Crime Prevention, Community Safety and Justice (CPCS) in the two new partner provinces of Battambang and Prey Veng, and at the national level, recognising the lead role of the MOI on D&D. This engagement is critical to ensure effective integration of CPCS initiatives within the RGOC D&D processes. Current support to CPCS draws on experience from Kandal Province, where 30 of the 107 new initiatives identified through the commune planning process are now being implemented. The increased workload for D&D staff at provincial, district and commune levels remains a key challenge to the success of CPCS activities. This issue, as well as broader implications for implementation of the LJRS priorities in the context of D&D, will need further attention by RGOC partners, with CCJAP support as appropriate.

### **Contribution of CCJAP and relevant AusAID NGO Cooperation Agreements to provision of equitable access to justice at the community level**

21. The Project (in Kandal province) and AusAID NGOs have made significant contribution to the provision of the equitable access to justice at the community level through integration of CPCS activities into National D&D processes, awareness and capacity building for the target groups, and improving police-court-prison liaison. Activities by Save the Children Australia (SCA), World Vision (WV) and International Women's Development Agency (IWDA) target increasing access to justice at the community level. The first two NGOs work on child protection, and youth groups on crime prevention issues (including High school students and others) in the communities respectively, and Cambodian NGOs Banteay Srey and Adhoc through IWDA work with women.

22. Banteay Srey programs are focussed on fostering community organisation and strengthening women leadership, livelihood improvement, natural resource management, and community action against domestic violence. Anecdotal evidence suggests that these programs have made important

contributions to reducing domestic violence, increasing women leadership at the commune level, and improving working relations with the local-level CNP representatives on access to justice and crime prevention. However, still there is very limited data and information to support facts about the extent of these contributions, their relative successes impacts.<sup>12</sup> In general, a more proactive management approach by AusAID is required, with appropriate support from the Project, to achieve greater coherence in approach as between AusAID funded NGO Cooperation Agreements and the Project. Regular AusAID sponsored sectoral meetings of AusAID-funded NGOs and projects are warranted.

### General Progress Against Component 2 Outputs

23. Following the commencement of the Project's activities in Battambang Province in September 2008 and pending signature of the MOA, a number of initial activities have taken place.<sup>2</sup> Overall, preparation of most activities of the provincial-based annual plan 2008-2009 from 2.1 to 2.6 is underway. It is expected that the PRDC will shortly approve the provincial-based annual plan to be implemented commencing January 2009. CPCS integration activities in Prey Veng Province are at a similar planning stage, and the imminent signature of the MOA with this Province should enhance the pace of implementation. The CCJAG is also pleased to note that the Provincial Project Officer in Prey Veng was keen to engage on seeking approval at the provincial level for integration of CPCS activities into the D&D process.

24. Overall, national and provincial project partners appear to see the integration of CPCS activities into the National D&D structure in terms of integration of CPCS activities into the Commune Investment Plan through the existing commune planning process. While this is a noteworthy approach,<sup>3</sup> it remains a work in progress and faces two main challenges, namely that the integration results in increased workload for local officials, raising the consequential issue of supplemental payments. Further, the CPCS targets "*groups with problems*", who are being treated and worked with separately from the rest of the community. CCJAG notes good relationships and initiatives to explore ways that CPCS can be further integrated into the D&D process in the two partner provinces of Battambang and Prey Veng, and at national level, efforts to support MOI's role as the lead ministry responsible for D&D.

25. The Provincial Governor, as Chairman of the newly established Project Coordinating Committee (PCC) at the provincial level, plays important role in ensuring the participation and commitment of the provincial partners and stakeholders in the integration of CPCS activities into the National D&D system and structure. The sustainability of this approach depends on the ability of the provincial partners to carry forward and adjust to the increased workload within the context of low salaries. The Project's provincial staff members facilitate regular operational meetings between representatives from the police, Courts and prisons (PCP meetings) at the provincial level, and efforts to formalise the purpose and relationships of PCP meetings through a joint MOI/MOJ interministerial decision (Prakas) are promising, provided the ministerial decision is not too restrictive.<sup>14</sup>

### Outcomes of CPCS Activities in Kandal and other provinces incorporated into the National D&D structure

26. The conduct of national elections in 2008 impacted on Project implementation and CPCS was no exception. A Memorandum of Agreement for Kandal Province was issued in July 2008 which enabled the integration of planned CPCS activities into the National D&D. The Project facilitated coordination of the integration process, which promoted stakeholders' participation and commitment, and enabled the

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<sup>2</sup> These activities are those described in sections 2.1 to 2.6 of the Annual Plan for Component 2, including the Project Officer holding informal discussions with EXCOM, PRDC, and NGO, representatives to introduce the Project and CPCS, to identify CPCS activities, and to recruit Provincial Facilitators.

<sup>3</sup> CEDAC a local NGO which is promoting agriculture and development in the communities is working with the youth groups in the community for the same purpose.

Project to draw out lessons learned. Despite this, the chairman of the NMB noted some under expenditures on CPCS in Kandal Province, indicating a downturn in success there for a range of reasons (including, possibly the elections). These will be important reference points for integration activities in other Provinces. Further, the Kandal Provincial Rural Development Committee (PRDC) approved 107 CPCS activities for integration into D&D, (to the value of US\$ 83,062.50, within four targeted districts for 2,653 participants), of which 30 are now being implemented and are expected to reach 1,175 beneficiaries.<sup>15</sup>

### **Appropriateness of provincial roll-out strategy implemented in Battambang and Prey Veng Provinces**

27. Start up of activities in Project partner provinces in general accord with the Provincial Expansion Implementation Plan (March 2008) and the existing National D&D system. Based on the experience from Kandal Province, it was possible to obtain compatibility in integration, however the increased workload, difficulties of the tasks and supplementary payments are challenging issues. The CCJAG also noted the strategy of establishing a PCC for the Project in new Partner Provinces, which is intended to complement existing coordination structures, such as the PDRC. In terms of sustainability, there seems great benefit in adopting an approach which minimises the establishment of additional committees/external to existing structures. Further, with the implementation of a new organic laws addressing Administrative Management of the Capital, Provinces, Municipalities, Districts and Khans, the Project needs to consider how best to position itself to support the various authorities to realise the Project's objectives in the justice sector. Provincial Councils to be established under the organic laws provide entry points for the Project to advance objectives. The Committee of Women and Children's Affairs and the Procurement Committee are examples of such opportunities, as is the Board of Governors whose duties include "*consulting with the Technical Facilitation Committee to ensure that the work plan and budget of ministries, institutions, departments and units of the RGOC that provide services, equipment and infrastructure are integrated within the five year plan, and three year rolling investment program, as well as sub-national administration budgets.*" In the context of budget planning and budget execution at sub-national level, the Project needs to remain alive to opportunities to advance Project objectives through these structures. Further, drawing lessons from and using as resources the work of other organisations and programs engaged on D&D (including in other sectors) could be useful. Reference should be included to the Commune Council Support Program<sup>16</sup> currently underway at the MOI. CDRI has also published a number of working papers relating to D&D which look applicable.<sup>4</sup>

### **Level of engagement of Cambodian Counterparts in project implementation**

28. While high levels of support at the national and provincial level for integration of the CPCS activities into national D&D processes were noted, at the operational level the experience from Kandal is that during peak periods, D&D staff understandably prioritise national D&D activities at the expense of Project-supported activities. Formal recognition of CPCS' integration into the D&D process would help to address this issue. Further, the full implications of D&D processes on the justice sector are not yet apparent. While integration of CPCS into D&D for justice agencies under the executive, such as the MOI (CNP and Corrections) and under the MOJ (administration of justice), is being progressed, the Project needs to remain alive to the potential for perceptions of interference in judicial independence, particularly at provincial level in the interaction between the D&D processes and the judiciary.<sup>5</sup> 18

<sup>4</sup> CDRI Working Paper No. 31, *Law Harmonisation in Relation to the Decentralisation Process in Cambodia*, Oberndorf, R.B., May 2004; CDRI Working Paper No. 35, *Where Decentralisation Meets Democracy: Civil Society, Local Government, and Accountability in Cambodia*, Kim, S. and Ojendal, J., 2007; and CDRI Working Paper No. 38, *Accountability and Public Expenditure Management in Decentralised Cambodia*, Pak, K. and Craig, D., July 2008.

<sup>5</sup> At the time of writing it is understood that a joint MOJ/MOI interministerial decision (Prakas) is to be issued which may provide clarity on this issue.

### Progress on cross-cutting themes: gender, juveniles, HIV/AIDS

29. The Project's revised Gender Mainstreaming Strategy is now providing guidance to Project staff to better address gender issues across all Project Components. In accordance with RGOC's policy framework, a Gender Technical Working Group has been established within the MOI and specific guidelines and training for police to treat women victims appropriately are being prepared. Government capacity to implement its gender-mainstreaming plan remains very limited, and a local NGO training service provider, VBNK<sup>6</sup>, is currently designing a training programme. An HIV/AIDS Advisor has recently joined the Project and a number of HIV/AIDS activities are included in the 2008-2009 Annual Plan, such as training of police and corrections, Courts/Judges on HIV/AIDS issues. Harm minimisation is an integral approach of this strategy. Many plans approved for implementation relate to youth at risk and juvenile justice, and NGOs have been consulted in Battambang and Prey Veng Provinces and are expected to be engaged to work with vulnerable groups (women and children). A Cambodian NGO, Ponleu Koma Kampuchea Organisation (PKKO), has successfully sought FSF funds to work in drug issues in Kandal Province. Provincial counterparts hold high expectations that further involvement of the NGOs/CSOs in CPCS activities will yield improved results. The Juvenile Justice Advisor's inputs, in particular through the Child Justice Working Group, are expected to assist the Project to advance this theme. Further, the breadth of engagement with provincial level authorities needs to be increased.

30. An over reliance on training to integrate cross-cutting themes into CPCS is noted, and Police-Court-Prison (PCP) work is not considered to be integrated with CPCS activities; responsibility for arranging the PCP meetings at provincial levels currently falls to the Project's provincial staff members. Links between cross-cutting themes and the CNP's Civilian Protection Movement at commune level appear weak, and the Project could play a facilitative role in promoting this and other initiatives through PCP meetings, which would assist it to meet the requirements of cross-cutting and focusing themes. Dialogue is needed with agencies, such as the Department of Social Affairs and Youth Rehabilitation, Cambodian Red Cross, and the Provincial Department of Education, on the Project's cross-cutting and focusing themes. As noted in the CCJAG 2<sup>nd</sup> Report, these entities have a vast network of youth clubs to promote activities pertaining to social values and community peace building.<sup>19</sup>

### 2.3 Component 3: Police

31. The finalisation of the CNP Strategic Plan represents a significant CNP achievement (with CCJAP support) and will enable future GoA and other donor assistance to be better directed toward key RGOC priorities. Once the Strategic Plan is approved, the Project could facilitate CNP's identification of capacity building priorities, particularly in core administrative areas (human resources management, budget planning) and to address critical cross-cutting issues such as gender, HIV and the treatment of juveniles. Further support for CNP executive development is also warranted. Support for CNP participation in CPCS initiatives and the RGOC Civilian Protection Movement (similar to community policing models in the Australian context) at sub-national levels will also be important, particularly communication and information sharing on these issues. While current support for forensics training in the CNP has the potential for short-term impact, it will be important to assess this support in the context of ongoing training and resource needs of the CNP, including for non-legal or 'machinery of government' issues which will attain increasing institutional significance as the CNP grows.

32. The Australian Federal Police (AFP) remains a key partner in Australia's support to the CNP and currently has the lead on GoA support, with the Attorney General's Department (AGD) providing

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<sup>6</sup> Vithyeasthan Bandothbandal Neak Kroubkrong Kangea Aphiwath, <http://www.vbnk.org>.

legislation drafting technical expertise to draft a CNP Act, expected to be completed mid-2009.<sup>7</sup> The Project needs to ensure it remains across this important issue, particularly as Project staff with legislative drafting experience appear to be underutilised, as well as the process of drafting a police criminal procedure handbook currently supported by France. This latter is an example where the Project needs to access technical assistance personnel with appropriate (language) skills, so that it can meaningfully participate in this important policing reform initiative.

33. Finally, it will be important that the Project continues to remain focussed on broader policing policy issues as a key element of the flow of justice in Cambodia. Ensuring that this Project and other GoA policing initiatives remain coherent and harmonised with other donor-supported programs, such as that of the UNODC is important and requires close collaboration across AusAID (CCJAP) and other GoA implementing partners. For example, in consultation with AusAID and other GoA partners, the Project should facilitate discussion on the role of the Military Police (gendarmes) in the law and justice sector. The CCJAG was informed that France has recently withdrawn support for the Military Police and assessment of opportunities this presents for CCJAP needs to be made.

#### 2.4 Component 4: Ministry of Justice and the Courts

34. Good progress continues to be made in establishing the Court Register at Kandal Provincial Court, and it is expected that this will importantly facilitate a change in case file management and also generate information, particularly on juveniles and those in pre-trial detention, which will lead to improvements. The RGOC decision to select a different set of provinces for expansion of CCJAP assistance from those identified for implementation of the LJRS Model Court concept creates challenges for policy coherence, the targeting of resources to common priorities and supporting operational linkages across LJRS implementing partners. In this context, CCJAP should continue to look for opportunities to consolidate efforts to support the implementation of the LJRS, including the Model Court concept, in all provinces where assistance is being targeted, while being mindful of the potential for geographic spread of activities to dissipate project impact, given the limited resources available. Clarification of approach is needed.

35. CCJAP should also facilitate RGOC access to expertise from other civil law systems and increase collaboration with other programs operating within MoJ and the courts (and within related partners such as the Royal Academy for the Judicial Profession and the Royal School of Judges/Court Clerks), particularly those supported by the French and Japanese Governments.<sup>8</sup> Stronger understanding and grounding in civil (Roman) law systems, both in terms of legal and administrative arrangements, such as case management, on the part of CCJAP staff (both international advisors and Cambodian Project staff;) is required. Internal seminars, guest lectures by Cambodian and French legal/administration experts, are a few examples of how this could be achieved.

36. Further support for appropriate engagement between the executive and judicial arms of government at both national and sub-national levels (provincial) will be important to ensure that the RGOC's reform agenda is realised. In this context, the Project could do more to facilitate the PMU's

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<sup>7</sup> MOI Under Secretary of State HE Sang Lepresse has been given responsibility by the Deputy Prime Minister for advancing the CNP Act and chairs a working group comprising 2 senior CNP officers, 2 legal officers from MOI, a representative from the Australian AGD and an independent consultant.

<sup>8</sup> The Japan International Cooperation Agency, (JICA), which now mobilizes an annual budget of US\$10 billion and operations in some 155 countries to primarily manage technical assistance, has recently merged with the development finance wing of the Japan Bank for International Cooperation (JBIC), which handles grants and concessional loan assistance. Following the merger, JICA has adopted a new strategy of "scaling up, speeding up, and spreading out." [http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,contentMDK:21945719~pagePK:64257043~piPK:437376~theSitePK:4607,00.html?cid=ISG\\_E\\_WBWeeklyUpdate\\_NL](http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,contentMDK:21945719~pagePK:64257043~piPK:437376~theSitePK:4607,00.html?cid=ISG_E_WBWeeklyUpdate_NL)



work by establishing stronger links with the Supreme Council of the Magistracy and the Supreme Court and advancing relevant organic legislation.

37. The President of the Appeal Court remains a champion for change and is keen to improve processes and facilities at the Appeal Court, particularly Court recording and file/case management. The President is keen to seek further assistance to implement his reform strategy at that Court, in order to address case backlog, including support through the FSF for construction of a new building, and establishment of a database. A number of improvements have already been made including Court recording and some computer networking. A request for judgement writing training was noted. CCJAP should continue to support these initiatives, including to facilitate broader engagement between the Appeal Court, the MoJ and the MoEF, as appropriate, to ensure transparency, and to foster ownership and collaboration across RGoC partners. With the President of the Court of Appeal keen to lead by example, information and learning needs to take place between the President and the stakeholders of the Model Court concept so that an exchange of lessons learned and success stories can take place. In particular, the role of the prosecutor and investigating judges needs to be clearly understood by Project staff.

38. CCJAG reiterates the recommendation from its second report that the Project could facilitate identification of other champions of reform in the MOJ, the Courts, or from retired judges, politicians and other influential persons, who could facilitate the PMU in its work with line agencies to implement the LJRS. Increased support to Cambodian engagement with regional legal and judicial reform initiatives and fora, such as the Asia Pacific Judicial Reform Forum (APJRF)<sup>9</sup> and the International Framework for Court Excellence is also warranted.<sup>10</sup> Similarly, the Project is yet to fully realise initiatives which link Cambodian legal scholars to reform initiatives.

## 2.5 Component 5: Corrections

39. Although the development of the new corrections law is ongoing, opportunities for targeting CCJAP assistance to existing prison reform priorities should continue to be identified. As the GDoP institutionally grows, the Project could play a stronger role in supporting planning and budgeting processes at both national and sub-national levels. The Sector Planning Manual could prove a useful tool for the GDoP in this regard, particularly if the move toward the GDoP managing its own budget is realised. CCJAG reiterates the observation in the 2<sup>nd</sup> CCJAG report that the Project could prioritise support for a staff development plan linked to RGoC performance based management and staff incentives. Skills in budgeting and activity planning will also need to be strengthened in anticipation of a vesting of responsibility for these processes within the RGoC. In particular, CCJAP could play a useful role in supporting the Department to more clearly articulate its budgetary requirements through a 'shadow' budget or similar.

40. Given the importance of facilities to effective functioning of prisons it is appropriate that capital works is a key focus of support. However, management systems and procedures are also key for prisoner security and welfare. In the face of ongoing overcrowding in Cambodian prisons, the temptation of build more prisons should be mitigated by increased focus on community corrections and diversion programmes, as well as ensuring gender, HIV/AIDS and juvenile justice/treatment assumes more central position in GDoP planning and policy. Additional NGOs could be engaged to ensure provision of basic care and support to children in prison with their mothers.

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<sup>9</sup> The initial activity being undertaken by the APJRF is the development of a judicial reform publication. The volume will be practical in focus, developing know-how based on the analysis of actual and relevant reform experiences from within the region.

<sup>10</sup> [http://www.lawlink.nsw.gov.au/lawlink/Corporate/ll\\_corporate.nsf/vwFiles/framework.pdf/\\$file/framework.pdf](http://www.lawlink.nsw.gov.au/lawlink/Corporate/ll_corporate.nsf/vwFiles/framework.pdf/$file/framework.pdf)

41. Some valid NGO comments on prison refurbishment could be usefully incorporated into the prisons corrections program (as such NGO comments could also be incorporated into capital works for Courts and police). Support for a more inclusive planning and consultation process in the capital works program (including NGOs and civil society) would provide opportunities for new partnerships supporting RGoC reform efforts, improving prisoner health and well-being, and in some cases reducing the long-term costs to the Government. The RGoC seems keen to engage with NGOs who are proactive rather than critical and this presents an important opportunity for such engagement. More generally, support for collaborative engagement between the GDoP at national and sub-national levels, and between the GDoP and NGO partners, should be encouraged, in part to facilitate information flow as between national and sub-national levels, and to improve coordination. CCJAP should also explore opportunities to have appropriate technical input into construction of prisons, particularly to avoid technical shortfalls in land swap circumstances, for example in Prey Veng, where capital works are on hold pending a decision regarding relocation of the Prison.

## 2.6 Component 6: Project Coordination and Management

### Communication and Coordination

42. As CCJAP assistance expands into provincial locations more effective communication and coordination is required at various levels of government, with NGOs, other donors and AusAID. Reorientation of the CCJAP communication strategy to focus on support for RGoC communication and coordination efforts through the NMB and other existing mechanisms, such as the PMU and Provincial ExCOMs is a key achievement. In this context, while new coordination processes such as the Police-Courts-Prisons (PCP) meetings at the provincial level are encouraging, as is the decision for a joint MOI/MOJ inter-ministerial decision (Prakas) on PCP meetings, sustained effort will be required to ensure that these meetings remain relevant and that opportunities for appropriate civil society participation are explored. Where possible, the Project should minimise the tendency to establish Project-specific mechanisms, such as the provincial Project Coordination Committees (PCCs), and should work through existing coordination and administration systems at the sub-national level. An overreliance on written reports and documented strategies, often with some degree of duplication, needs to be supplanted by integration of development and sustainability approaches to implementation.

### Technical assistance personnel

43. The provision of technical assistance personnel to RGoC and other partners is a key element of the CCJAP capacity building approach. Clarification of roles, responsibilities, lines of accountability and recruitment procedures for CCJAP project officers, advisers, and salary-supplemented positions would increase transparency, avoid confusion and increase the effectiveness of CCJAP assistance. As the shift from project-driven activities to facilitation of RGoC priorities emerges at the same time as expansion into provincial locations, the need for Project staff with variant skill sets has become evident. There will be need for increased calls upon Cambodians to take front-line roles, to provide strategic vision, and an increased need to access a range of language skills to facilitate engagement at sub-national level and to enhance collaboration with key donors such as France and Japan. Reclassification of all field Project staff as Advisers, whether national or international, should be considered.

44. Further, consideration should be given to reorienting the process of finalising memoranda of agreement with partner provinces to enable stronger emphasis on the partnership between RGoC (at national and provincial levels) and the GoA. Both RGoC and GoA should be the principal parties to such agreements, even at sub-national level. This will ensure the primacy of the RGoC reform agenda in this process by using a potentially high profile tool to reinforce messages about reform.

### **Flexible Support Facility (FSF)**

45. The CCJAG previously recommended that FSF funding be earmarked against CCJAP component outputs to focus FSF resources across priority activities. CCJAG reiterates this recommendation and encourages its reconsideration, particularly to support increased alignment of CCJAP resources with agreed priorities. The NMB decision to target FSF resources to support NGO partners is a positive step, however further efforts to encourage participation of partners at the sub-national level will be important.

### **Focusing themes**

46. Good progress has been made in the development of CCJAP's approach to gender mainstreaming. Increased project resources have also been directed toward the development of HIV/AIDS mainstreaming activities. Many plans approved for implementation are related to youth at risk and juvenile justice, and NGOs have been engaged to work with vulnerable groups. Ongoing and additional resources will be necessary to further consolidate these efforts. In addressing the ethics, standards and governance theme, close collaboration with other programs, such as the RGOC Public Financial Management Reform, will be critical and highlights the need to broaden the focus of CCJAP support from legal technical issues to core areas of public administration, such as budgeting, planning, M&E.

### **Partnership approach**

47. Project implementation would be greatly enhanced through the adoption of a stronger partnership approach as between AusAID and the Managing Contractor. This may require more frequent and a different type of engagement, including, for example, clarification of communication and engagement protocols. Dialogue about differing engagement styles of AusAID and the Managing Contractor is required, as is a clearer understanding of how the Project and the GoA can mutually reinforce each other's efforts to support RGOC reform priorities.

### **Capital Works**

48. While progress in implementation of capital works assistance has continued, there is a need to revisit the CCJAP approach to ensure a greater focus on capacity building and strengthening of existing RGOC systems and processes for the management and maintenance of capital works. This should include an emphasis on supporting RGOC leadership, as well as broader consultation processes for the evaluation, planning and implementation of capital works initiatives. Although in the short term, such an approach may result in a slower pace of implementation, it is critical for the ultimate sustainability of CCJAP's efforts. Further attention is also needed to support the integration of capital works initiatives into reform efforts such as CPCS and the Model Courts program. Refocusing of the Project's MEF processes, sustainability strategy and risk management should be refocused to take account of these issues. CCJAP needs to stand ready to facilitate provision of appropriate technical assistance for justice sector capital works.<sup>11</sup>

### **A plan developed for preparing capital works investment strategies**

49. At this stage, the development of capital works investment strategies appears somewhat ambitious, given the apparent uncertainties in the planning and budgeting process more generally and there appears to be no evidence of progress in this area. However, as noted elsewhere, strengthened support to facilitate PMU and line ministry engagement with MoEF (in order to commence implementation of the PFM agenda within the justice sector), and increased support to planning and

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<sup>11</sup> Pending a decision about relocation of the Prey Veng Prison, CCJAP could usefully engage with Provincial Authorities on technical aspects of any new prison to be constructed, including ensuring that civil society stakeholder suggestions are tabled.

budgeting capacity within the line ministries, would provide a stronger basis for longer term investment strategies. It will also be important to ensure that CCJAP uses its increasing engagement at the sub-national level to foster dialogue among sub-national partners and their colleagues within relevant national ministries (including the MoEF) in relation to expenditure priorities, particularly in high-risk/high-spend areas such as capital works. Within the context of alignment and ownership, increased use of RGOC systems, particularly for funds management and disbursement, for example in capital works activities should be considered. This approach should involve specific measures to ensure compliance with Australian aid program accountability requirements. The Risk Matrix needs to be revised and a re-evaluation conducted of risk apportionment as between AusAID and the managing contractor in the context of funds management and disbursement through RGOC systems.

50. Interestingly, support being provided to the MoJ by the PMU as part of the Sector Planning Manual development process appears to have, indirectly, strengthened the MoJ budget position in the area of capital works.<sup>12</sup> While this is positive, CCJAP needs to position itself more strategically and ensure access to the necessary expertise (through the CCJAP annual planning process and well as through other programs), to support the justice agencies and partners at the sub-national level to address fundamental planning and budgeting constraints (including in relation to capital works) in a more comprehensive and deliberate manner.

#### **(a) Capital Works Implementation Menu**

51. The Project Capital Works Team has developed a suite of documents to guide the management of the capital works program. These documents are the Capital Works Implementation Menus; the Simple Procurement Manual; the Flexible Support Facility Principles; the Flexible Support Fund - Guidelines and Application Form; and the Capital Works Grant Agreement. The Capital Works Implementation Menus provide a selection of projects for consideration of inclusion in the capital works program which aligns with Component objectives for CPCS, Police, Courts and Corrections. The types of projects listed for consideration could be improved by providing guidance to project staff and partners on how to consult with key stakeholders, evaluate feedback and determine priorities. Missed opportunities with key NGOs, other donors and government departments were noted. The formation of a stakeholder focus group, linked to existing coordination mechanisms at the sub-national level, to collaborate ideas and disseminate information on an ongoing basis would assist with maximising stakeholder benefits to the project.

#### **(b) Procurement and implementation of Capital Work activities**

52. The procurement of capital works goods and services follows the Simple Procurement Manual, supported by the Projects FSF documents and Grant Agreement document. The Simple Procurement Manual developed by the capital works team is a simplified version of the Royal Government of Cambodia Procurement Manual – Volume 1 and 11 Standard National Bidding Document of Goods. This document was developed for the Cambodian Ministry of Finance through the combined efforts of the World Bank and the Asia Development Bank. The procurement process adopted for CCJAP assisted capital works follows standard practice, but may be difficult for partner agencies to follow. Translation of the Simple Procurement Manual into Khmer may assist information sharing about the processes involved. Efforts to build knowledge and understanding within partner agencies on procurement procedures will be required once the method of project implementation and project management structures are in place.

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<sup>12</sup> Budget for refurbishments at Battambang Court were obtained through facilitated budget submissions.

53. There appears to be some inconsistency in implementation of the capital works program, with the Implementation Menu Report proposing using partner systems and the Capital Works Status Report proposing the establishment of a central Capital Works Office, jointly staffed by project and partner agencies and managed by the Project. The CCJAG is strongly of the view that timeline slippages do not justify the establishment of an external Capital Works Office. Rather CCJAP should take a development approach to implementing capital works outputs by providing support and technical assistance to existing partner agency systems. Evidence of existing systems in operation was found in Battambang Province, where Police are currently managing the reconstruction of a new "land swap" police station and Courts are managing a court refurbishment. CCJAP should be seen as a useful partner in such initiatives, even if only to furnish technical advice.

54. The capital works team therefore needs to develop with the Police, Courts and Corrections agencies a management structure and management method suited to implementation of capital works projects on a site by site basis, be it at national or sub-national (provincial) sites. An assessment of the project management capacity of Police, Courts and Corrections agencies is required, and an approach adopted which seeks to strengthen capacity deficiencies and advantage taken of existing functioning systems. This approach will involve project risks and may reduce the pace of implementation. The development of a capital works risk matrix would assist in adopting appropriate risk mitigation measures, and should feed into the Project risk matrix and guide the speed of implementation. Progress of the capital works program when compared to the Annual Plan 2008-2009 indicates that the program is approximately 4-6 months behind schedule. Revision of the capital works schedule is therefore required to reflect the management capacity of partner agencies. While timelines for completion of capital works are important indicators of success, the degree to which Cambodian partner agencies manage these processes should take priority as an indicator of success (and sustainability), even if implementation schedules lag. Careful consultation with partners on this point would be necessary.

### **(c) Buildings Standards and Designs of Capital Works**

55. Cambodia does not currently have building regulations, codes or standards that ensure the application of standards of structural sufficiency, health, safety and amenity. The Cambodian construction industry is familiar with British standards but standards in general are not consistent with Australian building standards, which comply with the Building Code of Australia. The capital works program proposed in the Annual Report and Forward Plan 2008-2009 is currently limited to alteration and refurbishment of existing buildings or additions and extensions to existing building complex, including small new buildings. Given the small scale of buildings in the capital works program, it is proposed that a risk management approach to determining the building standard best suited to the assessed risks. The use of available Cambodian standard building practices will be sufficient in most cases, but may not satisfy generally accepted safety standards. Building works will require a risk assessment prior to commencement, contributing to the development of an appropriate safety management plan. This will be particularly important when working at heights greater than 2.0 m above ground, such as when refurbishing the roof of the multi storey court building at Prey Veng. CCJAP should remain ready to contribute to efforts to attain national building standards.

### **(d) Capital Works Pilot (Model/Grant 001 and Grant 002)**

56. The Capital Works Grant Agreement is a contractual document that binds the Project and the grant recipient to a set of terms for the implementation of the capital works project. Grants are approved by the NMB and funded through the FSF. Grant Agreement GA002 was recently put to the test by the GDoP at Correctional Centre 1, involving the construction of an industry workshop. Lessons learned from this test-run need to be related back to the GDoP to aid greater understanding of the processes for the Grant Agreement and procurement for capital works. A regular project meeting with

implementing agencies while capital works are in progress, including the taking of minutes to record issues and actions, will assist in management of the project. This will also provide an opportunity for the Capital Works team to identify and work toward strengthening Grant Agreement management capacity in the partner agency, including monitoring and evaluation of the project management processes, development outcomes and impacts.

#### **(e) Use of prison labour in capital works program**

57. Construction works at prisons are expected to involve the use of prisoners and guards in construction works. The benefits are an improvement in building trade skills of prisoners and guards; improvement in prison staff management skills; increased capability for future building maintenance works; reduced cost of capital works because of reduced labour costs; reduced stress and improvement in mental health of prisoners; and additional food and payment for prisoners and guards. The challenges of using prison labour include: increased security risks; increased length of the construction period; potential for exploitation of prisoner's rights to fair payment and hours worked each day; occupational health and safety risks to prisoners and guards; and poor quality of works resulting from using unskilled labour and inability to read plans.

#### **(f) Priorities for Capital Works in roll-out provinces**

58. The Implementation Menus provide a good selection of capital works projects suitable for the partner provinces. The provision of a forensic laboratory, exhibit room, training room and interview rooms will improve technical capacity of the CNP and provide better community access because of the construction of a lawyer interview room at police stations in Kandal, Prey Veng and Battambang. The establishment of a computer database to assist in identifying suspects collect reports and information on police affairs would improve the capability of the forensic laboratory.

59. Improvement to Court facilities in Prey Veng and Battambang including new interview rooms and holding cells, reconfiguration of Court rooms and building new Court rooms will improve access, communication and security and it would be important to ensure that the proposed works are harmonised with Danish International Development Agency (DANIDA) support to intended Model Courts at Bantaey Meanchay, Kampong Cham, Kandal Provinces and and Phnom Penh. Capital works at prison facilities will include health clinics, separation of prisoners, meeting rooms, workshops, fencing to improve access for light and air and water supply. Given the current workings of the prisons, some of these improved facilities will have restricted or conditional access for prisoners. In order to improve access to benefits for prisoners, a joint re-evaluation of the scope of works is required. Improvements that have high impact, low cost, are unrestricted<sup>13</sup>, and improve health conditions for beneficiaries should be given priority. Modifications to prison cells such as enlargement of prison cell windows and use of security mesh will improve ventilation and natural lighting. Affixing roof turbine ventilation systems would also improve the ventilation of prison cells. Sealing of toilet pits in the prison cells and piping sewage from toilet pits to outside collection points would assist in removing the stench from prison cells. Assessment of the options for treatment of sewage and provision of sustainable water supplies should also be facilitated by the Capital Works Team and investigated by either NGOs or external water and sanitation experts. The Project should facilitate exploration of opportunities by

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<sup>13</sup> Restricted benefits are those that can be used as a form of enforcing order within the prison, and are often available to prisoners for payment. Conversely, unrestricted benefits are high priority for prisoners and are not subject to enforcement regimes. Typical unrestricted benefits include fresh air, no stench from toilets, clean water.

partner agencies for harmonisation of efforts with other donors on small-scale capital works projects.<sup>14</sup> The capital works team should also be mindful of new prison "land-swap" agreements at roll-out sites, for example in Prey Veng, before commencing the capital works program at a prison site.

**(g) Engagement of government officials and prisoners in the management and implementation of Capital Works**

60. The key to a sustainable capital works program and on-going maintenance activities will be partner agency officers' management of the capital works projects at their National or Provincial sites, with technical, financial and management support facilitated by the project's capital works team. This approach is aimed at fostering changes in knowledge, attitude and practices in the implementing agency officers with whom the Capital Works Team interacts. This will require the establishment of working relationships, management systems and management structures suited to each site. Project management would need to ensure that this task does not absorb the Capital Works Team's limited human resources, given that there will be projects on three National Correctional centre sites, five provincial police sites, four provincial court sites and four provincial prison sites.

61. The Capital Works Team would also need to provide guidance on implementation methods, which match the capacity of implementing officers and the availability of locally based technical specialists to provide assistance. These methods may vary between direct construction management, competitive bidding, service provision by locally based NGOs, or by local government departments. Prisoners and prison guards engaged in prison construction works would need to be managed directly by the prison management, and sub-contracting of prisoners and prison guards to contractors, NGOs or Government Departments would require particular management measures. (See also paragraph (e) above.)

**(h) Feasibility and appropriateness of the design and approach of the MEF and Sustainability Strategy in relation to Capital Works**

62. The Strategic Framework Document proposes that capital works be an integrated element of the support to component objectives, and not be established as a stand-alone element. This approach has been developed further by the Project into a capital works strategy (Annex A of the FSF document). The capital works strategy is arguably the best attempt yet at using existing human resources and systems to implement a sustainable capital works program. The current MEF, however, does not measure capital works processes, outcomes and impacts. The draft Sustainability Strategy is incomplete for capital works and requires integration into the MEF. As outlined in the Strategic Framework Document, sustainability of infrastructure is reliant on the development of a Capital Works Investment Policy and Strategy. This strategy is not likely to be realised in this Project phase, but the issue of operations and maintenance planning and resourcing needs to be continually raised with partner agency stakeholders.

### **3. STRATEGIC ISSUES**

#### **3.1 Aid Effectiveness Principles**

63. CCJAP continues its transition from a project-driven activity approach to facilitation of RGOC priorities. The Project would benefit from a greater focus on aid effectiveness principles (ownership,

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<sup>14</sup> International Committee for the Red Cross (ICRC) to fund 50% of the cost to connect Battambang Prison to the municipal water supply came to light during the CCJAG mission. Such opportunities need to be proactively discovered, as the prison's connection to the municipal water supply would also benefit the surrounding village.

alignment, harmonisation, managing for results, and mutual accountability) to improve the longer-term impact and sustainability of GoA assistance. This should include further consideration of the approach to capacity building and a clearer articulation of how assistance through CCJAP is contributing to the RGOC's reform efforts. CCJAP needs to ensure that it clearly supports and is responsive to RGOC policy priorities, including a more central focus on supporting implementation of the LJRS, as well as other key reform programs such as the Civil Service Reform, Public Financial Management Reform, and D&D processes.

### **3.2 Integration with and strengthening local systems**

64. CCJAP capacity building efforts need to focus on strengthening and, over time increasing integration with, RGOC's annual planning, budgeting, monitoring, reporting and service delivery processes. In this context, CCJAP assistance would be enhanced by alignment of its budget cycle with that of the RGOC. The Project's monitoring and evaluation processes should also more clearly support RGOC's own efforts to track progress against the LJRS, as well as tracking CCJAP's contribution to that progress in terms of its impact in building local capacity, as well as capturing achievement and demonstrating impact to demonstrate to the donor the benefits of its support. For the next Project annual planning cycle, particular attention needs to be paid to ensuring that Project planning and outputs are proportional to the Project's inputs into the sector. This would also need to be mirrored by clearer descriptions of indicators of achievement against which the Project's contributions can be measured in a way which is meaningful to AusAID, assists the Managing Contractor to fine tune Project performance, and generates useful data in the sector for the RGOC. Attention also needs to be paid to supporting RGOC efforts collate sectoral baseline data, particularly in the Project's partner provinces. The implementation of the Court Register at Kandal Court is one example of an activity, which is expected to generate meaningful data for the RGOC in that Province. Such data will also be useful to benchmark the Project's progress. There may also be some merit in the Project more regularly reviewing its progress with stakeholders at various levels. Such reviews could provide opportunities for feedback, verification of shared assumptions and goals and, if necessary, tinkering with the Project's implementation or trajectory to ensure that it appropriately feeds into RGOC planning processes.

### **3.3 Analysis and understanding of context**

65. CCJAP needs to be informed by clearer analysis of the Cambodian context. To strengthen the integration and alignment of CCJAP assistance with RGOC systems, to support RGOC's increasing focus on implementation of the LJRS at the sub-national level and to enhance collaboration with key donors, there is a need for CCJAP to facilitate access to local expertise, expertise in key areas of D&D and public sector reform, and to ensure that technical assistance personnel have a range of language skills. The Project could also increase its recourse to domestic and international research on justice sector development and governance, in particular of the effects of D&D on justice sectors globally.

### **3.4 Donor harmonisation**

66. CCJAP would benefit from a stronger focus on donor harmonisation, particularly with France, Japan, DANIDA, and USAID funded initiatives. Opportunities for increased collaboration with existing and new programs (such as the USAID Rule of Law Program) should be explored together with RGOC partners. Given the complexity of the law and justice sector and GoA's role as co-facilitator of the relevant Technical Working Group, AusAID should play a key role in this process and ensure that sufficient resources are applied to support this.



#### **4. CONCLUSION**

67. CCJAP continues to make progress in implementing its stated objectives. Key management challenges and strategic issues require increased vigilance on the part of both AusAID and the CCJAP Managing Contractor. A scaling up of strategic perspective on the Project is required so that it can increase its level of support to the RGOC. Given the degree of flexibility in the Project's design document (Strategic Framework), a combination of timely attention to implementation challenges, facilitation of appropriately skilled technical assistance personnel, and improvements in communication quality and quantity, particularly between the Project and AusAID, together with a refocussing on annual planning and M&E are likely to significantly improve CCJAP's effectiveness.

68. Finally, as the GoA is set to conduct a review of its Cambodia Country Program in 2010, opportunities also exist for the Project to reposition itself to take advantage of future support available from the GoA on broader governance and public sector reform issues, which also apply to the Cambodian law and justice sector. For that to occur, a sharper picture of what the Project's success would look like needs to be drawn and widely shared amongst stakeholders, the GoA and Project management.

## ANNEX 1: List of people consulted

CCJAG key: JMc – James McGovern; MS – Mak Solieng; RS – Rath Sophak; RB – Russell Burke; KB – Kirsten Bishop. Ms. Arthi Patel, 1<sup>st</sup> Secretary, Development Cooperation, AusAID and Dr Ros Chhay, Senior Program Officer accompanied the CCJAG on provincial visits and to selected meetings throughout the CCJAG's mission.

Date and location	People consulted	CCJAG
<i>Monday 6 October 2008</i>		
AusAID office and Himawari Hotel, Phnom Penh	Ms Arthi Patel, 1 <sup>st</sup> Secretary, Development Cooperation Dr Ros Chhay, Senior Program Officer	JMc, MS, RS, RB, KB
<i>Tuesday 7 October 2008</i>		
CCJAP office, Ministry of Interior (MOI), Phnom Penh	Mr Alan McCagh, Technical Director Mr Larry Proud, Team Leader	JMc, MS, RS, RB, KB
Ministry of Justice, (MOJ) Phnom Penh	Mr Ian McPhee, Ministry of Justice and Courts Advisor Mr Yan Sokha, Project Officer – Ministry of Justice and Courts Ms Isabel Calvert, Juvenile Justice Expert Mr Tong Heng, Juvenile Justice Advisor Associate	JMc, KB
CCJAP office, MOI, Phnom Penh	Mr Heng Jolie, Senior CPCS Coordinator	MS
CCJAP office, MOI, Phnom Penh	Mr Sath Vuthy, Capital Works Project Officer Mr Nou Arun, Capital Works Project Officer Ms Cheryl Clay, Community Corrections Advisor Mr David Week, Capital Works Advisor	RB, RS
PMU Office, Phnom Penh	Mr Chor Siek Veng, CCJAP Project Officer Mr. Ben Schultz, Capacity Building and Effectiveness Advisor	JMc, KB
<i>Wednesday 8 October 2008</i>		
National Management Board, Ministry of Interior	HE Mr Prum Sokha, Chairman Gen. Nuon Bhopal, Deputy Chair HE Mao Chandara, HE Mao Chandara, National Police Deputy Commissioner HE Mr Heng Hak, Director General, GDoP Ms Arthi Patel, 1 <sup>st</sup> Secretary, Development Cooperation, AusAID Dr Ros Chhay, Senior Program Officer, AusAID	JMc, MS, RS, RB, KB
CCJAP Advisors	Ms Mehrak Mehvar, Gender Mainstreaming Specialist Ms Jenne Roberts, HIV/AIDS Advisor Mr Alex Wells, CCJAP Forensics Adviser Mr Ian Bates, Australian Federal Police Ms Noun Sok Chea, Gender Project Officer Mr Huout Veng Chan, Police Project Officer	JMc, KB, MS
CCJAP Office, MOI, Phnom Penh	Mr Sath Vuthy, Capital Works Project Officer Mr Nou Arun, Capital Works Project Officer Mr David Week Capital Works Adviser	RB, RS
PMU, Phnom Penh	HE Mr Suy Mong Leang, Director HE Mr Suong Leang Hai, Deputy Director Mr. Pen Bunchhea, Deputy Director	JMc, KB, MS
Himawari Hotel, Phnom Penh	Mr Michael Engquist, Governance Consultant, DANIDA Mr Tomas Martin, Project Manager, DIHR	JMc, MS, RS, RB, KB
<i>Thursday 9 October 2008</i>		
Department of Prisons, MOI, Phnom Penh	HE Mr Heng Hak, Director General HE Mr Kuy Bunsorn, Deputy Director General HE Mr Samkol Sokhan, Deputy Director General	JMc, MS, RS, RB, KB
Prey Veng ExCom	HE Phan Chanthol, Deputy Provincial Governor Mr Um Bunleng, Chief of the Cabinet Mr Chea Nun, President of Prey Veng Court Mr Yam Yet, Provincial Prosecutor Mr Yar Yorn, Chief of Prey Veng Prison Mr Po Pilot, ExCom Permanent Member and Chief of PoLA Ms Em Sokhom, Senior Provincial Program Advisor, PSDD	JMc, MS, RS, RB, KB

<i>Friday 10 October 2008</i>		
Prey Veng Prison, Prey Veng	Mr Yar Yorn, Chief of Prey Veng Prison	JMc, MS, RS, RB, KB
Prey Veng Court, Prey Veng	Mr Chea Nun, President of Prey Veng Court Mr Yam Yet, Provincial Prosecutor	JMc, MS, RS, RB, KB
Prey Veng CNP Commissariat, Prey Veng	Deputy Police Commissioners and Colleagues	JMc, RS, RB
Prey Veng NCDD, Prey Veng	Mr Po Pilot, ExCom Permanent Member and Chief of PoLA Ms Em Sokhom, Senior Provincial Program Advisor, PSDD Mr Chamroeun, CCJAP Provincial Project Officer	MS, KB
<i>Sunday 12 October 2008</i>		
Himawari Hotel, Phnom Penh	Mr David Week, Capital Works Advisor	RB
<i>Monday 13 October 2008</i>		
Provincial Executive Committee for D&D, Battambang Province	HE Prach Chan, Provincial Governor HE El Say, Deputy Governor (D&D) Mr Soeum Bunrith, Deputy Chief of Cabinet Mr Kong Saren, Prison Chief Mr Tiev Choulong, ExCom Permanent Member Mr Moul Thon, Chief of PoLA Mr Thou Vannak, Senior Provincial Program Advisor, PSDD	JMc, MS, RS, RB, KB
Provincial Prison, Battambang Province	Mr Kong Saren, Prison Chief Mr Hing Chamroeun, Deputy Prison Chief Mr Ky Bunnal, Battambang Project Officer	JMc, MS, RS, RB, KB
Bantey Srei, Adhoc, Krom Akpiewat Phum, Ban Teay Srey Office Battambang Province	Miss Krouch Chan Pouv, Project Officer Mrs Chim Bun Chenda, TL (BTB) Miss Sou Satima, Project Officer Miss Srey Mouch, Adhoc Mr Hem Thalika, ADM/ Financial Coordinator Mr Kiet Thoeun, Education Coordinator	JMc, MS, RS, RB, KB
Provincial Court, Battambang province	Mr Nov Yarath, Chief of Battambang Court Mr Sor Yous Thavrek, Provincial Prosecutor	JMc, KB
<i>Tuesday 14 October 2008</i>		
CNP Commissariat, Battambang Province	Col. So Sam Ann, First Dep Police Commissioner Col. Mok Thorn, Deputy Police Commissioner Maj. Chea Cheng, Chief of Technical and Scientific Office	JMc, MS, RS, RB, KB
Executive Committee of National Committee for D&D, D&D Office, Battambang Province	Mr Tiev Choulong, ExCom Permanent Member Mr Thou Vannak, Senior Provincial Program Advisor, PSDD Mr Soun Siha, M&E advisor, PSDD	JMc, MS, RS, RB, KB
Licadho Office Battambang Province	Mr Sun Tek, Provincial Coordinator Mr Vanna Jhon, Prison Research	JMc, MS, RB, KB, RS,
New land swap police administration site Battambang Province	Mr They Sokom, Deputy Police Commissioner	RB, KB, RS
<i>Wednesday 15 October 2008</i>		
Court of Appeal, Phnom Penh	His Honour Mr. You Bunleng, President, Court of Appeal Mr Ian McPhee, Courts Adviser Mr Yan Sokha, Courts Project Officer	JMc, KB
CCJAP office, MOI, Phnom Penh	Mr Heng Jolie, Senior CPCS Coordinator Ms Chrea Dalya, Kandal Provincial Project Officer Mr Teng Rithy, Deputy District Governor & CPCS Provincial Facilitator of Kandal Province	MS
GDoP, MOI, Phnom Penh	H.E. Mr. Heng Hak, Director, GDoP	JMc, MS, RS, RB, KB
Royal Academy of Judges and Prosecutors	Ms Elise Hermoso, Support to Rule of Law Officer, French Cooperation	JMc, KB
Save the Children Australia	Mr Nigel Tricks, Country Director Ms Lois Knight, Program Development Coordinator	JMc, KB

	Mr Meas Sambath, National Coordinator, Child Protection Program	
<i>Thursday 16 October 2008</i>		
Reform Committee Secretariat, Ministry of Economics and Finance, Phnom Penh.	Mr Sok Saravuth, Director, Budget Department and Manager, Public Financial Management Reform Committee	KB (*Arthi Patel)
CCJAP office, MOI, Phnom Penh	Mr Alan McCagh, ATD Mr Larry Proud, ATL Mr Stephen Moore, DTL & CPCS Adviser Ms Chrea Dalya, CPCS Project Officer Mr Heng Jolie, Senior CPCS Project Officer Mr Chan Vathana, FSF Manager Mr Eam Yuth, Finance & Administration Manager Ms Sao Samsak, Communications Officer Mr Ian McPhee, Courts Adviser Mr Yan Sokha, Courts Project Officer Ms Cheryl Clay, Community Corrections Adviser Mr Lam Kunboth, Corrections Project Officer Mr Ky Bunnal, Corrections Project Officer Mr Huot Veng Chan, Police Project Officer Mr Ben Schulz, Capacity Building & Aid Effectiveness Adviser Mr Chor Siek Veng, LJR Project Officer Ms Nuon Sokchea, Integrity & Accountability Project Officer Mr Alex Wells, Forensics Adviser Mr Sath Vuthy, Capital Works Project Officer Mr Nou Arun, Capital Works Project Officer Ms. Jenne Roberts, HIV/AIDS Advisor Mr. Prum Sonthor, Planning, Monitoring and Evaluation Officer Gen. Nuon Bophal, Deputy Chair NMB	JMc, MS, RS, RB, KB
AusAID office, Australian Embassy, Phnom Penh	Ms Arthi Patel, 1 <sup>st</sup> Secretary, Development Cooperation Dr Ros Chhay (m), Senior Program Officer	JMc, MS, RS, RB, KB
<i>Friday 17 October 2008</i>		
Ministry of Interior – formal debriefing	HE Mr Prum Sokha, Chairman NMB Gen. Nuon Bhopal, Deputy Chair NMB HE Mr Mao Chandara, HE Mao Chandara (m), National Police Deputy Commissioner HE Mr Heng Hak, Director General, GDoP HE Mr Suy Mong Leang, Director, PMU Mr Lachlan Pontifex, Counsellor, AusAID Ms Arthi Patel, 1 <sup>st</sup> Secretary, Development Cooperation, AusAID Dr Ros Chhay, Senior Program Officer, AusAID	JMc, MS, RS, RB, KB
AusAID office, Australian Embassy, Phnom Penh	Mr Lachlan Pontifex, Counsellor Ms Arthi Patel, 1 <sup>st</sup> Secretary, Development Cooperation Dr Ros Chhay, Senior Program Officer	JMc, MS, RS, RB, KB

## ANNEX 2: Aide Memoire

### *Aide Memoire*

Cambodia Criminal Justice Advisory Group (CCJAG) - Third Mission  
16 October 2008

#### 1. Disclaimer and acknowledgement

The findings in this Aide Memoire are those of the CCJAG only and do not necessarily reflect the views of the Government of Australia (GoA), the Royal Government of Cambodia (RGoC) or other partners.

The CCJAG members would like to thank colleagues in the Project Management Unit (PMU) of the RGoC Council for Legal and Judicial Reform, the Ministry of Justice (MoJ), the Ministry of Interior (Mol), AusAID, the Cambodia Criminal Justice Assistance Project Phase III (CCJAP) and all other agencies and individuals consulted for their generosity in sharing their views and experience with the CCJAG during this mission.

Special thanks to Arthi Patel, Chhay Ros and Larry Proud in facilitating the CCJAG's work.

#### 2. Purpose of this mission

This third mission of the CCJAG builds on earlier missions and is intended to contribute constructively to the ongoing implementation of CCJAP by providing advice and suggestions for strengthening the overall effectiveness of GoA assistance to RGoC legal and judicial reform efforts. The purpose of this mission was to provide an assessment of progress across all CCJAP components, with a particular focus on support to provinces and capital works. Strategic and cross-cutting issues have also been considered and opportunities for improvement identified.

#### 3. Principal findings

##### 3.1 Progress against components

While progress is evident across all components, the CCJAG is conscious that this mission comes only six months after its previous mission, and in that context many of the CCJAG's second mission recommendations remain to be implemented. The following is a summary of recent progress. More detail about particular issues and opportunities will be contained in the forthcoming CCJAG report.

##### *Component 1 – Legal and Judicial Reform Strategy Implementation Support*

Good progress has been made in finalising the Sector Planning Manual, which has involved increased PMU engagement with the Ministry of Economics and Finance (MoEF). These efforts need to be sustained and the relationship between the MoEF and justice sector agencies further supported and developed. While a strong relationship between the PMU and MoJ is emerging, further assistance could be provided to strengthen the relationship between the PMU and Mol agencies (Cambodian National Police and General Department of Prisons, at both national and provincial levels), as well as with the CCJAP National Management Board. This would strengthen the role of the PMU in facilitating and coordinating the implementation of the Legal and Judicial Reform Strategy (LJRS). Opportunities exist for further collaboration between CCJAP and DANIDA in supporting the development of the LJRS Indicator Monitoring System.

##### *Component 2 – Crime Prevention and Community Safety (CPCS)*

CCJAP is in the process of establishing and facilitating constructive engagement in the two new partner provinces of Battambang and Prey Veng, and at the national level within Mol. Such

engagement is critical to ensure effective integration of CPCS initiatives within the RGoC Decentralisation and Deconcentration (D&D) reform mechanisms. Current support to CPCS is drawing on experience from Kandal province, where 107<sup>15</sup> new initiatives were identified through the commune planning process and 30 of them are now being implemented. The increased workload for D&D staff at provincial, district and commune levels remains a key challenge. This issue, as well as broader implications for implementation of the LJRS priorities in the context of D&D, will need further attention by RGoC partners, with CCJAP support as appropriate.

#### *Component 3 – Cambodian National Police (CNP)*

The finalisation of the CNP Strategic Plan represents a significant CNP achievement (with CCJAP support) and will enable future GoA and other donor assistance to be better directed toward key RGoC priorities. Once the Strategic Plan is approved, CNP and CCJAP (and other donors) should jointly identify capacity building priorities, particularly in core administrative areas (human resources management, budget planning) and to address critical cross-cutting issues such as gender, HIV and the treatment of juveniles. Support for CNP participation in CPCS initiatives and the RGoC Civilian Protection Movement at sub-national levels will also be important. While current support to forensics training has the potential for short term impact, it will be important to assess this in the context of ongoing training and resource needs that will need to be sustained by RGoC in the longer term. The Australian Federal Police will remain a key partner in Australia's support to the CNP.

#### *Component 4 – Ministry of Justice and Courts*

The RGoC decision to select a different set of provinces for expansion of CCJAP assistance from those identified for implementation of the LJRS Model Court concept creates challenges for policy coherence, the targeting of resources to common priorities and supporting operational linkages across LJRS implementing partners. In this context, CCJAP should continue to look for opportunities to consolidate efforts to support the implementation of the LJRS, including the Model Court concept, in *all* provinces where assistance is being targeted. CCJAP should also facilitate RGoC access to expertise from other civil law systems and increase collaboration with other programs operating within MoJ and the courts, particularly those supported by the French and Japanese Governments. Further support for appropriate engagement between the executive and judicial arms of government at both national and sub-national levels will be important to ensure that the reform agenda is realised. In this context, links with the Supreme Council of the Magistracy and the Supreme Court should be strengthened.

#### *Component 5 – Corrections*

Although the development of the new corrections law is ongoing, opportunities for targeting CCJAP assistance to existing prison reform priorities should continue to be identified. Given the importance of facilities to effective functioning of prisons it is appropriate that capital works is a key focus for support. However, management systems and procedures are also important. Support for a more inclusive planning and consultation process in the capital works program (including NGOs and civil society) would provide opportunities for new partnerships supporting RGoC reform efforts, improving prisoner health and well-being, and in some cases reducing the long-term costs to the Government. More generally, support for collaborative engagement between the General Department of Prisons (GDP) at national and sub-national levels, and between the GDP and NGO partners, should be encouraged. CCJAP should also explore opportunities to have appropriate technical input into construction of prisons, particularly to avoid technical shortfalls in land swap circumstances.

#### *Component 6 - Project Management*

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<sup>15</sup> Corrections to figures have been incorporated.

*Communication and Coordination:* As CCJAP assistance expands into provincial locations more effective communication and coordination is required at various levels of government, with NGOs, other donors and AusAID. Reorientation of the CCJAP communication strategy to focus on support for RGoC communication and coordination efforts through the NMB and other existing mechanisms such as the PMU and ExCOM is a key achievement. In this context, while new coordination processes such as the Police-Courts-Prisons meetings at the provincial level are encouraging, sustained effort will be required to ensure that these remain relevant and that opportunities for increased civil society participation are explored.

*Technical assistance personnel:* The provision of technical assistance to RGoC and other partners is a key element of the CCJAP capacity building approach. Clarification of roles, responsibilities, lines of accountability and recruitment procedures for CCJAP project officers, advisers, and salary-supplemented positions would increase transparency, avoid confusion and increase the effectiveness of CCJAP assistance.

*Capital Works:* While progress in implementation of capital works assistance has continued, there is a need to revisit the CCJAP approach to ensure a greater focus on capacity building and strengthening of existing RGoC systems and processes for the management and maintenance of capital works. This should include an emphasis on supporting RGoC leadership, as well as broader consultation processes for the planning, implementation and evaluation of capital works initiatives. Although in the short term, such an approach may result in a slower pace of implementation, it is critical for the ultimate sustainability of these efforts. Further attention is also needed to support the integration of capital works initiatives into reform efforts such as CPCS and the Model Courts program. CCJAP monitoring and evaluation processes, sustainability strategies and risk management should be refocused to take account of these issues.

*Flexible Support Facility (FSF):* The CCJAG previously recommended that FSF funding be earmarked against CCJAP component outputs to focus FSF resources across priority activities. CCJAG reiterates this recommendation and encourages its reconsideration, particularly to support increased alignment of CCJAP resources with agreed priorities. The NMB decision to target FSF resources to support NGO partners is a positive step, however further efforts to encourage participation of partners at the sub-national level will be important.

*Focusing themes:* Good progress has been made in the development of CCJAP's approach to gender mainstreaming. Increased project resources have also been directed toward the development of HIV/AIDS mainstreaming activities. Many plans approved for implementation are related to youth at risk and juvenile justice, and NGOs have been engaged to work with vulnerable groups. Ongoing and additional resources will be necessary to further consolidate these efforts. In addressing the ethics, standards and governance theme, close collaboration with other programs, such as the RGoC Public Financial Management reform, will be critical and highlights the need to broaden the focus of CCJAP support from legal technical issues to core areas of public administration, such as budgeting, planning, M&E.

*Partnership approach:* Project implementation would be greatly enhanced through the adoption of a stronger partnership approach as between AusAID and the Managing Contractor. This may require more frequent and a different type of engagement, including, for example, clarification of communication and engagement protocols.

### **3.2 Strategic Issues – Aid Effectiveness**

CCJAP would benefit from a greater focus on aid effectiveness principles to improve the longer term impact and sustainability of GoA assistance. This should include further consideration of the

approach to capacity building and a clearer articulation of how assistance through CCJAP is contributing to the RGoC's reform efforts.

*Alignment with RGoC priorities:* CCJAP needs to ensure that it clearly supports RGoC policy priorities, including a more central focus on supporting implementation of the LJRS, as well as other key reform programs such as the Civil Service Reform and Public Financial Management Reform.

*Integration with and strengthening local systems:* CCJAP capacity building efforts need to focus on strengthening and, over time increasing integration with, RGoC's annual planning, budgeting, monitoring and reporting processes. In this context, CCJAP assistance would be enhanced by alignment of its budget cycle with that of the RGoC. CCJAP monitoring and evaluation processes should more clearly support RGoC's own efforts to track progress against the LJRS, as well as tracking CCJAP's contribution to that progress in terms of its impact in building local capacity.

*Analysis and understanding of context:* CCJAP needs to be informed by clearer analysis of the Cambodian context. To strengthen the integration and alignment of CCJAP assistance with RGoC systems, to support RGoC's increasing focus on implementation of the LJRS at the sub-national level and to enhance collaboration with key donors, there is a need for CCJAP to facilitate access to local expertise, expertise in key areas of D&D and public sector reform, and to ensure that technical assistance personnel have a range of language skills.

*Donor harmonisation:* CCJAP would benefit from a stronger focus on donor harmonisation, particularly with France, Japan, DANIDA, and USAID funded initiatives. Opportunities for increased collaboration with existing and new programs (such as the USAID Rule of Law Program) should be explored together with RGoC partners. Given the complexity of the law and justice sector and GoA's role as co-facilitator of the relevant Technical Working Group, AusAID should play a key role in this process and ensure that sufficient resources are applied to support this.

#### **4. Methodology**

As with previous CCJAG missions, the findings of this mission are based on the review of CCJAP documentation, as well as information and observations arising from a broad range of discussions with RGoC counterparts at national and provincial levels, CCJAPII personnel, AusAID staff, key donors and NGO partners undertaken between 6 – 17 October 2008.

The CCJAG team were: James McGovern, Team Leader; Russell Burke, Capital Works Advisor; Rath Sophak, Capital Works Specialist; Mak Solieng, Community Development Specialist; and Kirsten Bishop, AusAID Law and Justice Adviser.



## ANNEX 3: Recommendations

### Alignment with (and support for clarification of) RGOC priorities

1. More closely **align assistance behind RGOC** policy priorities which would lead to impact within the justice sector. While the LJRS is key, CCJAP should also work within the context of other RGOC reform initiatives, such as the PFM and Civil Service Reform to address the capacity constraints underlying all areas of service delivery.
2. Sustain efforts to **promote increased PMU engagement** with MoEF and Justice Agencies on the Sector Planning Manual, to further develop the relationship between the MoEF and justice sector agencies.
3. Facilitate **stronger operational relationship between Mol and MoJ** through supporting PMU's work in facilitating and coordinating the implementation of the Legal and Judicial Reform Strategy (LJRS).
4. The Project to assist the PMU to **prioritise, sequence and cost reform initiatives**, in part to support a quickening of the pace of reform implementation and availability of resources.
5. The Project needs to **work with partners to identify strategies to integrate crosscutting issues**, focusing themes and CPCS issues into the work of PCP meetings. For example, mainstreaming these issues into problem analysis, planning, implementation, and impact assessment of PCP work at various levels is suggested. Further, the Project should facilitate information sharing and dialogue with project partners on integration of these issues at both national and sub-national level, particularly during planning and budgeting cycles.
6. **FSF funding be earmarked against CCJAP component outputs** to focus FSF resources across priority activities.

### Integration with and strengthening local systems

7. Look for opportunities to **support the MOI and MOJ** and their central agency colleagues to work together **in taking forward the public sector reform agenda**, including identifying key capacity constraints and possible areas for further assistance (whether from CCJAP or through other donor-funded programs).
8. Adopt a **mainstreaming approach to anti-corruption** across all Components by ensuring that all CCJAP staff members have a sound understanding of the broader RGOC reform agenda (PFM, Civil Service Reform Program, etc.), and the donor-funded programs that are currently supporting the RGOC reforms efforts (whether in central agencies, or at sub-national levels), to enable stronger CCJAP engagement on these issues and to avoid duplication of efforts.
9. **Align CCJAP's budget cycle with that of the RGOC** so that the Project's capacity building efforts can focus more on strengthening and, over time increasing integration with, RGOC's annual planning, budgeting, monitoring and reporting processes. Supporting the PMU and use of the Sector Planning Manual are key.
10. Explore opportunities for **further collaboration between CCJAP and DANIDA/DIHR** to foster stronger engagement with Mol and MoJ and with central agency representatives on the development of the LJRS IMS.
11. MEF should also more clearly **support RGOC's own efforts to track progress** against the LJRS, as well as tracking CCJAP's contribution to that progress by capturing CCJAP achievements, showing its impact in the sector, including in building local capacity, and providing rationale for AusAID's continued participation in the sector.

### Provincial Assistance – Detailed Recommendations

12. CCJAP and NGOs need to develop and **conduct assessment using criteria and indicators that describe progress, improvement and impacts of the project on gender and community security**. In addition to stakeholders' surveys (Draft M&E, August 2008), the Project needs to consider supporting the conduct of rapid participatory appraisals with the community to assess the impact of activities in the community. Methods available include role-plays and community safety perception surveys.
13. For new partner provinces (including Battambang and Prey Veng), **baseline data needs to be collected on CPCS issues**, and followed up regularly (six-monthly, annual and final assessments). The Project should facilitate this process, not run it.
14. During the implementation process in Kandal, Battambang and Prey Veng Provinces, the Project's staff members need to **assist provincial partners in identifying the best way for sustainable integration of CPCS** by exploring opportunities to improve alignment with the D&D system. For example, to reduce the workload of D&D officers, the Project could facilitate coordination meetings with the stakeholders involved in planning and implementation of the CPCS to reflect on the process to identify what worked and what did not work, and incorporate lessons learned to reduce workload. These meetings also help to ensure stakeholders' commitment.
15. As Kandal Province was the first province for CPCS activities, process and **lessons on integration need to be documented** for more effective and successful future implementation in new partner provinces, with information also flowing from new partner provinces back to Kandal.
16. The Project should also **draw lessons from** and use as resources, **the work of other organisations** engaging with D&D such as the Commune Council Support Programme through MOI. Exchange of information and experience between CCJAP and CCSP can be coordinated through regular technical meetings (or seminars), to which involved NGOs could be invited.
17. To strengthen ownership and participation of the provincial counterparts in CPCS, the Project needs to **facilitate the simplification of logistics and coordination processes for CPCS integration into D&D to minimise additional workload** for government D&D officials, particularly at sub-national level. The Project should also support national formal recognition of CPCS' integration into D&D.
18. The broader implications for implementation of the LJRS priorities in the context of D&D will need further attention by RGOC partners, with CCJAP support as appropriate. There may be policy and practical implications that need to be worked through with stakeholders, particularly in the judicial branch of government, and CCJAP could **facilitate clarification of how D&D interfaces with the LJRS at sub-national level**, including budget processes, capital works arrangements, representation options for the Courts at sub-national level.
19. The Project should set itself a goal to **facilitate stakeholders to present a paper at a relevant conference on implementation challenges, strategies and outcomes of CPCS integration with D&D**.

### Capital Works – Detailed Recommendations

20. The Project to foster dialogue among sub-national partners and their colleagues within relevant national ministries (including the MoEF) on expenditure priorities, particularly in high-risk/high-spend areas, such as capital works.
21. Dialogue between AusAID and the managing contractor to revisit risk apportionment in the context of funds management and disbursement through RGOC systems is warranted.
22. Strengthened support to facilitate PMU and line ministry engagement with MoEF (in order to commence implementation of the PFM agenda within the justice sector), and increased support

to planning and budgeting capacity within the line ministries, would provide a stronger basis for longer term investment strategies, including on capital works.

23. CCJAP needs to ensure its partners in line ministries have access to the necessary expertise (through the CCJAP annual planning process and well as through other programs), to support the justice agencies and partners at the sub-national level to address fundamental planning and budgeting constraints, including for capital works.
24. Develop a strategy for capital works stakeholder consultation, evaluation and priority setting, including establishment of a Capital Works Stakeholder Focus Group.
25. Translate the procurement documents into Khmer language.
26. Develop site-specific management structures and management methods for implementation of capital works with each counterpart agency.
27. Adjust speed of implementation of capital works to suit capacity of counterpart agencies.
28. Develop a capital works risk matrix.
29. For each capital works site, adopt a risk management approach to determining building standards and develop a safety management plan.
30. Undertake regular project meeting with the implementing agency whilst capital works are in progress, including CCJAP providing secretariat services (taking of minutes) to record project issues and actions.
31. When partner agencies use prison labour, ensure project planning and a Work Activity Briefing (WAB) are provided to prison construction supervisors by the Agency to explain building work methods, standards and safety issues undertaken prior to commencement.
32. Monitor and evaluate and record the benefits and challenges of capital works projects which use prisoners and prison guards.
33. Facilitate provision of a forensics computer database to assist police investigations.
34. Verify with stakeholders and partners, such as DANIDA, that capital works changes to Courtrooms align with expectations regarding the Model Court.
35. Re-evaluate scope of works in prisons to improve access for prisoners.
36. Guidance to partner agencies on capital works project implementation, needs to take into account site-specific requirements.
37. MEF to include capital works indicators and data collection jointly developed with capital works stakeholders.

## ANNEX 4: List of CCJAP Staff Members

	NAME	POSITION
1	Alan McCagh	Project Technical Director
2	Larry Proud	Project Manager
3	Eam Yuth	Manager, Finance and Administration
4	Long Maline	Executive Support Officer
5	Sao Samsak	Communications Officer
6	Vathana Chan	Manager — Flexible Support Facility
7	Stephen Moore	Crime Prevention & Community Safety Adviser
8	Ian McPhee	Ministry of Justice and Courts Adviser
9	Fred Bate	Police Adviser
10	Ben Schultz	Capacity Building and Aid Effectiveness Adviser
11	Cheryl Clay	Community Corrections Adviser
12	David Week	Capital Works Strategy Adviser
13	Tim O'Shaughnessy	Monitoring and Evaluation Specialist
14	Donald Bowser	Anti-Corruption Adviser
15	Lam Kunboth	Project Officer — Prison Management
16	Chor Siek Veng	Project Officer — Legal and Judicial Reform
17	Heng Jolie	Project Officer — Crime Prevention & Community Safety
18	Chrea Dalya	Provincial Project Officer (Kandal)
19	Ky Bunnal	Provincial Project Officer (Battambang)
20	Um Sok Chamroeun	Provincial Project Officer (Prey Veng)
21	Yan Sokha	Project Officer — Ministry of Justice and Courts
22	Huot Veng Chan	Project Officer — Community Justice
23	Nou Arun	Project Officer — Capital Works Planning and Design
24	Sath Vuthy	Project Officer — Capital Works Construction
25	Nuon Sokchea	Project Officer — Anti-Corruption
26	You Veasna	Transport Officer
27	Mehrak Mehvar	Gender Mainstreaming Specialist
28	Alex Wells	Forensics Adviser
29	Sandra Tindale-Lam	Executive Development / HRM Adviser
30	Jenne Roberts	HIV/AIDS Adviser
31	Isabel Calvert	Juvenile Justice Adviser
32	Tong Heng	Juvenile Justice Adviser Associate
33	Nuon Bophal	Government Liaison Officer
34	Ung Sophean	Provincial Liaison Officer
35	Tep Phearun	Mol Liaison Officer