

Cambodia Criminal Justice Assistance Project – Phase 3

Criminal Justice Advisory Group Fourth Mission Report

21 May 2009

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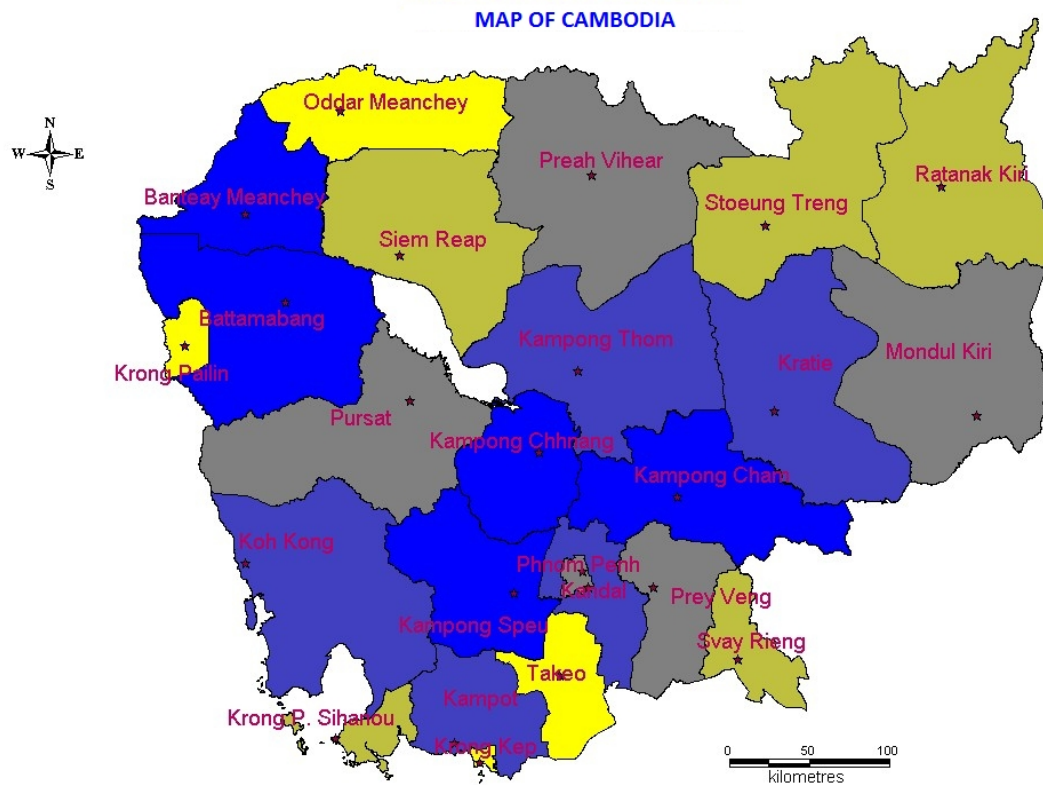
Abbreviations

AGD	Attorney General's Department (Australia)
AFP	Australian Federal Police
APPR	Annual Performance Review Report
ATD	Australian Technical Director
ATL	Australian Team Leader
AusAID	Australian Agency for International Development
CCJAG	Cambodia Criminal Justice Advisory Group
CCJAP3	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
CPM	Civilian Protection Movement
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
GS	General Secretariat to the Council for Legal and Judicial Reform
IWDA	International Women's Development Agency
JICA	Japan International Cooperation Agency
LJRS	Legal & Judicial Reform Strategy
M&E	Monitoring and Evaluation
MBPI	Merit Based Performance Incentive
MC	Managing Contractor
MEF	Monitoring and Evaluation Framework for CCJAP3
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
PAR	Public Administration Reform
OI-GDOP	Office of Inspection for the General Department of Prisons, Ministry of Interior
PCP	Police-Courts-Prisons
PFM	Public Finance Management
PKKO	Ponleu Koma Kampuchea Organisation (Cambodian NGO)
PMU	Program Management Unit
RGOC	Royal Government of Cambodia
SCA	Save the Children Australia
TA	Technical Assistance
TWGLJR	Technical Working Group on Legal and Judicial Reform
UNODC	United Nations Office of Drug Control
WAB	Work Activity Briefing (Capital Works)
WofG	Whole of Government
WV	World Vision

Map of Cambodia

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



Basic Project Data, Acknowledgement and Disclaimer

Country:	Cambodia.
Activity Name:	Cambodia Criminal Justice Assistance Project Phase 3.
Program:	Bilateral.
Location of Activity:	National level, Kandal, Battambang, Prey Veng, Banteay Meanchey and Kampong Thom provinces.
Counterpart Agencies:	Ministry of Interior; Ministry of Justice; Council for Judicial and Legal Reform.
Managing Contractor:	Global Justice Solutions.
4th CCJAG Team Members:	James Mc Govern (Team Leader); Ms. Kirsten Bishop, Law and Justice Advisor, AusAID, Canberra; Mr. Rath Sophak (National Infrastructure Advisor); Mr. Russell Burke (Capital Works Advisor, from 27 April to 1 May); Mr. Patrick Smith, (Corrections Specialist).

Key Dates:

Mobilisation	5 February 2007
Implementation	1 July 2007
Revised Strategic Framework	May 2007
1 st Annual Plan	June 2007
1 st CCJAG review	Oct-Nov 2007
2 nd CCJAG review	March 2008
3 rd CCJAG review	October 2008
CCJAG Team Leader input	January, 2009
4th CCJAG review	April-May 2009

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 are 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, nor of any of the agencies or people consulted during the mission.

Executive Summary

Progress

1. The Cambodia Criminal Justice Assistance Project Phase 3 (CCJAP3, or the Project) has made significant progress in the review period from October 2008 to April 2009, with increasing momentum across most CCJAP3 Components, stemming from a more strategic management approach and the consolidation of earlier work. There is also evidence of increased priority accorded by the Royal Government of Cambodia (RGOC) to central coordinated implementation of the Legal and Judicial Reform Strategy (LJRS), which creates a positive environment for many of the CCJAP3 initiatives. The following is a summary of recent progress and key challenges.

2. The General Department of Prisons (GDOP) and Cambodian National Police (CNP) experience in developing Strategic and Action Plans has been used constructively to inform the development of the new Sector Planning Manual (SPM). The secretariat to the Council for Legal and Judicial Reform (CLJR) now enjoys an upgraded status as a General Secretariat (GS), and the Ministry of Interior (MOI) is now represented on the CLJR. These changes evidence an increased focus by the RGOC on the LJRS. The appointment of an RGOC focal point to lead the development of a proposed national Crime Prevention and Community Safety (CPCS) strategy, together with the emerging interest of the CNP in community policing, including the Civilian Protection Movement (CPM), demonstrates an increasing recognition of the role of state-community partnership in assuring community safety. The finalisation of the CNP Strategic and Action Plans is evidence of strong CNP leadership and commitment to both the LJRS and broader public sector reform priorities and provides a framework for ongoing organisational and individual capacity building, including in forensics. Drafting of the new Police Act, supported by the Australian Attorney-General's Department (AGD) and the Australian Federal Police (AFP), nears completion.

3. Transfer of responsibility to the Ministry of Justice (MOJ) for implementation of the key LJRS Model Court initiative is imminent, and concrete opportunities exist for donors to support institutional capacity building within the MOJ through an upcoming functional mapping exercise. Significant progress is noted in support to corrections, particularly in the area of strategic planning, policy development for prison reform, prisoner management practices, prison industry, NGO engagement, and development of gender mainstreaming. Members of the GDOP management are emerging as key drivers of change within this institution. Flexible Support Fund (FSF) resources provided to NGO partners is a basis for increasing the participation of a broader range of civil society stakeholders to strengthen service delivery at local levels. A relatively strong RGOC framework for gender mainstreaming is emerging.

4. A recent change of Project management leadership has resulted in an enlivened approach to engagement with AusAID and stakeholders, and reflects a more appropriate positioning of CCJAP3 as a support mechanism for the RGOC reform efforts. Evidence of increased involvement and reliance upon Cambodian personnel, particularly in the context of CCJAP3 activities in partner provinces, is encouraging. The Jul-Dec 09 work plan aligns CCJAP3 assistance to the RGOC planning and budgeting cycle and contains a clearer articulation of capacity building approaches, evidencing the increased application of aid effectiveness principles in the Project. Some improved coordination of donor resources by partner agencies in achieving capital works program priorities is evident. With the USA now co-chair of the Technical Working Group (TWG) for law and justice, concrete opportunities for synergies through donor harmonisation exist.

Challenges

5. Some challenges face CCJAP3 and will require concerted attention. The global economic crisis is likely to impact upon funding and CCJAP3 will need to support careful prioritisation of activities, particularly during the upcoming planning process for 2010.

6. Further assistance to the GS is required to support its coordination and communication of the LJRS with line agencies. The emerging character of a national CPCS approach also requires support, as does the collection and analysis of CPCS baseline data in partner provinces. Analysis of the implications of the D&D process in the law and justice sector, particularly in relation to the judicial branch of government, is required. Ongoing efforts are also needed to source appropriate advisory services to support CNP leadership in formulating a Cambodian community policing model, including through community policing pilots in partner provinces. Attention will be required to ensure that the MOJ receives appropriate assistance in the context of the transfer of responsibility for implementation of the Model Court concept and to ensure that a functional mapping exercise assists the MOJ to identify its priority areas of need. Increased engagement with a range of stakeholders in the MOJ and Courts will be critical for more effective LJRS implementation.

7. Additional support to prison management is required to address overcrowding, which remains a critical concern, particularly in the context of the domestic impact of the global economic crisis. Implementation of capital works has slowed during the reporting period. There is a need for improved monitoring and reporting of progress (supported by additional project management support) of capital works program to assist decision making by CCJAP3, AusAID and NMB, particularly on “quick win” priorities, such as low-cost portable prison infrastructure. There is also a need to commence development of maintenance programs to support sustainability of the capital works program. While some AUD2.4 million of AUD4.5 million has been allocated under the FSF, actual expenditure lags. Some rationalisation of priorities for funding through the FSF might be required, and savings through a reduced scope of capital works might be necessary.

8. Building ownership remains a key challenge for the Project and implementation of the Merit Based Performance Incentive (MBPI) requires further attention. Further attention is also required to capitalise on HIV/AIDS and Juvenile Justice Strategies, particularly to support RGOC stakeholders to identify practical activities, centred on stronger thematic approaches to development problems. Ensuring the sustainability of CCJAP3 assistance to date will require a greater emphasis on performance information, to enable justice sector agencies to engage in more robust dialogue with central agencies through the RGOC budget process. Increased collaboration with other RGOC public financial management reform and public administration reform initiatives is suggested to address these and other governance issues in the sector. A repositioning of the CCJAP3 planning, monitoring and reporting arrangements to align more closely with the LJRS strategic objectives, as well as emerging monitoring and reporting arrangements at both agency and sector levels, is needed to support implementation of the LJRS on a cross-agency basis. Streamlining of the CCJAP3 M&E Framework to support agency and sectoral reporting, together with support for a GS-driven sector wide impact study is also suggested.

Future

9. As CCJAP3 reaches its midway point, some achievements are evident. However, a number of challenges will require sustained attention. The operating environment is at its most favourable since the beginning of CCJAP3 and the RGOC policy and legal framework continues to develop in a positive direction. Reform efforts to date would be boosted, however, by an increased focus on the generation of performance data and statistics across the justice system. Such information is critical to strengthen the evidence base for ongoing political commitment and budgetary support for the LJRS among the RGOC, donors and other external stakeholders.

Recommendations

Recommendations are set out in Annex 3.

1. INTRODUCTION

1.1 Background

1. The Cambodia Criminal Justice Assistance Project Phase 3 (CCJAP3) 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. CCJAP3 works with both the Ministry of Interior (MOI) and Ministry of Justice (MOJ), and with the General Secretariat (GS) 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

1.2 Purpose and method of review

3. The Cambodia Criminal Justice Advisory Group (CCJAG) conducted its first mission in October-November 2007. Two subsequent review missions followed in March and October 2008, which assessed progress across all CCJAP3 Components, considered strategic and cross cutting issues and identified opportunities for improvement. This fourth mission of the CCJAG builds on earlier missions and is intended to contribute constructively to the ongoing implementation of CCJAP3. Key areas of focus included capital works progress, corrections, project management and issues relating to aid effectiveness.²

2. PROGRESS AGAINST COMPONENTS

2.1 Component 1: Legal and Judicial Reform

Progress to date

4. Notable progress has been made against outputs in Component 1. The enhanced status of the GS, and the credibility it appears to have gained through the Strategic Planning Manual (SPM) process, has the potential to demonstrate its utility in supporting a coordinated, multi-agency response to the Legal and Judicial Reform Strategy (LJRS) and the broader RGOC public sector reform agenda, particularly through the further rollout of the SPM and the development of the LJRS Indicator Monitoring System (IMS).

5. However, as noted in CCJAG3, CCJAP3 should further develop its 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. In the relation to Component 1, CCJAP3 support for the GS role in developing the SPM, combined with concurrent efforts to improve planning and budgeting within line agencies, should be a key focus for the CCJAP3 team as a whole. Improved agency capacity in these areas, including the potential for more constructive, evidence-based dialogue between line agencies and the MoEF, will provide the basis for

¹ A list of CCJAP3 staff members is set out in Annex 9.

² A list of people consulted is set out in Annex 1.

more targeted and coordinated planning, more efficient allocation and use of resources, and improved budget outcomes. These are all critical for the longer-term sustainability of initiatives supported by donor assistance and, more importantly, the reform effort overall.

6. To support LJRS implementation more effectively, the CCJAP3 advisers supporting the GS should seek to collaborate more closely with agency-based advisers, project officers involved in capital works and the Flexible Support Fund (FSF), and other short term technical assistance approved by the National Management Board (NMB), to ensure a strategic and cohesive approach that takes advantage of CCJAP3 engagement and relationships in different agencies and at different levels of government. Every opportunity, but particularly through the CCJAP3 annual planning process (now more usefully aligned with the RGOC budget cycle), should be taken to foster dialogue on the utility of ministries' own planning and budgeting processes in directing the use of CCJAP3 and other donor resources, to ensure increasing alignment with RGOC's own priorities and resources. Closer collaboration between the CCJAP3 team and technical assistance personnel supporting RGOC reform programs in central agencies and elsewhere, is also vital for the sharing of lessons and stimulation of ideas.

Strengthening GS capacity

7. Since CCJAG3, the RGOC has taken steps to consolidate the institutional status of the Program Management Unit (PMU) of the CLJR, as part of what appears to be a reinvigoration of the LJRS implementation process. This is reflected in the repositioning of the PMU as the GS for the CLJR, and the promotion of the Director to Secretary of State level. The RGOC has also expanded the membership of the CLJR to now include the MOI. While none of these developments is directly attributable to the support provided through CCJAP3, it is reasonable to assume some degree of contribution on the part of CCJAP3 assistance to what is an apparently increasing level of RGOC commitment to and confidence in GS.

8. During the review period, CCJAP3 has continued to provide targeted support to the GS, both through technical assistance personnel, and through the contribution of DANIDA and the Danish Institute for Human Rights in developing the LJRS Indicator Monitoring System (see below). GS capacity to manage and coordinate donors working in the sector appears to be strengthening, including to provide and request clearer information about the scale and spread of donor resources and activities across the seven LJRS objectives, helping to highlight gaps and areas duplication. However, as noted in the CCJAG3 report, further work is needed to consolidate the relationship between the GS and line agencies, as well as with the NMB and MoEF.

9. The GS has been supported to implement its communication strategy at both national and sub-national levels both through the dissemination of written publications and via workshops, notably as part of an NGO-lead process in one province. Although this is important work, it is difficult to ascertain the impact and sustainability of these efforts at this stage, as these initiatives are relatively new. At the national level, CLJR outreach on the reform agenda currently relies heavily on information sharing between individual CLJR members and their respective ministry colleagues. Given the weak capacity of communication and information management practices within and across ministries, the GS may need to consider alternative, supplementary processes to build deeper awareness and support for the LJRS across government.

10. As well as being a significant achievement in its own right, the GDOP and CNP experience in developing Strategic and Action Plans has also been used constructively by the GS to inform the development of the new Sector Planning Manual (SPM), with CCJAP3 technical support and facilitation in both cases. The Ministry of Economics and Finance (MoEF) is yet to formally approve the manual, particularly to ensure its appropriateness in the context of the broader RGOC public financial

management (PFM) reform work. Nonetheless, the SPM has already proven a useful tool for the model courts, which have now undertaken their first strategic planning process ever, with CCJAP3 support. Relationships already established between the GS and counterparts within the MoJ will need to be further strengthened and built upon as the basis for CCJAP3 support for broader use of the SPM within that ministry. It will be important to sequence and plan this assistance appropriately in the context of the proposed functional mapping exercise.

11. CCJAP3 support to the GS in developing the SPM appears to have fostered increased engagement with the MoEF, however, further work is required to ensure a mutual understanding of the GS role, and how it complements and supports the functions of both central and line agencies. As noted in CCJAG3, there may be opportunities for the GS to work in closer partnership with the MoEF in taking forward the RGOC PFM reforms within justice sector ministries, in relation to which the SPM is already contributing. An increased focus on supporting constructive engagement between the Courts, MOJ and MoEF in relation to the planning and budgeting cycle will be necessary to help ensure the benefits of the SPM trial phase are realised in terms of budget outcomes, and to build a broader consensus among RGOC stakeholders about the status and significance of the SPM in helping to integrate PSR priorities within the LJSR action plan.

12. Issues such as ongoing organisational training requirements in the areas of strategic planning and budgeting, as well as the costs involved in coordinating more comprehensive planning processes within ministries, will require further consideration by the GS and line ministries. In this context, it will be important to integrate new approaches within existing ministry management practices as much as possible. The roles and responsibilities across the MOJ, MoEF, Courts and the provincial planning and treasury departments will also need further attention if reforms to planning and budgeting approaches are to be understood and implemented more broadly. The proposed work on costing the LJSR action plan could also provide a practical focus for closer collaboration between the sector and MoEF.

Indicator Monitoring System

13. As the LJRS implementation progresses, there is now an emerging interest in developing the LJRS Indicator Monitoring System (IMS) from what is now largely a CLJR checklist to support 'internal' management of LJRS initiatives, to a system that will begin to track the impact of the reforms. While the GS intends to draw on the model courts as a trial area for collation and analysis of more outcome level performance information, CCJAP3 should look for opportunities to collaborate with the GS in sharing performance information now being collected under the CCJAP3 MEF that are relevant to other LJRS objectives. In this context, the time and resources spend on the CCJAP3 stakeholder survey could perhaps be targeted more usefully as a joint, or if possible GS-lead exercise, to assess the impact of the LJRS, rather than just the CCJAP3 contribution.

14. As noted in CCJAG3, closer collaboration of this kind will help ensure that the CCJAP3 MEF increasingly aligns with, and supports the development of the IMS. CCJAP3 should also seek to develop operational links with the USAID-funded Rule of Law program that includes a focus on data management within the courts. The newly established crime analysis and data working group within the CNP, court monitoring activities (in relation to which close collaboration between USAID and DANIDA is required to ensure coherence across their respective interests), and the possible reinvigoration of a multi-agency information working group, should also be explored by the GS as possible entry points for building momentum behind a more coordinated response to tracking and understanding progress in this sector. The use of data collated through previous UN crime victimisation surveys should also be considered.

CCJAP3 Work Plan Jul-Dec 2009

15. The outputs listed in the Work Plan under Component 1 could be more clearly sequenced and integrated. With the proposed changes to CCJAP3-funded technical assistance personnel positions over the coming months (i.e. completion of the long term international advisory position supported under Component 1), the CCJAP3 Work Plan could usefully outline how the capacity building approach under this Component will be changing, for example, to clarify the terms of reference for the ongoing advisory position, in particular its relationship the broader CCJAP3 team and advisory support to the GS funded by other donors.

16. The forthcoming national conference on the LJRS represents a significant opportunity for strengthening the role of the General Secretariat (GS) of the Council for Legal and Judicial Reform (CLJR), particularly if it results in renewed political level demand for more outcomes-focused performance information and reporting, and information about the overall cost of implementing the LJRS. The GS role in coordinating the collation and analysis of performance information, together with the progressive roll out of the Sector Planning Manual, may provide the groundwork for greater RGOC dialogue on medium-term expenditure and, ultimately, the affordability of justice services in Cambodia. This more strategic development pathway should more explicitly inform the CCJAP3 Work Plan under this Component.

17. Overall, the CCJAP3 Work Plan for Jul-Dec 2009 is an improvement on previous plans in that it more clearly articulates the distinction between CCJAP3 assistance on the one hand, and the RGOC priorities this assistance is supporting on the other. This distinction is critical to understanding, measuring and reporting on the nature and scope of CCJAP3's contribution to outcomes at the sector level, as articulated in the RGOC's Legal and Judicial Reform Strategy (LJRS), and at a ministry-level in strategic and action plans. The Work Plan is also based more explicitly on analysis of progress made to date and responses to lessons learned.

18. However, more work is needed to rationalise, simplify and more logically sequence the outputs listed under each component, as there appears to be overlap and repetition. In some cases, outputs relate more to management issues that should be addressed in Component 6. There would be benefit in articulating more clearly and consistently those outputs that address thematic and/or systemic issues across multiple agencies, with stronger references to capacity across recognised areas of public administration, such as strategic planning and budgeting, human resource management (eg terms like "executive capacity development" are unhelpful).

19. Deliberate alignment of the CCJAP3 Work Plan to the seven LJRS objectives, and at an output level, to relevant RGOC ministry strategic/action plan outputs/outcomes would further reinforce RGOC ownership and leadership of CCJAP3 assistance, as one part of the total resource envelope that includes contributions from both RGOC and donors. Such an approach would consolidate the steps already taken to align the CCJAP3 planning process with the RGOC budget cycle. It would also better inform RGOC stakeholders about the spread of resources across sector and ministry level reform priorities, as well as areas where ministry-level initiatives are not well integrated or acknowledged within the current LJRS action plan.

2.2 Component 2: Crime Prevention, Community Safety and Justice

Progress to date

20. Consolidation of CPCS activities is ongoing in partner provinces and at the national level within the MOI's D&D processes, with CPCS activities being identified and approved through the RGOC sub-national governance systems. The appointment of an RGOC focal point to lead the development of a

proposed national CPCS strategy, together with the emerging interest of the CNP in community policing, including the Civilian Protection Movement (CPM), demonstrates an increasing recognition of the role of state-community partnership in assuring community safety. CCJAP3 will need to ensure that its support to this process provides room for the MOI to foster dialogue and build consensus around an appropriate Cambodian approach to CPCS. Given that the CPCS initiative is currently being driven from within the CNP, care will be needed to ensure that a broad range of stakeholders are included in this process. Community participation will be particularly important if future policy approaches are to succeed. CCJAP3 can play an important role in facilitating the development of a national CPCS approach, which allows RGOC institutions, such as the CNP, as well as civil society partners to bring their respective strengths to bear in realising CPCS.

21. On a practical level, the increased workload for D&D staff at provincial, district and commune levels remains a key challenge and is being addressed by CCJAP3 in the short term through support for CPCS facilitators. The broader implications of working across both the executive and judicial branches of government to implement the LJRS in the context of D&D, remains a key challenge for the future and requires further research, including comparative study. The Cambodian Development Research Institute (CDRI) has published a number of research papers on D&D which might be of use. Further consideration should also be given to the impact of other relevant RGOC LJRS initiatives at the sub-national level, such as the UNDP-funded Maison de Justice and Democratic and Decentralized Local Governance programs, and the USAID-funded Local Administration and Reform program, particularly whether there are opportunities for consolidation and collaboration.

22. The CCJAG visited sites in Kandal Province where CPCS activities were taking place, including income generation activities for women who had survived domestic violence, and community outreach activities relating to drug and alcohol abuse. The CCJAG also met with representatives of the Commune and District Councils, each of whom gave positive anecdotal feedback about the benefits of the CPCS activities in their areas, and appeared to be engaged in the activities. It will be important for CCJAP3 to ensure that support is provided to impact assessment and data generation to feed into budget dialogue linking approaches trialled to results. This would be one concrete way to foster increased participation and ownership of CPCS activities, particularly at provincial and sub-national levels of government. The key will be to demonstrate the link between the investment and tangible benefits. In this context, support for data collection and analysis capacity is a fertile area for future CCJAP3 attention.

CCJAP3 Work Plan Jul-Dec 09

23. Many aspects of the Work Plan reflect an improved approach to planning and implementation of CPCS activities in partner provinces. In general, a practical approach has been taken to the Work Plan, with key elements such as a partnership approach to collection and analysis of CPCS statistics. It will be important for baseline data on CPCS to be collected in each partner province to support this process.

24. Increased cooperation with harmonising donors and NGOs in CPCS activities in partner provinces is required. Save the Children Australia has recently completed a design of its Child Protection Program, (funded by the GOA), a core element of which is working at the sub-national level with Commune Councils for Women and Children. Further coalescence of CCJAP3 efforts with such programs is required to justify investment, particularly from the GOA perspective.

25. The imminent departure of the international advisor for CPCS will provide a timely opportunity for the Cambodian advisor to support such initiatives. It would be important to ensure that the Cambodian CPCS advisor is appropriately supported by the CCJAP3 management team.

2.3 Component 3: Police

Progress to date

26. The finalisation of the CNP Strategic and Action Plans evidences strong CNP leadership and commitment to both the LJRS and to broader public sector reform priorities. Indeed CNP leadership appears engaged and proactive in progressing reform initiatives through the CNP. The CCJAG notes that the CNP leadership is also keen to be informed of reform efforts in other countries, but also recognises the need for any external assistance or advice to feed into the development of Cambodian responses to local challenges. Of particular note is the ongoing consideration within the CNP of developing a new community policing model, aligned with the Civilian Protection Movement, through partner province community policing pilots. These efforts need to be supported and appropriate technical assistance provided, to assist CNP leadership to formulate a community policing model based on a sound understanding of the range of community policing models available, and meeting the needs of society and the state. CCJAP3, including Australian Federal Police (AFP) partners, need to provide ongoing support and advice to these efforts. Further work on how a new community policing model might incorporate the CPM, and ultimately contribute to the development of the broader national CPCS strategy is also required.

27. Ongoing forensics training and support for related operational equipment, in partnership with the AFP, continues to be well-received at local levels. The CCJAG notes that this support is sensibly provided on a nation-wide basis. Demonstrating the ongoing effectiveness of this assistance, particularly its links to increases in forensic-based convictions and crime statistics will need to be made to secure future RGOC budget allocations to ensure sustainability. A key challenge for CCJAP3 is to ensure that the benefit of this technical work is not lost through insufficient support to the CNP's efforts to secure recurrent budget for maintenance of equipment, and M&E activities.

28. Work on drafting the new Police Act, led by the CNP with support from the Australian Attorney General's Department (AGD) and the AFP, is nearing completion. Consideration of resource implications for the operationalisation of the Police Act, once finalised, is required. The AFP remains a key partner for CCJAP3 in supporting the CNP, together with support provided by the AGD. It will be important for CCJAP3, through its partners in policing, the AFP and the AGD, to remain focussed on broader policing issues, including seeking clarity on the role of the Gendarmerie (under the Ministry of Defence) in the criminal justice process.

CCJAP3 Work Plan Jul-Dec 2009

29. Assistance to the CNP is anticipated in the areas of organisational capacity development, a review of human resources management systems, capacity development in the collection and use of forensic evidence, capacity development of the Forensic Laboratory and Forensic Services, capacity development in the investigation of gender-based and sexual crimes, capacity development for collection, analysis and responsiveness to crime and its impacts, development of the Police Act, and promoting participation of the CNP in CPCS, through alignment with the CPM. Technical assistance is provided to the CNP through a combination of the AFP, CCJAP3 short-term and periodic technical advisors, and thematic advisors, (HIV/AIDS, gender, juvenile justice). There appears to be insufficient attention paid in the Work Plan to operationalising in practical terms key elements of the CCJAP3 approach, particularly for juveniles and vulnerable groups. Some activity descriptions (3.1.4, 3.1.5) appear overly generic; more concrete practical activity descriptions are warranted. Further, while strengthening training institutions to improve impact on CNP leadership is praiseworthy, a less diffuse modality may be more effective. The content of the training to be delivered is also unclear. Support provided to the Police Act development appears appropriate.

30. As mentioned above, while support for forensics capacity development and monitoring is commendable, this needs to be matched by a focus on core administrative and budget processes which assure sustainability of this initiative. Similarly, focus on core administration issues, such as generation of M&E data and crime statistics, which can support budgetary discussions, is also warranted. Activities under output 3.6 on this issue appear ambitious, and formulation of a more realistic and achievable set of activities is warranted. Missing from the Work Plan is an activity which supports the CNP leadership to develop a community policing model appropriate to the Cambodian context; this is a different, but related, activity to the CPCS and CPM activities, and needs to be included in the Work Plan.

31. Finally, part of ensuring program and policy coherence across GOA assistance in this sector involves facilitation and support for GOA whole of government partners to provide technical assistance appropriate for the context. The CCJAG recommends that the GOA discuss with the CNP its priority technical assistance requirements, with a view to ensuring that needs are met through an appropriate combination of technical assistance personnel contracted through CCJAP3 and provided by the AFP.

2.4 Component 4: Ministry of Justice and the Courts

Progress to date

32. In relation to Component 4, progress remains modest due in part to the relatively narrow and technical focus of CCJAP3 assistance to date (eg the primary focus on the development of new court registers within the Model Courts), but more significantly, due to the ongoing challenges of intra-ministry management capacity and coordination within MOJ, and between MOJ and the Courts. Many stakeholders, both internally within MOJ, as well as externally, express a strong desire to focus on the challenges facing Court administration more generally, particularly to address the need for common and consistent approaches to Court administration across the country. This is recognised as having a significant detrimental impact on Court efficiency and compliance with constitutional and legislative requirements. A spread of responsibility, between the MOJ and the Institute of Legal and Judicial Professions, for provision of continuing education on legislation and procedure for judges and lawyers within Courts and MOJ, also presents a challenge for ensuring consistency in the application of law throughout the country. While the reform of Court administration is a complex and large-scale task, the proposed functional mapping and increasing focus on strategic planning capacity present significant opportunities for the MOJ to reinvigorate its response the LJRS process. The transition of the Model Courts initiative to the MOJ and the recent strategic planning processes with these Courts, provide a practical basis for building a broader consensus around how these and other LJRS initiatives impact upon the current operations and capacity of the MOJ.

33. As one of several donors supporting the MOJ, GOA/CCJAP3 should work closely with the law and justice Technical Working Group (TWG) co-chair, USAID, to strengthen donor coordination and in doing so, to support MOJ to better harness the range of resources and often disconnected donor-funded activities operating within the Ministry. In particular, donors need to be careful to ensure they are not driving, or being perceived to drive, the reform agenda, particularly as the two TWG co-chairs are common law countries and noting that a new sub-decree relating to MOJ functions was passed by RGOC as recently as last year.

Ministry of Justice

34. Work on new Court registry procedures in Model Courts (most notably at Kandal Provincial Court), and support for case management systems within the Court of Appeal has progressed during the review period, with Court of Appeal data now suggesting improvement in case management efficiency. The Court of Appeal has also made some progress in securing donor support for the

construction of a new court building. However, broader momentum in MOJ implementation of the LJRS remains elusive. The change in international advisory support during the review period may also explain why CCJAG3 recommendations relating to the need for greater access to expertise from civil law systems and increased collaboration across programs operating within MOJ and the Courts (including within related partners such as the Royal Academy for the Judicial Profession and the Royal School of Judges/Court Clerks), are yet to be fully realised.

35. CCJAP3 support for specialist judicial training on the criminal code, to be sourced from France, is noted and commended. However, the need for more systemic and longer term approaches to judicial/prosecutorial training, particularly for legal officers based outside of the capital, should be considered as part of the proposed functional mapping and strategic planning processes within MOJ (this being a critical issue to support the implementation of new legal frameworks, such as the criminal code, juvenile justice legislation and any new practices arising out of the police and corrections law reform). As noted in CCJAG3 and above, the President of the Court of Appeal remains a champion for change particularly in relation to Court administration and the role of the MOJ and, as such, CCJAP3 should seek to foster dialogue and engagement between the Court of Appeal and the MOJ as part of the proposed functional mapping and strategic planning activities.

Police, courts, prisons coordination

36. CCJAP3 support for improved operational coordination across justice sector agencies is ongoing through police-courts-prisons meetings being piloted in partner provinces. Inter-ministry debate at the national level about the need to formalise these arrangements remains unresolved at the time of writing, and police-court-prison meetings in Kandal are on hold pending resolution of these discussions. This issue represents a key policy challenge for the RGOC in implementing the LJRS across two arms of government, in the context of the RGOC D&D reform agenda. A Court lead approach, such as a Court User's Group, focusing on improved local-level coordination and problem solving, may provide the most appropriate solution for addressing operational and procedural concerns (with the current focus on prison-court coordination around the final judgments process being a prime example). Apart from operational coordination, consideration is ongoing about how justice sector issues should be dealt with through sub-national governance structures, including the new provincial councils. The GS could be supported to play a role in bringing the question of the LJRS-D&D interface before the CLJR, particularly now that the MOI is on the council and noting that the RGOC D&D plan will shortly be the subject of revision.

Model Court implementation

37. As is the case with the strategic planning process recently undertaken within the Model Courts, CCJAP3 assistance for case registry development appears to have been well supported at the Court level (this was at least evident in the CCJAG visit to Kandal Provincial Court). The implementation phase of the Model Court initiative is now about to commence, with responsibility for this initiative about to shift from the CLJR GS to the MOJ. However, these initiatives do not yet appear to be well understood or supported more broadly within the MOJ. In this context, close engagement will be necessary to help build ownership, leadership and commitment within that ministry to take forward this aspect of the LJRS. Linked to the roll out of the SPM, it will be important to support MOJ to consider further the costs associated with the Model Court reforms, including capital works priorities, and how these costs can be factored in to future court/MOJ annual planning and budgeting processes.

38. As noted in CCJAG3, notwithstanding the RGOC decision to select a different set of partner provinces for CCJAP3 assistance from those identified for implementation of the LJRS Model Court initiative, CCJAP3 assistance to the MOJ should seek to consolidate efforts to support the

implementation of the LJRS, including the Model Court approaches to Court administration,³ case management and strategic planning, in all provinces where assistance is being targeted. Consideration could also be given to fostering increased engagement between the MOJ and the Court of Appeal as part of the implementation of the Model Court initiative. The President of the Court of Appeal is interested in positioning his court as the 'model' for all other courts in Cambodia, and may be a useful partner to the MOJ in advocating for reform across the court system.

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39. In relation to Component 4, the Work Plan rightly identifies the need for closer and more strategic engagement with MOJ colleagues in order to strengthen dialogue, ownership and leadership of critical underlying reform issues within that ministry. However, care is needed both in terms of the language used in CCJAP3 planning documentation, but more importantly in terms of CCJAP3's approach to capacity building and engagement with the MOJ. Opportunities should be explored for fostering increased dialogue and partnership both internally, across the various departments within the Ministry, and between the MOJ, the MOI and the MoEF. CCJAP3 should help to create the space, and provide support for MOJ counterparts to take a stronger lead on critical new initiatives such as the proposed functional mapping exercise, as well as the implementation of the model court, gender-mainstreaming activities and juvenile justice initiatives. The CCJAP3 team will also need to work closely with AusAID and other donors to ensure a strategic and coherent approach to engagement with RGOC counterparts within MOJ and more broadly.

40. Support for strengthening core public administration systems within the MOJ, including proposed CCJAP3 support for planning and budgeting processes, are important and should support MOJ to build on experience gained within the Model Courts and the MOI to date. These efforts still represent the best entry point for supporting improved transparency and accountability within the MOJ, and also provide the most appropriate platform for fostering increased dialogue and sustainable RGOC-led responses to the CCJAP3 focusing and cross-cutting themes. For example, in the context of ongoing delays in the development of RGOC anti-corruption legislation, the utility of the CCJAP3 "Interim Ethics & Governance Strategy" in informing the CCJAP3 planning process is somewhat unclear, particularly the extent of RGOC support for this work. Proposals to support the inspectorate functions within the MOJ (and similarly within MOI) seem unlikely to progress without a stronger demonstration of leadership and interest from relevant RGOC stakeholders.

41. Given the scale of the reform agenda as it relates to the MOJ, the current capacity constraints within the Ministry, and the number of donors already engaged, the CCJAP3 Work Plan could be more explicit in outlining its approach to donor harmonisation and cooperation under Component 4. As well as fostering stronger leadership on the part of MOJ in harnessing donor resources, CCJAP3 should also proactively develop strong operational collaboration with other donors working in the MOJ, particularly under the USAID-funded Rule of Law program, which includes a focus on strengthening performance information systems and processes. The arrival of the new CCJAP3-funded adviser within MOJ provides a critical opening for the shift in approach set out above. This could be brought out more strongly as a key strategy within the Work Plan.

2.5 Component 5: Corrections

Progress to date

42. There has been significant progress since CCJAG3, particularly in the area of strategic planning, policy development for prison reform, corrections law, prisoner management practises, prison industry,

³ Yet to be determined.

NGO engagement, and development of gender mainstreaming. Areas requiring more attention include, pace of infrastructure implementation, accommodation and programs for juveniles, health care, expansion of rehabilitation and reintegration programs, and inspection and monitoring. Opportunities exist to provide a range of low-cost portable infrastructure at a number of prisons visited during the review (shelter, water and fencing).

43. Overcrowding remains a critical concern and will be negatively impacted by increased unemployment levels in the community created by the global economic climate. Any increase in prisoner numbers will work against the prison reform strategy – especially the rehabilitation and reintegration program. Additionally, should no improvement occur in the matter of ‘final judgements’ (currently exceeding 3,800) and excessive pre-trial detention, no alternative strategy has been developed to deal with the increase in prisoner numbers. Some relief may come through an additional prison farm in Pursat Province and through the implementation of the Corrections Law 2008, which might result in a quasi pre-release program – CCJAG is advised that relief would be enhanced by a more stringent application by judges and prosecutors of provisions contained within the Criminal Code and Criminal Procedure Code.

Key issues and challenges

Corrections Law

44. A major step forward has been the completion of a draft Corrections Law 2008. The early development process was delayed in part by a requirement from RCOG that the drafter be a Cambodian national. However, it was agreed that the capacity was unavailable in Cambodia so an international legal drafter (Ms Rani Young) was engaged for three months. The drafting process appears to have been inclusive and involved a working party set up by General Director Heng Hak and chaired by Mr Kuy Bunsorn, Deputy General Director. The working party consulted with relevant groups and offices in the three departments of the GDOP and relevant NGOs. A broad range of local and international legislation was reviewed, as was current prison practise and procedure. The result is a comprehensive document that, in terms of other jurisdictions, effectively combines an Act with the subordinate Regulations.

45. The draft Corrections Law 2008 articulates aspirations to achieve a higher degree of compliance with UN Standard Minimum Requirements, although it is clear that practical achievement is many years away. The main points of comment are that the legislation is gender neutral and contains provisions for a separate budget for the General Department of Prisons, for food, health care and services for children in prison, for rehabilitation and reintegration programs, for payment to prisoners for work and for prisoners to leave the prison for authorised purposes (work, programs, education, and training).

46. To expedite the passage of the Corrections Law 2008, the RGOC is considering engaging Cambodian technical assistance personnel, through CCJAP3, to support GDOP fulfil the remaining RGOC procedural requirements to bring the draft legislation into law. RGOC stakeholders’ expectations are that the legislation should come into effect late in 2009. While this will represent a significant achievement, the challenge will be in its implementation, including the allocation and execution of a separate GDOP budget for the first time.

Governance

47. Improved governance, particularly financial management, monitoring and evaluation processes, remains a key challenge for GDOP and CCJAP3, particularly in respect of provincial prisons. Efforts aimed at supporting an effective Inspections and Review function within GDOP need to be pursued.

This is an important issue and would, amongst other things, bolster the monitoring of industry contracts and prisoner payments.

48. The CCJAG understands that some data are reported monthly to GDOP, however more could be done to establish a structured M&E data generation system. The Prisons Inspection Unit is staffed by a Chief Inspector, three Deputy Chiefs, and eight staff but has no office facilities and only rarely has any means of transport. There is a need for training, knowledge and capacity building within this Unit to realise an active internal inspections function within GDOP, including to monitor and assess any 'prisoner labour benefit'.

49. CCJAP3 has indicated that establishing an internal inspections unit is a priority issue. CCJAG has provided a set of basic review modules to the Corrections team to assist in this regard. However, anecdotal evidence and some related indicators suggest that where prisoners are allowed more time out of cells (prison industry / farm work / vocational training / education) incident rates have reduced, no escapes have been recorded, prisoner morale is up and staff absenteeism is down. CCJAG is not convinced that sufficient oversight is given to financial management process - especially in terms of the use of cash. This issue could be more adequately monitored if the Prison Internal Inspection unit was effectively active.

50. In relation to the governance processes to support capital works and procurement, CCJAP3 has developed a suite of documents including: Implementation Menus, Simple Procurement Manual and Capital Work Grant Agreement, which outline a set of principles for procurement and focus on transparency, fair treatment for suppliers, declarations of interest, and anti-fraud and anti-corruption measures. Issues have arisen between CCJAP3 and the GDOP over interpretation of these procedures and the compliance requirements of those organisations and those of AusAID, as well as the cost of prisoner labour to be charged to the contractor.

51. While the risk of corruption or manipulation exists in any procurement transaction, the degree of risk can be mitigated by robust and independent scrutiny and ongoing monitoring of contracts and fund transfers. In this context, fund transfers and fund management should only be through bank accounts. The practice of using cash (in any step) should cease.

52. CCJAG noted an increased appetite on the part of GDOP management to actively engage in decision-making on capital works. Some dissatisfaction was noted concerning provision of documentation in English, rather than Khmer, and there is scope for an increased level of consultation with GDOP on capital works issues. CCJAG notes that a design unit exists within GDOP (the Office of Construction and Maintenance) and GDOP expressed a desire for closer cooperation with the CCJAP3 Capital Works Team.

Standard of prison facilities

53. Although new prisons have been built and some additional infrastructure has been provided, the standard of prison facilities is not high and provides only limited ability to support the correctional management system (apart from Kandal Prison and, to an extent Battambang, which will improve once proposed additional infrastructure is in place). All existing prisons are inadequate to cope with the numbers of prisoners, a situation that is likely to deteriorate, given the global economic crisis.

54. The GDOP has developed plans for a standard design for all prisons, which were reviewed in conjunction with CCJAP3, OHCHR and ICRC. If this standard design can be applied throughout the country, it will ensure that the correctional management system can be more effectively implemented.

55. Maintenance budgets and personnel to conduct maintenance also remain key challenges for the GDOP. Each prison should ideally have nominated maintenance staff and maintenance schedules, which could be monitored by an Inspection and Review Unit annually. Sustainable options for capital works also need to be explored, such as solar systems for electricity, reducing budgets for these items.

56. GDOP stakeholders continue to cite serious concerns about the issue of inadequate staff accommodation. As an example, the staff housing at Kandal assessed by CCJAG as being in poor condition during the March 2008 review mission, has since deteriorated further, with the roof has caved in and staff now living in cobbled together shacks. The issue of public sector housing has broad policy implications for the RGOC, not limited to the law and justice sector. However, given the impact on effective service delivery, CCJAP3 could assist the GDOP to undertake more detailed analysis of the scope of this issue, as a first step toward addressing this more comprehensively through existing capital works planning and budgeting processes.

Reform, rehabilitation, reintegration and community-based supervision

57. It is clear that senior management in the GDOP has fully embraced the rehabilitation and reintegration philosophy, and cited the benefits of more out-of-cell hours during a meeting with CCJAG (reduced incident rates, calmer prisoners and staff, no escapes or attempted escapes). The RGOC Policy Framework for Prison Reform articulates this move away from a punitive approach to prisoner management to one where rehabilitation and reintegration are the goals. This is a major step forward in prison policy and brings the prison system nearer to best practice in this area. CCJAG applauds the policy, which needs to be supported and promoted. The strategy of rehabilitation and reintegration is effectively operationalised through prison industry and farming (vocational training), where skills are developed that can be used in the community upon release. This new strategy is producing good results – less incidents, reward for work, skill development, reduced staff absenteeism, and increased capacity to cope upon returning to the community.

58. There are no other system-wide forms of rehabilitation or reintegration programs and there are no specialists skilled in the corrections field available in Cambodia to provide such programs. Such programs generally form part of a wider policy that would involve a well-resourced system of community supervision. Opportunities for any kind of pre-release program raise the more vexing and difficult problem of community-based supervision, for which there is no formalised infrastructure, legislation or resources in Cambodia other than village and commune committees and consultation groups. Some scope for harnessing NGOs working in provincial locations with Commune Councils for Women and Children on pre-release and reintegration programmes is warranted.⁴

59. The notion of a 'prison farm' is an established concept in modern prison systems, and is beneficial in a number of ways, acting as a source of income, increasing food supply for the prison system (and for sale in the local community), increasing prisoner skills, and more importantly, allowing prisoners more time out of cells. The GDOP's plan to establish a prison farm warrant further study.

60. In terms of a more commercial 'prison industry', the risk of corruption with the current system is increased by receiving and distributing cash. For example, at Kandal Provincial Prison, CCJAG was

⁴ Save the Children Australia's (SCA) new Child Protection Program (CPP) anticipates supporting local NGOs to work with Commune Councils for Women and Children. One area of focus is expected to include community corrections activities, including re-integration for juveniles. SCA expects the CPP to operate in some of the CCJAP3 partner provinces. *Prison Fellowship* received US\$36,200 via the FSF and have provided a re-integration program through Blue Gate House in Phnom Penh. The program commences six months prior to release, and supports him/her upon release. Their work with prisoners' families has been particularly successful and has meant that prisoners who have spent years without contact with family are able to go straight back to the family unit.

informed by the Prison Chief that he arranges contracts for prison industry with outside businesses (approved by GDOP). He advised that he receives cash from the business organisation, gives it to the Vocational Training Manager who distributes the money as per a schedule of percentages – including distributing cash to the prisoners. This system of financial management exposes the prison to opportunities for, and allegations of, corruption and exposes prisoners to threat from others, and needs to be replaced with an auditable system, based on bank account transactions.

61. Chapter 4, Section 3, Article 63, (4) of the draft Corrections Law, states “No prisoner is to be involved in a disciplinary capacity in the prison”. However, a central tenet of the Policy Framework for Prison Reform is the notion of Prisoner Committees, one of which is the ‘Sub-committee for Discipline and Morality’. This committee’s role is seen as a matter of general good order and standards rather than discipline as punishment. Nevertheless, the committee needs to be monitored.

Civil society engagement

62. The CCJAG is pleased to note that two workshops, one at Kandal Prison organised by the Ministry of Social Affairs, and one at CC2 in April, supported by CCJAP3, brought together relevant NGOs working on prison related matters. Such workshops are a particularly useful and logical strategy to coordinate aid in provinces and to eliminate competing goals and duplication of effort among donors and NGOs, and in the longer term, represent proactive community engagement strategy to support GDOP service delivery. GDOP efforts to establish such meetings on a regular basis (quarterly) need to be supported. Apart from such meetings, support for proactive engagement by the GDOP with NGOs on prisons issues is also warranted through a well-articulated communications strategy.

63. The CCJAG is pleased to note that civil society continues to play an important role in supporting provision of supplementary medical services for prisoners, including dental services by the Royal Cambodian Dental Hospital. Although it is not ideal that civil society should play this role – responsibility for health of prisoners rests with the State – through coordination activities, such as the regular NGO-prisons meetings mentioned above, the GDOP and provincial authorities can do much to coordinate civil society’s support to provision of a minimum level of health care to prisoners. CCJAP3 needs to stand ready to support such efforts in the short-medium term. A comprehensive solution to this issue will depend on the size of future GDOP budget allocations to secure health services for correctional centres and prisons.

Juveniles

64. Notwithstanding the ongoing efforts by RGOC stakeholders to finalise new juvenile justice legislation, there is currently no official office in the GDOP with portfolio responsibility for juvenile justice. In this context, the CCJAP3 Juvenile Justice Strategy is aspirational in nature and does not describe concrete actions. Apart from a legal ‘information and education’ program and some exercise equipment at CC2, little work has been done for juveniles in prison since CCJAG’s last visit. While GDOP Prison Reform Policy declares an intention to comply with United Nations human rights standards for women and children⁵, the Cambodian Constitution, and the Cambodian Labour law, and refers to the Juvenile Justice Strategy, it lacks specificity in terms of what specific actions will be undertaken by the GDOP under its Prison Reform Policy to comply with standards contained in those texts. While the draft Corrections Law (Chapter 3, Section 6) has specific provisions dealing with prisons with female prisoners (and their children), the draft does not contain provisions dealing with prisons with juveniles. Further, there is also no mention of juveniles in the GDOP Strategic Plan 2008 – 2013. While the CCJAP3 Output Delivery Report 2008 states that CCJAP3 has commenced discussions with GDOP regarding the juvenile justice strategy, particularly with regard to management

⁵ Articles 37 and 40 of the United Nations Convention on the Rights of the Child.

of juvenile offenders while in custody, there is a need for increased leadership and attention to this issue within GDOP.⁶

Women and gender equality

65. There has been an increased focus on women prisoners both in terms of accommodation and greater involvement in prison industry programs. The advent of a women's Day Care Centre at CC2 for women with children has proved successful, and is expected to become a model for the future. Availability of a Ministry of Health counterpart to work with the GDOP, and the CCJAP3 team, would assist in a more systematic and effective approach to prisoner health (and specifically for women's health) – an area which appears to have lost some traction. The CCJAG also noted that a Gender Working Group has been established and comprises male and female representatives from GDOP headquarters and selected prisons. Ms Som Soukea, Deputy Director of the Department of Means is the chair of the working group, which has developed a Gender Improvement Training program (capacity building) for all prisons provided by SILAKA and a learning tool is being developed by HAGAR. These efforts will be supported by the new Corrections Law 2008, which attempts to address gender issues comprehensively.

Emerging Risks

66. A number of risks emerging in the Cambodian corrections context including: overcrowding, exacerbated by domestic impact of global economic climate such as increased unemployment leading to increased rate of imprisonment. As noted above, overcrowding is also exacerbated by inaction on the matter of 'final judgements', leading to excessive pre-trial detention etc., and has the potential to impede or diminish the RGC's Prison Reform Strategy, for example, in terms of reduced out of cell hours for prisoners. Increasingly overcrowded prisons necessitate careful monitoring of infection control procedures. Reduced access to funding on the part of NGOs may impact on their ability to support prison-related service delivery.

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67. The Corrections Law, the Policy for Prison Reform, Annual and Strategic Plans are tangible, measurable achievements against some of the objectives of the Law and Justice Reform Strategy. Component 5 Work Plan Outputs in the CCJAP3 Work Plan for July–December 2009, appear to be general in nature and do not identify or articulate related or relevant measurable outcomes.

Other areas of most traction and likelihood of success

68. Areas of likely success for CCJAP3 include: Successful passage of Corrections Law 2008 in terms of setting in legislation the policy objectives of the Policy for Prison Reform; successes of the Prison Reform strategy, if the overcrowding issue is addressed; expedited capital works; and increased and consolidated NGO engagement.

69. While prisons are generally under funded world-wide, they are the most likely to return the most substantial and clearly positive outcomes for the funds invested – especially capital works (where the benefit is immediate) – and, in some cases, targeted programs that address offending behaviour and therefore assist in reducing the pressure on prison accommodation (addressing recidivism). Concentrated support for inclusion in legislation, either that currently being drafted, such as the draft juvenile justice law or the draft corrections law, or specific legislation, which provides sentencing alternatives and diversion programs would greatly reduce the pressure on the prison system, having benefits for the RGC both in terms of perceptions about human rights in Cambodian prisons and in terms of costs to government.

⁶ P30.

70. The lack of government prisoner transport has been a consistent and constant area of concern expressed to CCJAG by GDOP, CCJAP3 and prison staff in the field, particularly given the scale and complexity of the corrections system in Cambodia. CCJAG suggests that CCJAP3 explore support for a prisoner transport pilot, including purchase of trucks (not cars), subject to a commitment from RGOC regarding the funding of maintenance and fuel costs in partner provinces (or in selected partner provinces). Concerns regarding misuse of 'official' prison vehicles would be mitigated by clear 'badging' of prisoner transport trucks– which would reduce the likelihood of their use for other than prison purposes. To support such a concept, consideration could be given to including a clear statement about agreed GDOP and province-level commitments in relation to proposed pilots (particularly regarding vehicle management, maintenance and recurrent cost implications), as part of (or an adjunct to) the GOA-RGOC Memoranda of Agreement, which provide the framework for CCJAP3 assistance in partner provinces.

2.6 Component 6: Project Coordination and Management

Communication and Coordination

71. The CCJAG noted a marked improvement in coordination and communication efforts on the part of the Managing Contractor (MC) at various levels of government, with NGOs, other donors and AusAID. The MC will need to sustain its communication and coordination focus on support for RGOC communication and coordination efforts through the NMB and other existing mechanisms, such as the GS and Provincial ExCOMs. The need for increased engagement with a range of stakeholders in the MOJ, mentioned in previous CCJAG reports, is reiterated here. The need for improvement in this engagement will come more into focus as responsibility for Model Court implementation shifts to the MOJ. The CCJAG also noted some desire on the part of the NMB for improved communication, particularly with AusAID, to avoid miscommunication leading to misunderstanding. As mentioned in previous CCJAG reports, establishment of a regular rolling schedule of meetings for AusAID and for CCJAP3 management with key RGOC stakeholders, including members of the NMB, would promote opportunities for discussions on key issues, minimising the risk of misunderstandings.

72. Some sensitivity was also noted concerning coordination of support to Police-Courts-Prisons (PCP) meetings.⁷ In addition to ensuring the ongoing relevance of these meetings, including through civil society participation, efforts need to be concentrated on establishing and enlivening PCP meetings in partner provinces, as a key tool for CCJAP3. The benefits to having these operational-level meetings remain, particularly as they are forums for resolution of blockages, including reducing the number of prisoners being held without final judgments. CCJAP3 needs to support such meetings, affording them the opportunity and the support to evolve into Court Users' Groups, which are common in many jurisdictions. Ongoing efforts to work through existing coordination and administration systems at provincial and the sub-national levels are noted. Increased integration of development and sustainability approaches to CCJAP3's implementation is evident, although strong reliance on documented strategies, often with some degree of duplication, remains.

Technical assistance personnel

73. Progress has been made on clarification of roles, responsibilities, lines of accountability and recruitment procedures for CCJAP3 project officers, advisers, and salary-supplemented positions. However, further attention will be required to realise the RGOC-GOA commitment to implement MBPI arrangements through CCJAP3 over the next calendar year. CCJAP3 does not have international legal expertise in civil/Roman law jurisdictions, although increased calls upon CCJAP3 Cambodian staff for

⁷ PCP meetings were authorised by a joint MOI/MOJ inter-ministerial decision (Prakas) in 2008.

this expertise and to take front-line roles in providing strategic vision was evident during the CCJAG's visit. This needs to be sustained, particularly to secure provincial and sub-national level authorities' engagement in the LJRS. Expertise housed in other donors (such as USAID and Japan) on civil/Roman law could also be drawn upon if the working relationships continue to strengthen. The CCJAG notes that memoranda of agreement with partner provinces now reflect stronger emphasis on the partnership between RGOC (at national and provincial levels) and the GOA.

74. Management of technical assistance personnel centred around key development themes, such as planning and budgeting, human resources management, etc., would allow advisors more space to explore issues with their respective agencies in a strategic manner. Inclusion of Cambodian advisors in a weekly⁸ strategy meeting (which should be no longer than one hour and provide an opportunity for a 'tour de table') would increase pollination of ideas and approaches. Given the RGC's increased focus on reform in the law and justice sector, this thematic team-based approach to issue identification and resolution would improve CCJAP3's responsiveness to LJRS implementation demands. To support a stronger role for Cambodian technical assistance personnel and overall CCJAP3 team coherence in terms of capacity development skills and approaches, consideration could be given to offering professional development opportunities, such as AusAID's "Making a Difference" program.

Flexible Support Facility (FSF)

75. The CCJAG notes that while its previous recommendation that FSF funding be earmarked against CCJAP3 component outputs to focus FSF resources across priority activities has not been adopted, FSF expenditure reporting against component outputs provides a partial picture. CCJAG reiterates the utility of this exercise during the upcoming RGOC planning process for 2010, particularly in the context of pressures on donors due to the global economic crisis. A near 100% allocation of the allotment for NGOs under the FSF is a credit to the NMB and reflects interest by NGOs in working collaboratively with the RGOC, even in areas which NGOs have tended to criticise, such as corrections. The proactive approach to working with NGOs taken by key stakeholders, such as His Excellency General Heng Hak of the GDOP, has already borne fruit and sheds a positive light on the NMB.

76. In view of this achievement, the CCJAG suggests an allotment of a further USD500,000 (from within existing FSF funds) for NGOs under the FSF, seeing this as a key factor to achieving engagement at provincial and sub-national levels for implementation of the LJRS. As noted above in relation to CPCS activities, increased attention to the collation and presentation of performance information relating to FSF-funded NGO initiatives will be important to consolidate ongoing commitment to this work, as well as enabling careful monitoring and management of issues relating to NGO capacities and an appropriate pace of implementation.

77. Sustaining the momentum created through the FSF in the current global economic environment presents particular challenges for donors. As the FSF is designed to support RGOC development priorities under the LJRS, encouraging other donors to participate in the FSF is warranted; the high-level RGOC management participation may be attractive to such donors.

Focusing themes

78. Good progress has been made in supporting the RGOC's efforts on gender through the work of the Gender Mainstreaming Action Groups (GMAG), which have been able to identify gender mainstreaming activities. While the HIV/AIDS Mainstreaming Strategy is an excellent research document, further work is required to practically operationalise opportunities identified in this strategy, through RGOC planning and into CCJAP3 work plans. Similar comments apply to the juvenile justice

⁸ Provincial officers could participate monthly or as otherwise required.

strategy. In terms of addressing the ethics, standards and governance theme, the CCJAG reiterates its suggestion for CCJAP3 to explore opportunities to collaborate with other programs, such as the RGOC PFM Reform, with a view either to facilitating entry of such programs into the law and justice sector, or applying their approaches in the law and justice sector. As stated in CCJAG's 3rd Report, this reflects the need to increase the emphasis within CCJAP3 support on core areas of public administration systems, such as budgeting, planning, M&E, as a shift to a data-driven approach will generate evidence to fuel reform initiatives.

79. A number of issues, including HIV/AIDS, juvenile justice, remains to be progressed. This will require significant well coordinated support from CCJAP3, and other donors, and close consultation with key stakeholders. Operationalisation of focussing themes into the RGOC planning process and into CCJAP3 work plans requires a clear understanding of the steps involved in discussing recommendations with key stakeholders and a solid understanding of the RGOC planning and budgeting processes to formulate activities. Identification of a 'development pathway' to progress individual issues identified by the CCJAP3 team in the meetings mentioned above would maximise the application of local knowledge and expertise to problem solving.⁹

Partnership approach and management

80. A stronger partnership approach as between AusAID and the MC appears evident, through the appointment of a new Team Leader, who appears to be quickly familiarising himself with the Cambodian context. Clarification of communication and engagement protocols between the MC and AusAID would assist in minimising communication risks (mentioned above), so that efforts mutually reinforce the RGOC's reform priorities. This process should also acknowledge that CCJAP3 Team Leader may have (or quickly develop) relationships with key stakeholders, and from the GOA perspective, AusAID would need to ensure that the Team Leader is appropriately briefed by AusAID, and is given sufficient opportunity to brief AusAID, to ensure a coherence approach to stakeholder engagement and project management. Regular formal and informal discussions between AusAID and the Team Leader are required to secure this approach.

Monitoring and Evaluation - Annual Performance Review Report

81. CCJAP3 management is clearly applying more resources to performance assessment than was previously the case. This is a positive development; however care is required to ensure that the approach produces concise information, with clear and considered analysis of the issues involved, avoiding overstatement and unnecessary repetition of raw data sources. Although the CCJAP3 Annual Stakeholder Survey Report (Stakeholder Survey) is relied on heavily in the Annual Performance Review Report (APRR), clarification of the extent to which the Stakeholder Survey findings are significant for the APRR is needed, such as a clear, succinct statement that explains the 'most significant change' methodology, if indeed, this was the primary methodology adopted. In particular, such an explanation should set out the aspects of that methodology that provide the basis for qualitative information being selected and held out as representative of progress (e.g. under Component 4, on what basis are the views of 5 stakeholders considered to be significant/reliable indicators of success).

82. The APRR contains references to 'multiple sources of data' and triangulation of data, in justifying the veracity of the performance claims made. However these references are undermined by the frequent use of qualitative statements by CCJAP3 advisers, in isolation, as evidence of success. The APRR also tends to use self-congratulatory language, which tends to undermine the credibility of the claims made e.g. '*catalysing an impressive array of improvements.*' Quotes from the research manager

⁹ Development pathways are essentially a mapping of the steps required to achieve the desired outcome; they may be issue specific, and this should be part of the CCJAP3 team discussion during the meetings suggested.

for the stakeholder survey are not, on their face, convincing evidence. The "Output Delivery Report" is also referred to in the APRR as though it were a separate (and somehow independent) source of data, when in fact it is a collection of CCJAP3-generated information about progress at the output level. This information is important, but should be used and presented in an appropriate manner. In this context, more could be made of the information in the indicator report - which draws on more quantitative information - including explaining the challenges in terms of availability of data and steps being taken by CCJAP3 to build relevant RGOC capacity to address these challenges.¹⁰

83. The APRR sections addressing the cross-cutting/focusing themes are still relatively weak, and would be strengthened if clearer links could be made between these areas and component objectives and, where possible, relevant RGOC LJRS and/or Ministry level objectives (eg arising out of the GMAG, or the Child Justice Working Group). For example, the current approach of reporting against the sample outcomes from AusAID's gender policy does not make a lot of sense - it is not clear whether these sample outcomes have actually been adopted by the NMB as appropriate for CCJAP3 and how they link to the RGOC's own priorities. Some statements, such as "*CCJAP3 achieved positive gender outcomes including: improved community-and-policy attitudes and practices to reduce domestic violence and sexual assault*", seem to overstate the extent of progress being made. Even in cases where there is evidence of such progress, the role of CCJAP3 should be seen, at most, as having contributed to progress against those outcomes rather than having achieved them itself.

**Capital Works:
Implementation Menu and Guidelines**

84. The Capital Works Implementation Menu forms part of a package of documents which guides the design of the capital works program, supports component objectives and builds capacity of the Law and Justice Agencies in management of capital works. The package of documents produced to date includes: the Capital Works Implementation Menus; Simple Procurement Manual; Flexible Support Facility Principles; Flexible Support Fund – Guidelines and Application Form; and the Capital Works Agreement. A Capital Works Implementation Strategy, which describes the strategy for implementation of capital works and maintenance of structures has not yet been developed and is required. The development of a Capital Works Implementation Strategy would provide direction for the capital works team and improve efficiency on implementation of the program in Phnom Penh and in partner Provinces. The Strategy would need to be supported by a Capital Works Implementation Schedule, which is a Gantt chart, or similar, showing what and when capital works at project sites are to be implemented through the remaining life of the project.¹¹ The capital works team would need to regularly update the Schedule and use it to monitor and evaluate progress of the capital works program, through cross-referencing with cost schedules to verify actual costs expended on capital works.

85. An improvement in reporting on progress of the capital works program would assist CCJAP3, AusAID and the NMB in making management decisions relating to capital works program implementation. The Capital Works Implementation Strategy would need to consider issues such as: the number and diversity of sites; utilisation of existing partner systems; consultation with stakeholders; packaging of work; local resources; agency counterparts; capacity building; project time frame; building

¹⁰ Similar comments apply to the Work Plan - appendix A to the Work Plan articulates the Component 5 headline objective and provides a table of 'Achievement Outcomes'. However, the table lists the achievement outcomes as 'changes' noted by respondents in a stakeholder survey conducted by Damrei Consulting – a piece of work which, by its very nature, cannot be measured or confirmed. The 'change' categories are: systems and processes, behaviours and practises, attitudes, and knowledge and skills. There is little in the way of hard measurable recorded data. Given the absence of reliable and regular information and performance data it is difficult to measure the less tangible outcomes.

¹¹ An example of implementation schedule is attached for inclusion in Annex 7 of this Report.

standards; expenditure; and methods of procurement and supervision. Development of a Capital Works Maintenance Strategy would provide direction on the maintenance of infrastructure provided under this program. This Maintenance strategy would need to focus initially on the projects proposed under the Provincial Roll out Strategy and in Phnom Penh with opportunity for duplication of the approach in other Provinces.¹²

Process of procurement and implementation of capital works activities

86. CCJAP3 proposed to conduct capital works at 19 project sites.¹³ The capital works project sites include Correctional Centre 1 (CC1), Correctional Centre 2 (CC2), Correctional Centre 3 (CC3), Prey Veng Province (3), Battambang Province (3), Kampong Cham Province (3), Kampong Thom Province (3); Banteay Meanchey Province (3); and Kandal Province (1). The Strategic Framework Document proposed that an amount of AUD\$4.5m be spent on Capital Works over the life of the project, with Capital Works projects to be planned in year 1 and implemented in Years 2, 3 and 4. Based on this timeframe the Capital Works Program is approximately 33% in value unexpended or approximately 12 months in time behind schedule. This assessment appears contrary to the statement of progress by the Contractor in the Cambodia Criminal Justice Assistance Project Phase 111 Work Plan (July to December) 2009 that Capital Works "is now progressing on schedule." The lack of progress is supported by the expenditure on Capital Works which is showing approximately AUD\$50,000 spent at the end of Year 2, compared to a proposed amount of AUD\$1.50 m. The reasons for the delay in implementation are many, some within control of the Contractor, and some not. In order to implement the Capital Works Program as proposed for Years 2, 3 and 4 of the project and allow Year 5 to focus on finalising activities and an exit strategy, the following actions warrant consideration:

- Providing additional project management support to the capital works team, with an emphasis on program management, project management, maintenance management and capacity building skills. This could be done either by:
 - (i) a part-time locally-based Project Management Consultant (or firm); or
 - (ii) a short term international capital works adviser.¹⁴
- Reducing scope of works in provincial Roll Out Strategy, based on a priority review conducted in close consultation with stakeholders.

87. While it might not be necessary to take both courses of action, they would assist in completing the capital works program on time and reinforce the Capital Works Implementation Strategy, the main aspect of which is to provide a level of funding to support component objectives and ensure that activities under each component maximise capacity building. Risks associated with capital works, including the risk of not completing the capital works program on time, need to be reflected in the Project risk matrix, which needs to be updated regularly.

Quality and appropriateness of the standard and designs of capital works

88. The design of capital works projects is being undertaken by the CCJAP3 Capital Works team, with structural design outsourced to a locally based international consultant. No uniform national building regulations, codes or standards apply in Cambodia.¹⁵ The local construction industry is familiar

¹² A set of capital works priority needs for police, Courts and prisons is set out in Annex 5.

¹³ Capital works projects to date have been implemented by direct construction management in accordance with the Simple Procurement Manual. The Simple Procurement Manual was developed by the capital works team and 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.

¹⁴ Terms of Reference for a Capital Works Program Advisor are set out in Annex 6.

¹⁵ "Phnom Penh does not currently have building regulations, codes or standards. However, the construction industry and approving authorities (Ministry of Land Management, Urban Planning, Construction and Cadastral are familiar with British

with British standards but standards in general are less than Australian building standards. Australian building standards are in accordance with the Building Code of Australia and are backed by legislation. The structural designs currently adopted are prepared by locally-based international consultants and are in accordance with Australian Standards. These standards were adopted for capital works projects in CCJAP Phases 1 & 2. The use of these standards needs review in terms of suitability and affordability for capital works projects proposed under CCJAP3. The structural standards to be adopted for capital works projects under CCJAP Phase 3 can be divided into 3 categories, each of which reflects a level of quality: (i) an Australian standard designed by a locally qualified structural engineer; (ii) a national standard designed by a locally qualified structural engineer; and (iii) a local standard not designed by a qualified structural engineer or based on any standard but using member sizes used on similar buildings. The higher the standard, the higher the cost of constructing the capital works program and the lower the risk

89. Given the small scale of buildings in the capital works program, it is proposed that option (ii) above, a national standard designed by a locally qualified structural engineer, be adopted which is higher than the local standard and lower than the Australian standard. This standard has generally been adopted in school construction projects and Commune Council Development Projects funded by other donors in Cambodia. This standard of construction is adequate for the Cambodian context, is socially and economically sustainable, and would be replicable by partner agencies.

Potential risks of the small-scale capital works managed by GDOP

90. Small-scale capital works projects are currently managed using a Capital Works Agreement, which binds the project to the grant recipient. The grant is approved by the NMB and funded from the FSF. Potential risks of the GDOP and/or other grant recipients managing the Capital Works Agreement include: not understanding and abiding by the conditions of Capital Works Agreement (the grant agreement); unauthorised changes to the agreed scope of works; poor quality of workmanship; unsafe working conditions; increase in cost; increase in time to complete the works; not adhering to design and structural standards; external contracting requires a significant time commitment by CCJAP3 Capital Works Team to monitor progress; difficulties with the supply and management of resources; and the lack of capability of prison officers and prisoners to undertake the works. Regular project meetings with GDOP and other grant recipients prior to commencement and whilst capital works projects are in progress, including the taking of minutes to record issues, project risks and actions to be implemented, would minimise risks associated with the management of project issues. This will also provide an opportunity for capacity building and enable more accurate monitoring and evaluation of progress of works.

Prison Labour

91. The risk of abuse of prisoner labour in Capital Works is ever present, especially in a development context. A duty of care should exist in all prisons, and close attention should be given to all matters concerning occupational health and safety, especially on construction sites no matter how small. While engaging juveniles and women in prisoner labour is not ideal, using prisoner labour is an internationally recognised practice and is common among most developed jurisdictions. The benefits are many, for the prisoner, the staff and the agency.

92. Chapter 5, Section 2, Article 88 (2) of the draft Corrections Law, states "Juveniles and detainees are not permitted to work in prison industry and farming". The practise requires review and monitoring because juveniles have, for example, been involved in capital works at CC2. A CCJAP3 Capital Works

Standards. Accordingly, Australian standards and guidelines are considered appropriate." Report of the DFAT Overseas Property Office (2005) on the construction of new Chancery in Phnom Penh.

report states that work at CC2 "... is very slow because of juvenile prisoners, who not have an experience in construction works." Neither may they have the strength and stamina. Clarification is required as to the differences between 'prison industry' (for example, garment contracts, small scale capital works), and prison 'work' (cooking).

93. Juveniles in Cambodian prisons and corrections centres are generally aged between 14 and 18 years old. While it may be acceptable for an 18 year old to work on a construction site, the notion of a 14 year doing the same work may not be as readily acceptable. RGOC, CCJAP3 and AusAID leave themselves open to international criticism if the use of juvenile prisoner labour in capital works and prison industry is not clarified.¹⁶ As mentioned above, particular procedures applicable to juveniles (and to women), such as pre-engagement health checks, and regular monitoring of juveniles and women engaged in prisoner labour are also warranted. GDOP should be supported to further develop its policy in relation to use of prison labour, that is realistic and appropriate to the Cambodian context, but which is also in line with accepted international practice, particularly as it relates to women and juveniles.¹⁷

Potential risk of the use of prisoner labour in construction for rehabilitation

94. The use of prisoners and prison guards to undertake construction works at prisons in Cambodia has been effective in the past, and is currently underway at Correctional Centre 1 (CC1) and Correctional Centre 2 (CC2). At Correctional Centre 2 (CC2), some juveniles are engaged in prison labour, although they are unskilled and appear not physically strong enough to perform the labour works. Women prisoners are not involved in construction work at CC2. At this prison capital works would be better undertaken by local contractors or by low security prisoners from neighbouring prisons. The greater potential risk in using prison labour focuses on contravention of International Labour Organisation (ILO) Convention 29 concerning forced or compulsory labour of prisoners. This involves the exploitation of a prisoner's fundamental human rights, such as prisoners being forced to work, prisoners not being paid fairly for work, prisoners not being paid at all for work, and prisoners not working in a safe environment. Risks may involve prisons requesting payments from building contractors for prison labour but not passing on payments to prisoners because labouring work is seen as a rehabilitation and re-integration activity. Prisoners who undertake labouring work are usually provided with extra food only. Other risks involve prisoners being over worked or put at risk of injury; risk of escape; poor quality of works due to using unskilled labour; inability to read engineering plans; security risk for contractors and use of tools as weapons against prison guards. The use of juveniles in prison labour also presents particular risks, including higher risks of injury due to inexperience and manual handling injuries from lifting heavy loads, as well as potential reputation risks for GOA, if instances of exploitation of child labour occur within this context. Conversely, the benefits associated with prison labour include: rehabilitation and re-integration of prisoners back into the local society; improvement in skills development; better health due to being outside and eating more food; ability to earn a small income if fairly paid; improvement in prisoner and prison guard relationships; and

¹⁶ The following is an extract from "Labour Inspection and Child Labour" International Labour Organisation (ILO), Geneva, September, 2001. *"In the context of child labour, however, a child may be a person below the age limit of 15-years, set by the Minimum Age Convention No. 138 (1973) or, in the wider context of the UN Convention of the Rights on the Child (1989), below 18-years. Some light work can be an essential part of a child's socialisation and development process and a means of transmitting acquired skills from parent to child. From the age of 6 or 7 many will be helping around the home, running errands, or helping their parents on the family farm, tending livestock, fetching water or collecting wood. Not all work is harmful to children; work experience can involve acquiring the right sort of skills and responsibilities for the child to become a useful member of the community."* China has set the age at 16 and the *Order of the State Council No. 364, 2002 (the regulation banning child labour)* "prohibits employment of minors under the age of 16 by state organs, social bodies, enterprises, institutions, non-governmental non-profit organizations and private businesses. No institution or individual shall provide employment services to minors under the age of 16."

¹⁷ A summary of the Cambodian prison industry is set out in Annex 4.

increased capability for future maintenance works and low cost of labour leading to reduced cost of capital works.

95. To ensure issues such as fair payment, adequate health, minimum age and safe working conditions for adult and juvenile prisoners involved in capital works projects are provided, the conditions for engagement of prison labour should be included in procurement documentation. This procurement documentation would include the Capital Works Agreement for small-scale building works developed by CCJAP3 as well as in the RGOC local, national and international procurement documents. The construction of the model prison at Kandal in 2006 by the CCJAP II capital works team is a good example of this practice, as the international procurement documents included conditions of engagement of prison labour. The monitoring of the conditions of engagement of prison labour could be undertaken by the OI-GDOP, with support from CCJAP3 and health checks of adults and juveniles provided by either the health post at the prison, or by utilising Ministry of Health officials. It is proposed that the sub-contractor fund such labour contract related health checks and this form part of the terms of the sub-contract.

Roles and responsibilities of the GDOP Office of Inspection and local M&E in monitoring the distribution of the benefits obtained from prison labour

96. The benefits from prison labour will be monitored inside the GDOP by the Office of Inspection for the GDOP (OI-GDOP) and will also assess progress in rehabilitation and re-integration of prisoners involved in prison industry and farming activities. The distribution of benefits to prisoners from industry and farming will be limited to 20% of income as well as having the opportunity for another 10% as a bonus or reward. The remaining 70% will be allocated to support staff, prison operations, support to farming initiatives and prison renovation.¹⁸

97. The OI-GDOP has not yet commenced these monitoring activities, but its work will likely result in an improvement to prison conditions and prisoner rehabilitation if capital works are implemented as proposed. One pathway to sustainability could be joint-monitoring by the CCJAP3 managing contractor and OI-GDOP until the capital works program is complete, or until end of Year 4 of CCJAP3, whichever arrives first. Thereafter, pilot monitoring by OI-GDOP in last year of project un-assisted to test sustainability of monitoring system is suggested.

Engaging RGC officers and prisoners in the management and implementation of capital works

98. There is evidence of increased confidence, capacity and the GDOP's ownership of the implementation of capital works in National and Provincial prisons. The formation of a Technical Group within GDOP and a working party including ICRC, UNHCR, GDOP, Prison Fellowship and CCJAP3 to develop National Best Practice standards for prison infrastructure are positive. The engagement of Provincial Prisons in forming procurement committee with assistance of the GDOP will be greatly assist capital works implementation. Improved management and implementation of capital works by providing accredited training in technical and project management aspects of capital works in prisons need to be considered. The CCJAP3 capital works team needs to provide project management training workshops in Capital Works Implementation Menus; Simple Procurement Manual; Flexible Support Facility Principles; Flexible Support Fund – Guidelines and Application Form; and the Capital Works Agreement. A 1-2 day workshop for counterparts on CCJAP3 Capital Works systems, Capital Works Agreement, FSF Principles – guidelines and application form, Implementation Menu, RGOC procurement methods, and some basic instruction on project management issues such as time, cost, quality, safety, prison labour management is envisaged. These technical workshops also need to cover stakeholder

¹⁸ This allocation of payments is derived from the Annual Report of General Department of Prison 2008 and Direction 2009 pages 6 & 7.

consultation, building design to National structural design standards, development of technical drawings using AutoCAD software, geotechnical investigations, resource management, quality control, and Occupational Health and Safety and Environmental considerations. The training would also provide an opportunity for stakeholder consultation, determining priorities for prison capital works, plan reading, and consideration of building and structural standards. Training on maintenance and budgets would follow, and would need to be developed by the proposed project management consultant, and delivered in Khmer language.¹⁹ In terms of contracting, capital works would be best implemented through combination of competitive bidding by local contractors and by direct engagement of prison labour for minor capital works. The use of both methods would provide management opportunities for GDOP and other grant recipients and serve to consolidate knowledge and skills in implementation systems.

Incorporation of recommendations from CCJAG3

99. Some of the recommendations made by CCJAG during its third visit remain to be implemented. A list of recommendations from CCJAG's 3rd Report, which indicates if the recommendations have been incorporated into current project activities, is set out in Annex 8.

3. Strategic Issues

3.1 Aid Effectiveness Principles

100. CCJAP3 has made key advances reflecting aid effectiveness principles (ownership, alignment, harmonisation, managing for results, and mutual accountability). This should include further consideration of the approach to capacity building and a clearer articulation of how assistance through CCJAP3 is contributing to the RGOC's reform efforts. While CCJAP3 is now positioned so that it is more responsive to RGOC policy priorities, some work still remains in knitting together a coherent internal approach to supporting implementation of the LJRS across justice agencies. CCJAG suggests a team-based approach, which allows the current CCJAP3 advisors (national and international) to approach planning and support to the LJRS along thematic or core themes, such as capacity building, human resources management, and planning and budgeting, would further leverage CCJAP3's impact. Understanding of and links to some other key RGOC reform programs, such as the Civil Service Reform and PFM Reform are not well articulated.

3.2 Integration with and strengthening local systems

101. The CCJAG is pleased to note that CCJAP3 the alignment of CCJAP3's budget cycle with the RGOC's annual planning process. Related to this shift, some further attention is needed to clarify, document and communicate the sequencing of planning and budgeting timelines and decision points as between RGOC and AusAID. This is important to maximise the benefits of budget alignment, particularly to ensure that RGOC/NMB processes are not inadvertently undermined by GOA requirements. There is also an increased need for CCJAP3 to support the RGOC to gather evidence about not only the implementation of the LJRS, but also the performance of the sector itself, and the project's contribution to that performance. An opportunity exists to reposition the CCJAP3 planning, monitoring and reporting arrangements to align more closely with the LJRS strategic objectives, and emerging monitoring and reporting arrangements at both agency and sector levels. Such an approach would also support the NMB's efforts to consider the implementation of the LJRS on a cross-agency basis, with potential for creating efficiencies, strengthening operational linkages and maximising the impact of CCJAP3 assistance overall. Further work on the M&E Framework is required to ensure that it generates information which allows CCJAP3's contributions to be measured in a way which is

¹⁹ This approach supports the GDOP Strategic plan 2008-2013 objective 4.1 strategies "Build capacity in the Office of Construction and Maintenance to oversee construction programs and develop maintenance procedures."

meaningful to AusAID, assists the MC to fine tune Project performance, and generates useful sector data for the RGOC. As mentioned above, there is scope for CCJAP3 to support the GS to collate sectoral baseline data, particularly in the Project's partner provinces.

3.3 Analysis and understanding of context

102. The CCJAG was pleased to note that CCJAP3's new leadership appears increasingly willing to allow Cambodian voices to be heard. This will assist CCJAP3 to be increasingly informed by context-driven analysis. As CCJAP3 nears the halfway point in its implementation term, increased reliance and sourcing of local expertise, such as that suggested for project management support to the Capital Works Team, and collaborating with other donors, remains key, particularly in the context of a rise in focus on implementation sites outside Phnom Penh. Project management would do well to ensure that its national and international staff members are familiar with available domestic²⁰ and international research on justice sector development and governance, and in particular on the interface between D&D and the law and justice sector. All CCJAP3 advisors (both national and international) need to have a solid working knowledge of these issues in order to be effective development workers. Collaboration with other donors on civil/Roman law expertise would also assist to clarify legal and administration of justice issues.

3.4 Donor harmonisation

103. Real opportunities now exist for CCJAP3 to work collaboratively with key donors in the sector, particularly USAID, Japan, and DANIDA. The CCJAG notes the good operational relationship which exists between CCJAP3 and the USAID Rule of Law Program, and CCJAP3 should look for opportunities to facilitate other donors to increase harmonisation and alignment of support to the RGOC LJRS objectives, taking into account donor restrictions. The change in TWG co-chair from France to the USA, further underscores the importance of harmonisation of efforts. Care needs to be taken, however, to ensure that assistance remains RGOC directed and is appropriate for a civil/Roman law context. In terms of coherence of approach, the GOA has put considerable effort into ensuring that its investment in the law and justice sector, through CCJAP3 and through NGO cooperation agreements achieves policy and program coherence, including through aiming to support activities in the same geographical locations. CCJAP3 could do more to maximise its impact, and the impact of other donor programs, in particular GOA funded programs, through increased engagement and coordination. CPCS and corrections call out for increased attention on this front with other GOA-funded programs, such as SCA's Child Protection Program.

4. CONCLUSION

104. As CCJAP3 nears the halfway mark in its implementation, areas of strength and weakness are emerging. Support to the GS and use of the SPM remain central to key achievements in strategic and business planning in the CNP and the GDOP. The NMB's increased engagement with NGOs is also noteworthy. Technical assistance resources need to be harnessed in a more strategic manner to maximise return for investment by GOA and RGOC, and to leverage heightened energy devoted by the RGOC to LJRS implementation. Communication, coordination and stakeholder engagement remain key challenges, particularly as CCJAP3's activities continue geographic expansion to partner provinces. The global economic crisis is also likely to have some impact on the program, and increased engagement with other donors and rationalisation of the FSF allocations will be necessary. Supplementary project management support is required to complete the current capital works program and identification of priorities in capital works menus is necessary. Alignment of CCJAP3's annual

²⁰ Cambodian Development Research Institute has produced a number of documents and research papers on D&D.

planning with RGOC annual planning processes needs to be matched with internal management clarity on identification and progression of issues through 'development pathways'. Further work is required on the CCJAP3's MEF, which should reflect an increased focus on RGOC sector data-generation to drive evidence-based dialogue with MoEF on increased resource allocation for law and justice sector agencies. Care is required to ensure that CCJAP3 M&E systems produce concise information, with clear and considered analysis of the issues involved, avoiding overstatement and unnecessary repetition of raw data sources. Such evidence would usefully feed into the 2010 review of GOA's Cambodia Country Program, and any midterm review of CCJAP3.

ANNEX 1: List of people consulted

CCJAG key: JM – James McGovern; RS – Rath Sophak; RB – Russell Burke; KB – Kirsten Bishop, PS – Patrick Smith. Ms. Arthi Patel, 1st Secretary, Development Cooperation, AusAID and Dr Ros Chhay, Senior Program Officer accompanied the CCJAG on a provincial visit to Kandal and to selected meetings throughout the CCJAG's mission.

Date and location	People consulted	CCJAG
<i>Monday 27 April, 2009</i>		
AusAID office and Himawari Hotel, Phnom Penh	Ms Arthi Patel, 1 st Secretary, Development Cooperation, AusAID Dr Ros Chhay, Senior Program Officer, AusAID	JM, RS, RB, KB, PS
CCJAP3 office, Ministry of Interior (MOI), Phnom Penh	Mr Alan McCagh, Technical Director Mr David Moore, Team Leader	JM, RS, RB, KB, PS
<i>Tuesday 28 April, 2009</i>		
Social Service of Cambodia Office	Ms. Ellen Minotti	KB, JM
CC1 and CC2	Mr. Moug Kim Heng, CC1 Prison Chief and Staff Mr. Chat Sineang, CC2 Prison Chief and Staff Dr Ros Chhay, Senior Program Officer, AusAID Mr Sath Vuthy, Capital Works Project Officer Mr Nou Arun, Capital Works Project Officer	RB, PS, RS
CCJAP3 Corrections Advisor's Office	Mr. Alan McCagh, Technical Director Ms. Cheryl Clay, Community Corrections Adviser Mr Lam Kunboth, Corrections Project Officer Mr Sath Vuthy, Capital Works Project Officer Mr Nou Arun, Capital Works Project Officer	RB, PS, RS
AusAID office, Australian Embassy, Phnom Penh	Dr. Andrew Cornish, AusAID Health Sector Advisor Mr. Brett Ballard, Agriculture Advisor	JM, KB
<i>Wednesday 29 April, 2009</i>		
Ministry of Interior Meeting Room	Mr Alan McCagh, Technical Director Mr David Moore, Team Leader Mr Stephen Moore, DTL & CPCS Adviser Mr Heng Jolie, Senior CPCS Project Officer Mr Chan Vathana, FSF Manager Mr Peter May, 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	JM, RS, RB, KB, PS
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 GDOP staff	RS, RB, PS
Himawari Business Centre Conference Room	Mr David Moore, Team Leader Mr Peter May, Courts Adviser Mr Yan Sokha, Courts Project Officer Mr Ben Schulz, Capacity Building & Aid Effectiveness Adviser Mr Chor Siek Veng, LJR Project Officer	JM, KB
Cambodia National Police(CNP) HQ, MOI	HE Mr Mao Chandara, CNP, Deputy Commissioner	JM, KB
Battambang Provincial Prison	Mr. Chea Yoeun, Prison Chief & staff	RS, RB, PS

<i>Thursday 30 April, 2009</i>		
Kompong Thom Provincial Court	His Honour Mr. Pean Ein, President, Kompong Thom Provincial Court His Honour Mr. Lei Sithon, Vice- President, Kompong Thom Provincial Court Mr. Thong Phalla Rangsey, Judge Ms. Ros Phora, Judge Mr. Yin Sareoun, Judge Mr. Pen Sarath, Prosecutor	JM, KB
CNP Commissariat, Kampong Thom	Mr. Chea Sar, Commissioner Mr. Ouk Kosal, Deputy Commissioner Mr. Chea Peoun, Chief, Office of Felony Investigation Mr. Mein Chamreun, Deputy Chief, Office of Felony Investigation Mr. Khiev Channy, Chief, Office of Forensics Investigation Mr. Por Kim Thong, Deputy Chief, Office of Forensics Investigation Mr. Yeng Sarei, Deputy Chief, Office of Misdemeanour Investigation, Mr. Hout Saravuth, Office of Misdemeanour Investigation Mr. Tith Samnang, Deputy Chief, Legacy Protection Office	JM, KB
Old and New Provincial Prisons, Banteay Mean Chey	Mr. Nuon Vanna, Prison Chief	RS, RB, PS
Battambang Provincial Prison	Mr. Kang Saren, Prison Chief Mr. Hing Chamroeun, Deputy Prison Chief	RS, RB, PS
<i>Friday 1 May, 2009</i>		
Embassy of USA	Ms. Stephany Garvey, USAID Mr. Reed J. Aeschliman .	JM, KB
Fresco Restaurant	Mr. Ian Bate, Police Advisor	JM, KB
DANIDA	Mr Michael Engquist, Governance Consultant, DANIDA	JM, KB
Restaurant Corner 33	Mr. Max Howlett, East West Management Institute (EWMI) Mr. Mark West, EWMI	JM, KB
AusAID office, Australian Embassy, Phnom Penh	Mr Lachlan Pontifex, Counsellor, AusAID Ms Arthi Patel, 1 st Secretary, Development Cooperation, AusAID Dr Ros Chhay, Senior Program Officer, AusAID	JM, KB
<i>Saturday, 2 May, 2009</i>		
CCJAP3 Office, MOI, Phnom Penh	Mr Alan McCagh, Technical Director Mr David Moore, Team Leader	
CCJAP3 Office, MOI, Phnom Penh	Meeting with GDOP	
<i>Monday, 4 May, 2009</i>		
National Management Board, MOI	HE Mr Prum Sokha, Chairman Gen. Nuon Bhopal, Deputy Chair HE Mr. Mao Chandara, CNP Deputy Commissioner HE Mr Heng Hak, Director General, GDOP Mr Lachlan Pontifex, Counsellor, AusAID Dr Ros Chhay, Senior Program Officer, AusAID	JM, RS, KB, PS
Prison Fellowship of Cambodia Office	Mr. Adam Hotchinson, Operations Manager Mr. Prak Kim Hout, Deputy Operations Manager	PS, RS
Restaurant Pho 33	Mr. Duong Vanna, Advisor for Democratic Decentralised Local Governance	JM, KB
Kandal Provincial Prison	Mr. Moung Sam Ath, Kandal Prison Chief	PS, RS
Kandal Provincial Court	His Honour Mr. Khieu Sameth, President of Kandal Provincial Court	JM, KB
<i>Tuesday, 5 May, 2009</i>		
Kandal Province	Mr. Suong Vuth, District Council Mr. Tep Savang, Commune Council Chief	JM, RS, KB, PS

Court of Appeal, Ministry of Justice, (MOJ) Phnom Penh	His Honour Mr. You Bunleng, President, Court of Appeal	JM, KB
MOJ, Phnom Penh	HE Mr. Ith Rady, HE Mr Ith Rady, Deputy Secretary of State, MOJ	JM, KB
<i>Wednesday, 6 May, 2009</i>		
Office of the General Secretariat of the CLJR, Council of Ministers Building, Phnom Penh	HE Mr Suy Mong Leang, General Secretary	JM, KB
CCJAP3 office, MOI, Phnom Penh	Mr Alan McCagh, Technical Director Mr David Moore, Team Leader	JM, KB
AusAID office, Australian Embassy, Phnom Penh	Ms Arthi Patel, 1 st Secretary, Development Cooperation, AusAID Dr Ros Chhay, Senior Program Officer, AusAID	JM, KB
<i>Thursday, 7 May, 2009</i>		
National Management Board, MOI	HE Mr Prum Sokha, Chairman Gen. Nuon Bhopal, Deputy Chair HE Mr. Mao Chandara, CNP Deputy Commissioner HE Mr Heng Hak, Director General, GDOP HE Mr Ith Rady, Deputy Secretary of State, MOJ HE Mr Suy Mong Leang, General Secretary, CLJR Ms Arthi Patel, 1 st Secretary, Development Cooperation, AusAID Dr Ros Chhay, Senior Program Officer, AusAID	JM, RS, KB, PS
CCJAP3 office, MOI, Phnom Penh	Mr David Moore, Team Leader Mr Stephen Moore, DTL & CPCS Adviser Mr Heng Jolie, Senior CPCS Project Officer Mr Peter May, Courts Adviser Mr Yan Sokha, Courts Project Officer Ms Cheryl Clay, Community Corrections Adviser Mr Lam Kunboth, Corrections Project Officer Mr Ben Schulz, Capacity Building & Aid Effectiveness Adviser Mr Chor Siek Veng, LJR Project Officer Mr Sath Vuthy, Capital Works Project Officer Mr Nou Arun, Capital Works Project Officer	JMc, MS, RS, , KB
<i>Friday, 8 May, 2009</i>		
AusAID office, Australian Embassy, Phnom Penh	Ms Arthi Patel, 1 st Secretary, Development Cooperation Dr Ros Chhay, Senior Program Officer	JM, RS, KB, PS

ANNEX 2: Aide Memoire

Aide Memoire

Cambodia Criminal Justice Advisory Group (CCJAG) - Fourth Mission

7 May 2009

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 General Secretariat (GS) of the RGoC Council for Legal and Judicial Reform (CLJR), the Ministry of Justice (MoJ), the Ministry of Interior (Mol), AusAID, the Cambodia Criminal Justice Assistance Project Phase III (CCJAPIII) 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 Ms Arthi Patel, Dr Chhay Ros and Mr David Moore in facilitating the CCJAG's work.

2. Purpose of this mission

This fourth CCJAG mission builds on earlier missions and is intended to contribute constructively to the ongoing implementation of CCJAPIII 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 CCJAPIII progress, including a particular focus on support to prisons. Strategic and cross-cutting issues, including assistance to provinces and capital works, have also been considered.

3. Principal findings

3.1 Progress against components

Overall, CCJAG notes increasing momentum across most CCJAPIII components, stemming from a more strategic management approach and the consolidation of earlier work. CCJAPIII is now better placed to support a more centrally coordinated implementation of the LJRS on the part of RGoC. The following is a summary of recent progress and key challenges.

Component 1 – Legal and Judicial Reform Strategy (LJRS) Implementation Support

As well as being a significant achievement in its own right, the GDoP and CNP experience in developing Strategic and Action Plans has also been used constructively by the GS to inform the development of the new Sector Planning Manual. Although the Ministry of Economics and Finance (MoEF) is yet to formally approve the manual, it has already proven a useful tool for the 'model' courts, who have now undertaken their first strategic planning process ever. The enhanced status of the GS will facilitate further reform in justice sector planning and budgeting processes and remains an important area for ongoing CCJAPIII support. This also represents a key entry point for fostering stronger collaboration and sharing of lessons across Mol and MoJ institutions in their implementation of the LJRS and RGoC's broader public sector reform initiatives. The recent inclusion of the Mol in the CLJR is further evidence of the RGoC commitment to a sectoral approach.

Component 2 – Crime Prevention and Community Safety (CPCS)

Consolidation of CPCS activities is ongoing in partner provinces and at the national level within the Mol's D&D processes. The appointment of an RGoC focal point to lead the development of a proposed national CPCS strategy, together with the emerging interest of the CNP in community policing, including the Civilian Protection Movement (CPM), demonstrates an increasing recognition of the role of state-community partnership in assuring community safety. CCJAPIII will need to ensure that its support to this process provides room for the Mol to foster dialogue and build consensus around an appropriate Cambodian approach to CPCS. On a practical level, the increased workload for D&D staff at provincial, district and commune levels remains a key challenge and is being addressed by CCJAPIII in the short term through support for CPCS facilitators. The broader implications of working across both the executive and judicial branches of government to implement the LJRS in the context of D&D, remains a key challenge for the future.

Component 3 – Cambodian National Police (CNP)

The finalisation of the CNP Strategic and Action Plans is evidence of strong CNP leadership and commitment to both the LJRS and broader public sector reform priorities. This now provides a solid framework to address identified capacity building priorities. CCJAPIII should support ongoing CNP efforts to formulate a community policing model, including through the proposed partner province community policing pilots. This approach will need to incorporate the CPM, and should ultimately contribute to the development of the broader national CPCS strategy. Ongoing forensics training and support for related operational equipment, in partnership with the AFP, continues to be well-received at local levels. Demonstrating the ongoing effectiveness of this assistance, particularly links to increases in forensic-based convictions, will be critical to drive future RGoC budget allocations to ensure sustainability. Work on drafting the new Police Act, led by the CNP with support from the Australian Attorney General's Department and the AFP, is nearing completion. Once finalised, the CNP will need to consider the resource implications for its implementation.

Component 4 – Ministry of Justice and Courts

Progress has been affected by the changeover in international TA personnel which occurred during the review period. It will be important that CCJAPIII renew its efforts to strengthen engagement with key MoJ stakeholders, an issue previously identified by the CCJAG. The imminent shift to the implementation phase of the LJRS 'model court' concept further highlights the need for CCJAPIII, together with other donors such as USAID, to prioritise support to the MoJ in LJRS implementation. International donor interest in a proposed functional mapping of the MoJ, the scope of which needs to be carefully negotiated with the Ministry, may provide a significant opportunity to support the MoJ's role. CCJAPIII should work together with other donors to ensure a strong CJLR-MoJ collaboration, which will be critical to the success of this process.

Component 5 – Corrections

There has been significant progress since the last CCJAG visit, particularly in the area of strategic planning, policy development for prison reform, prisoner management practices, prison industry, NGO engagement, and development of gender mainstreaming. Areas requiring more attention include, pace of infrastructure implementation, accommodation and programs for juveniles, health care, expansion of rehabilitation and reintegration programs, and inspection and monitoring. Opportunities exist to provide a range of low-cost portable infrastructure at a number of prisons visited during the review. Overcrowding remains a critical concern and is likely to be exacerbated by the domestic impact of the global economic crisis, with the possibility that increased unemployment levels will lead to an increase in crime. Further attention is needed to strengthen prisoner management, particularly through courts-prisons cooperation, in the areas of final judgement processes, and, in the context of the imminent proclamation of the Corrections Law, diversion and pre-release options.

Component 6 - Project Management

CCJAPIII continues to address many of the key project management issues previously raised.

Communication and Coordination: CCJAPIII engagement with AusAID and other stakeholders has improved, with a more appropriate positioning of CCJAPIII as a support mechanism for the RGoC reform efforts, however, increased engagement with the MoJ is warranted in recognition of its central role in implementing the LJRS. CCJAPIII continues to expand its support to partner provinces, with the Cambodian project officers and facilitators playing an increasingly pivotal role in ensuring effective and appropriate engagement with RGoC's sub-national governance arrangements. CCJAPIII should continue to support the development of appropriate local level communication and coordination processes across Police-Courts-Prisons meetings. Careful and sustained attention to integrated communication and coordination is critical to the overall effectiveness of GoA assistance under CCJAPIII.

Technical assistance personnel: CCJAG reiterates previous recommendations about the need for greater use of local expertise, a broader range of language skills, and access to technical knowledge of RGoC legal and public sector policy frameworks. Some progress is being made in these areas, including clarification of roles, responsibilities, lines of accountability and recruitment procedures for CCJAPIII project officers, advisers, and salary-supplemented positions, and the development of more integrated team management arrangements. However, further attention will be required to realise the RGoC-GoA commitment to implement MBPI

arrangements through CCJAPIII over the next calendar year. Opportunities also exist to further harness Cambodian TA personnel more effectively, as well as to strengthen collaboration between CCJAPIII and TA personnel working in the sector through other donor-funded programs, particularly USAID's Rule of Law program. Rather than relying solely on CCJAPIII-recruited advisers, the NMB should increasingly be supported to identify appropriate technical expertise through the FSF mechanism and to complement CCJAPIII assistance with other support provided through other donor programs.

Capital Works: Progress in implementation of capital works assistance has slowed during the review period. Project management resources required to complete the capitals work program on time, as well as the overall scope of works, need to be reconsidered. Work to date has focused on engagement with RGoC counterparts, particularly to build a shared understanding of appropriate approaches in the context of varying capacities and expectations across different justice sector institutions. However, given the need to demonstrate tangible progress, parallel consideration and management attention to a range of implementation modalities is warranted – including a combination of contracting-in and outsourcing arrangements. In this context, previous CCJAG recommendations about the integration of capital works initiatives into reform efforts such as CPCS and the Model Courts program need to be carefully considered. CCJAPIII monitoring and evaluation processes, sustainability strategies and risk management should be used proactively to take account of these issues more clearly.

Flexible Support Facility (FSF): CCJAG notes that earmarking of FSF funding against CCJAPIII component outputs, as previously recommended, has not been undertaken. However, recent progress being made by RGoC partners in strategic and activity planning suggests that stronger linkages between articulated priorities and the FSF mechanism will be possible in planning for 2010. The NMB's decisions to target FSF resources to support NGO partners is commended, and provides a solid foundation for the NMB, in consultation with the GS of the CLJR, to further strengthen participation of a broader range of stakeholders in supporting service delivery at local levels. Consideration could also be given to seeking contributions to the FSF from a broader range of donors and/or increasing the allocation for NGOs from existing resources.

Focusing themes: RGoC has developed a strong institutional basis for gender mainstreaming, which provides a solid framework for CCJAPIII support. Similar arrangements for HIV/AIDS and juvenile justice are yet to emerge within the sector. CCJAPIII has developed comprehensive research and internal action plans in these areas, and some further support is required to operationalise the options identified through the annual planning process, including presentation of these options to the NMB for its consideration. Support for the ethics, standards and governance theme remains a challenge. Delivery of CCJAPIII support through RGoC financial and administrative systems, and a greater cross-sector focus on supporting improved public administration (ie planning, budgeting, monitoring and reporting), still represents the best entry point for CCJAPIII to address this theme.

3.2 Strategic Issues – Aid Effectiveness

CCJAPIII's focus on aid effectiveness principles has improved over the review period, including a clearer articulation of capacity building approaches in the forward Work Plan.

Alignment with RGoC priorities and strengthening cross-agency linkages: An opportunity exists to reposition the CCJAPIII planning, monitoring and reporting arrangements to align more closely with the LJRS strategic objectives, and emerging monitoring and reporting arrangements at both agency and sector levels. Such an approach would also support the NMB's efforts to consider the implementation of the LJRS on a cross-agency basis, with potential for creating efficiencies, strengthening operational linkages and maximising the impact of CCJAPIII assistance overall. Using relationships within justice sector institutions as a foundation, the CCJAPIII implementation team should now look for opportunities to support increased attention to systemic and policy issues that resonate *across* justice agencies, such as human resource management, information management, planning, budgeting and reporting processes. A flexible approach to the CCJAPIII contractual framework would also assist in increasing NMB engagement on resource allocation under CCJAPIII, particularly to emphasise that the use of international TA personnel is just one of a range of modalities available to stakeholders to address their capacity development priorities.

Integration with and strengthening local systems: CCJAG reiterates the importance of CCJAPIII capacity building efforts focusing on strengthening and, over time increasing integration with, RGoC's annual planning,

budgeting, monitoring and reporting processes. In this context, steps taken to align the CCJAPIII planning and budgeting cycle with that of the RGoC are strongly supported and commended. To further consolidate this approach, the CCJAPIII monitoring and reporting framework can also be further refined to more explicitly support relevant RGoC processes at ministry and sector level. CCJAPIII should seek to further streamline its M&E framework and reporting, and proactively foster dialogue with sector stakeholders on these issues. In collaboration with key donor partners an opportunity exists to develop truly multi-donor reporting in this sector. The forthcoming national workshop on the LJRS may also provide the stimulus for an up-to-date picture of the state of the justice system in Cambodia. An initiative of this kind (eg a rapid review of the justice sector) would support RGoC efforts to reinvigorate the LJRS reforms and would provide some measure of the impact of the reform agenda to date. A CJLR coordinated evaluation of progress may also present a timely opportunity for the justice sector agencies to consider the medium term affordability of implementing the LJRS.

Operating environment: CCJAPIII should support the RGoC to minimise the impact of the global economic crisis in the law and justice sector by partnering with other donors to meet LJRS priorities. Rationalisation of CCJAPIII-supported activities, including the capital works program and opportunities for further localisation of TA personnel, may be required. Any reprioritisation of GoA support needs to be effected through a carefully managed process of sectoral consultation by AusAID, through existing NMB decision-making procedures.

4. Methodology

The findings of this mission are based on the review of CCJAPIII documentation, as well as information and observations from discussions with RGoC counterparts at national and provincial levels, CCJAPIII personnel, AusAID staff, key donors and NGO partners undertaken between 27 April – 8 May 2009. The CCJAG team were: James McGovern, Team Leader; Russell Burke, Capital Works Specialist; Rath Sophak, Capital Works Specialist; Patrick Smith, Corrections Specialist; and Kirsten Bishop, AusAID Law and Justice Adviser.

ANNEX 3: Recommendations

Component 1 – Legal and Judicial Reform Strategy Implementation Support

LJRS progress

IMS progress

1. CCJAP3 should support exploration of options for a GS-led sector-wide impact study (rapid assessment of the law and justice sector), which pulls together information from a range of sources, including RGOC, CCJAP3's MEF, and external (contracted) studies, including perception surveys and impact studies; consideration should be given to replacing the CCJAP3 stakeholder survey with this GS-led approach.
2. CCJAP3 to support the GS's identification and implementation of alternative, supplementary processes, in addition to a communication strategy, to build deeper awareness and support for the LJRS across government.
3. CCJAP3 should support increased engagement between the Courts, the MOJ and the MoEF in relation to planning and budget processes to ensure the benefits of the Sector Planning Manual are realised in budget terms.

Progress on outputs

4. CCJAP3 needs to support the GS's implementation of the Sector Planning Manual, through working closely with justice agencies to build M&E capacity to gather relevant data and conduct planning, with a view to increasing the quality of evidence-based budgetary dialogue between justice agencies and the MoEF.
5. National and international CCJAP3 advisors assisting the GS need to collaborate closely with all other CCJAP3 advisors to ensure that every opportunity is taken to use RGOC planning and budgeting processes to secure increased resources for justice agencies.

Work Plan

6. Management related outputs contained in the CCJAP3 Work Plan for Jul-Dec 2009 would be better addressed under Component 6; a clearer identification of outputs that address thematic and/or systemic issues, such as planning and budgeting and human resources management, across justice agencies is required; and alignment of the CCJAP3 Work Plan to the seven LJRS objectives, and at an output level, to relevant RGOC ministry strategic/action plan outputs/outcomes would be beneficial.
7. A clearer sequencing of activities under Component 1 is required; clarification of terms of reference for the ongoing national advisory position is required.
8. The CCJAP3 Work Plan under Component 1 needs to incorporate support for the GS' efforts at engaging justice agencies in dialogue about the LJRS in a strategic manner.

Component 2 – Crime Prevention and Community Safety

9. CCJAP3 support to CPCS implementation needs to facilitate opportunities and foster dialogue between various state and civil society stakeholders to build consensus on an appropriate Cambodian approach to CPCS.
10. CCJAP3 to support comparative research on implications of implementing LJRS in the context of D&D across the executive and the judicial branches of government.
11. CCJAP3 to support local authorities' impact assessment of CPCS activities with a view to engendering a thirst for data, which can feed into dialogue about increased budget lines where the link between activity and investment can be drawn.
12. CCJAP3 to ensure that all opportunities to coalesce efforts with donors and NGOs in partner provinces are pursued, with a view to pooling resources and producing mutually reinforcing impact.

Component 3 – Cambodia National Police

13. CCJAP3, through partnership with the AFP, to support CNP leadership to formulate a Cambodian community policing model, through provision of expertises in community policing and through support to community policing pilots in partner provinces. Where expertise is not available through the AFP, CCJAP3 should source expertise in community policing.
14. CCJAP3 to support the CNP to develop appropriate M&E data and crime statistics which can be used to justify increased recurrent operational budget for forensics equipment, training and impact monitoring for the CNP.

15. CCJAP3 to support the CNP to cost the operationalisation of the Police Act.
16. CCJAP3 to clarify the role of the Gendarmerie within the context of the Cambodian criminal justice system.

Work plan

17. The Work Plan for Component 3 requires more practical activity descriptions, which identify a set of concrete activities.
18. Support for forensics capacity development and monitoring needs to be matched by a focus on core administrative and budget processes which assure sustainability of this initiative.
19. Focus on core administration issues, such as generation of M&E data and crime statistics, which can support budgetary discussions, for the CNP is also warranted. A
20. An activity which supports the CNP leadership to develop a community policing model appropriate to the Cambodian context needs to be included in the Work Plan.
21. GOA discuss with the CNP its detailed technical assistance requirements, with a view to ensuring that needs are met through an appropriate combination of technical assistance personnel contracted through CCJAP3 and provided by the AFP.

Component 4 – Ministry of Justice and Courts

22. CCJAP3 needs to explore opportunities for fostering increased dialogue and partnership both internally, across the various departments within the MOJ, and between the MOJ, the MOI and the MoEF. CCJAP3 should help to create the space, and provide support for MOJ counterparts to take a stronger lead on critical new initiatives such as the proposed functional mapping exercise, as well as the implementation of the model court, gender-mainstreaming activities and juvenile justice initiatives. The CCJAP3 team will also need to work closely with AusAID and other donors to ensure a strategic and coherent approach to engagement with RGOC counterparts within MOJ and more broadly.
23. CCJAP3 Work Plan to include exploration of options to strengthen core public administration systems, which support improved transparency and accountability within justice agencies, and support increased dialogue and sustainable RGOC-led responses to the CCJAP3 focusing and cross-cutting themes.

Progress

24. CCJAP3 Work Plan to describe a key strategy and clear sequencing of how it will support the MOJ to harness donor resources and support donor harmonisation under Component 4, with particular attention to working with TWG co-chair USAID to engage in dialogue with the MOJ on its response to key challenges, including: strategic and business planning; the transfer of responsibility for Model Courts administration to the MOJ; exploration of options to establish national Court administration procedures; dialogue with the Court of Appeal; and exploration of support to training needs for the MOJ identified through the upcoming MOJ functional mapping exercise.
25. CCJAP3 to explore with MOI and MOJ options for reviving operational level police-Courts-prisons coordination at provincial levels, including establishment of Court Users' Group.
26. CCJAP3 to explore with the GS the options for bringing the question of the LJRS-D&D interface before the CLJR, in the context of the upcoming revision of the RGOC D&D plan.

Model Court transfer to MOJ

27. CCJAP3 support to the MOJ to prioritise leadership for and assess the cost of the implementation of the Model Court concept.
28. Increased collaboration between Court of Appeal and the MOJ on Model Court implementation is required to consolidate LJRS efforts, including Court administration,²¹ case management and strategic planning, in all provinces where assistance is being targeted. It could be suggested to the President of the Court of Appeal that His Honour might take the lead on Model Court implementation from the Courts' side.

Component 5 - Corrections

Small-scale capital works

29. Discussions to be held between CCJAP3, GDOP and AusAID to identify a Cambodia-specific procurement procedure that meets both GOA and compliance requirements and is appropriate for the Cambodian context.

²¹ Yet to be determined.

30. An ongoing inspection, monitoring and review of procedures, practises, registers, records, and bank accounts should be part of a systematic approach to ensuring accountability in procurement and contract management, and to ensure ethical use of prisoner labour and prisoner health and safety.

31. In a capacity building environment AusAID needs to acknowledge that the risks exist and that these risks need to be balanced against the benefits of increased confidence, ownership and learning on behalf of the agency, and skill development and earning capacity on behalf of the prisoner, including juveniles.

32. CCJAP3 to support GDOP efforts to establish a functional, active, appropriately resourced and trained Prison Inspection Review and Monitoring Unit, as a priority action.

33. CCJAP3 to support GDOP efforts to manage capital works implementation, where possible, and including ensuring full consultation and access to capital works documentation, including in Khmer language.

Maintenance and sustainability

34. CCJAP to develop maintenance options with GDOP to ensure that the infrastructure (the investment) is adequately maintained and kept in a reasonable state of repair, including nominated maintenance staff and maintenance schedules at each prison, which is monitored by an Inspection and Review Unit annually.

35. CCJAP should investigate the viability of using solar delivery systems, for example, to provide electricity and hot water (solar equipment is available in Cambodia).

Standard of prison facilities

36. The GDOP should be supported at every level to facilitate the roll-out of a standard design for prisons. In this respect CCJAP3 should consider discussing with the GDOP the usefulness of a compliance study across the provincial prison against GDOP standards.

37. CCJAP3 should support the GDOP to raise staff accommodation as a matter for discussion when considering prison design. Options for other donors to support construction costs also warrant exploration.

Prisoner discipline

38. CCJAG recommends that Sub-committee for Discipline and Morality be monitored to ensure that no prisoner has power over another, that no prisoner disciplines another, and that prison officers do not abrogate their responsibility of duty and care.

Reform, rehabilitation, reintegration and community-based supervision

39. CCJAP3 to support the GDOP to identify and work with international and local NGOs on pre-release programs and community corrections initiatives, such as community supervision. This could be facilitated via the NGO-prisons meetings.

Prison farm and prison industry

40. CCJAP3 should explore ways to support the GDOP's plan to establish a prison farm, including through scoping and further study of models.

Financial management

41. CCJAP3 to work closely with the GDOP to establish a bank account-based system of receiving and distributing prison industry funds, including a debit system for prisoner payments, based on the amount of funds in the prisoners' account that provides a paper trail of transactions to maximise transparency and accountability.

Civil society

42. CCJAP3 should support the GDOP to establish quarterly NGO-prison workshops for prisons and correctional centres in partner provinces. Renewed effort is also required to support the GDOP to develop a communications strategy to keep civil society and NGOs otherwise informed and engaged.

43. CCJAP3 to prioritise supporting GDOP and provincial authorities in partner provinces to coordinate civil society's provision of supplementary health services for prisoners, where necessary.

Juveniles

44. A more active engagement with the GDOP is required to identify and develop ways to support the GDOP to implement specific prisoner management practices for juveniles.

Gender

45. CCJAP3 and GDO to pursue allocation of a Ministry of Health counterpart to work with the GDOP and the CCJAP Corrections Component team.

Governance

46. Efforts aimed at supporting an effective Inspections and Review function within GDOP need to be pursued as a priority with the NMB.

Risks

47. CCJAP3 should support GDOP to clarify the position on the use of juvenile prisoner labour – and articulate juvenile prisoner labour engagement procedures which minimise risks to GOA, RGOC, and CCJAP3.

Areas of likely success – diversion programs

48. CCJAP3 to support NMB's consideration of diversion programs, including through legislation.

Prisoner Transport

49. CCJAP3 to seek the NMB's support for a prisoner transport pilot, subject to confirmation of a RGC budget line (either national or provincial) for maintenance and fuel costs in partner provinces (or in selected partner provinces).

Component 6 – Management Support Team and Flexible Support Fund

Communication and coordination

50. AusAID and CCJAP3 to establish a rolling schedule of meetings with key stakeholders to promote opportunities for dialogue.

51. Increased attention on engaging a range of stakeholders within the MOJ is required, particularly to assure the successful implementation of the Model Court concept in partner provinces.

52. CCJAP3 and AusAID to support the enlivening of Police-Courts-Prisons meetings in partner provinces, as opportunities for operational-level discussions.

Technical assistance personnel

53. CCJAP3 to collaborate with harmonising donors to source a pool of expertise on civil/Roman law, with particular emphasis on administration of justice by ministries of justice and by Courts in civil/Roman law jurisdictions.

54. The Managing Contractor to coordinate a weekly meeting of Cambodian and international technical advisors to discuss CCJAP3 progress and challenges centred around thematic development issues, with a view to increasing CCJAP3's responsiveness to LJRS implementation demands.

55. CCJAP3 to support the identification of 'development pathways' to progress individual issues through the weekly CCJAP3 team meetings.

FSF

56. Earmarking a further USD500,000 for NGOs under the FSF, with a view to this allocation supporting efforts in partner provinces, is recommended.

57. The RGOC, the GoA and CCJAP3 encourage other harmonising donors to participate in the FSF as a high level RGOC-led multi-donor fund, supporting LJRS implementation.

Focusing themes

58. CCJAP3 to operationalise through RGOC planning and into CCJAP3 work plans, opportunities identified in HIV/AIDS and Juvenile Justice Strategies.

59. CCJAP3 to explore collaboration with other programs, such as the RGOC Public Finance Management Reform, with a view either to facilitating their entry into the law and justice sector, or applying their approaches.

Partnership approach and management

60. AusAID and the MC to clarify communication protocols, following arrival of the new CCJAP3 Team Leader, with a view to ensuring a coherence of approach to stakeholder engagement and project management. This process should also acknowledge that CCJAP3 Team Leader may have (or quickly develop) relationships with key stakeholders, and from the GOA perspective, AusAID would need to ensure that the Team Leader is appropriately briefed by AusAID, and is given sufficient opportunity to brief AusAID.

M&E - APPR

61. Care is required to ensure that the APPR produces concise information, with clear and considered analysis of the issues involved, avoiding overstatement and unnecessary repetition and interdependency of raw data sources. Clarification of the extent to which the Stakeholder Survey findings are significant for the APPR is needed. Reliance on CCJAP3 advisors and the Output Delivery Report as sources of data justifying progress reflected in the APPR should be avoided.

Capital Works

Capital Works implementation menu and guidelines

62. CCJAP3 to develop a Capital Works Implementation Strategy and a Capital Works Maintenance Strategy.

63. CCJAP3 to Develop, and regularly update, a Capital Works Implementation Schedule, including cross-referencing with cost schedules to verify actual costs expended on capital works.

Procurement and implementation of capital works activities

64. CCJAP3 to provide additional project management support to the CCJAP3 Capital Works Team, with an emphasis on program management, project management, maintenance management and capacity building skills either by:

- (i) a part-time locally-based Project Management Consultant (or firm) or
- (ii) a short term international capital works adviser.

Further, CCJAP3 supports a priority review of the scope of works in provincial Roll Out Strategy, conducted in close consultation with stakeholders, to examine where any reduction in the scope of works might be possible.

65. CCJAP3 to include in the project risk management matrix risks associated with capital works, including the risk of not completing the capital works program in required timeframe.

Construction and design standards

66. CCJAP3 to support adoption of a national standard designed by a locally qualified structural engineer for small-scale building works.

Risks of small-scale capital works managed by GDOP

67. CCJAP3 Capital Works Team to conduct project coordination meetings with the GDOP and other grant recipients to discuss capital works risks and project management issues. CCJAP3 to provide secretariat services for these meetings, including making a written record of the minutes and actions from the meetings and disseminate these to attendees.

Prison Labour

Clarification of prison industry and prison work

68. CCJAP3 to support the GDOP to clarify whether juveniles are permitted to work in prison industry and farming, and to define the differences between 'prison industry' and 'prison work'.

Risks of prisoner labour

69. Any engagement of adult and juvenile prisoners in prison capital works projects needs to take place under the framework of promoting rehabilitation and re-integration in accordance with the GDOP Policy Framework for Prison Reform. Such engagement needs to be clearly articulated in procurement documentation and contracts.

70. Prisoner labour contractors need to contain a requirement that regular health monitoring of prisoners, (both adults and juveniles) is a contract condition, with such monitoring conducted either by Ministry of Health officials or private medical services, and funded by the sub-contractor.

71. CCJAP3 to support efforts by the OI-GDOP to monitor conditions of engagement of prisoner labour.

OI-GDOP M&E for capital works

72. GOA requires that contractors support the monitoring of prisoner rehabilitation and re-integration by the Office of Inspection for the GDOP, and that these activities are reflected in CCJAP3's Monitoring and Evaluation Framework.

73. If the GDOP is unable to influence and improve support provided to the Prisons Inspection Unit, CCJAP3 should consider supporting GDOP to develop an in-house monitoring and inspection capacity.

74. Paper trails, and a program or process of readily auditable transactions, should be established so that they can be monitored for correctness and transparency by either the Prisons Inspection Unit, or by an internal GDOP M&E unit.

Engagement of RGC officials and prisoners in capital works

75. CCJAP3 supports the GDOP and provincial authorities to establish a Procurement Committee at each prison proposed for capital works.

76. CCJAP3 provides training in technical and project management aspects of capital works for grant recipients.

77. CCJAP3 supports capital works procurement through a combination of direct engagement of prison labour under a minor capital works agreement and by competitive bidding by local contractors.

78. CCJAP3 supports capital works procurement through competitive bidding for capital works projects for the CNP, Courts and CPCS.

CCJAG3 Report recommendations to be implemented

79. CCJAP3 to implement all capital works recommendations from third CCJAG report.

Priority needs for prisons, Courts and other components

80. CCJAP3 supports the NMB to maintain the current priorities for capital works in prisons, courts and Police posts, and reconsider small-scale capital works projects to support CPCS implementation.

81. CCJAP3 supports the GDOP to investigate use of solar panels, composting toilets and increasing number of water tanks at prisons.

Small-scale capital works – priority needs - corrections

82. CCJAP3 to revisit with GDOP Overcrowding in the prison system particularly in the context of the almost certain upward pressure on prisoner numbers resulting from the global economic recession, with a view to identifying and supporting GDOP's implementation of a range of solutions.

Kompong Thom – existing prison

83. CCJAP3 support GDOP and provincial authorities to immediately conduct the following low-cost work, all of which should be portable so that it can be transported to the new prison:

- repair / provide roofing as required to the cell-blocks (cheap corrugated plastic sheeting would suffice);
- provide a similar roof to the legal visits 'room';
- extend the smaller of the two structures in the main yard to increase the accommodation floor space for juveniles and low security prisoners – and provide elevated boards on which to sleep for both areas; and
- provide a portable toilet for prisoners and staff to use when they are outside the main yard.

84. A portion of FSF funds should be set aside for 'emergency' urgent and small-scale infrastructure repair.

Kompong Thom – proposed new prison

85. The small-scale capital works request for the proposed new prison at Kompong Thom appear to warrant support, as these amenities would otherwise not be constructed and the current aid focus has changed to health and social well-being, the works are a necessity and are part of the Policy of Prison Reform.

Banthey Mean Chey

86. The following works need to be scoped as a matter of priority:

- An expert review of water supply and demand is required;
- Increased ventilation – given the solid fabric of the cell blocks any solution will be expensive;
- Increased internal separation fencing – so that more prisoners can spend more time out of cells;
- Increased security fencing for the vocational training building – which is outside the main prison compound;
- Concrete or paved roads and pathways are required through and across the prison; and
- Provision of sewing machines to set up an industry – the Prison Chief has contacted a garment factory near the border.

Strategic Issues

Alignment

87. Aligning CCJAP3 planning, monitoring and reporting more closely with the LJRS strategic objectives, cross-referenced to CCJAP3 component objectives, would assist RGOC and GOA in assessing progress and determining future priorities.

Donor Harmonisation

88. CCJAP3 to take full advantage of GOA's investment in complementary law and justice programs in the same geographic locations.

ANNEX 4: Cambodian Prison Industry Summary

1. The 'prison industry' program in Cambodia is for convicted prisoners only who have medium and low security rating and has been implemented CC1, CC2, CC3, Kandal, Pursat and Battambang prisons.

- 20% of the industry income is distributed to prisoners who participated in the work.
- 40% goes towards supporting prison operations.
- 20% is reinvested in industry and farming initiatives in other prisons.
- 10% is used to pay prisoners who participate in daily routine prison work (kitchen etc).
- The remaining 10% is used for renovation programs.

2. The draft Corrections Law 2008, Chapter 5, Section 2, Articles (89) and (90) allows the General Director to enter into a contract to allow prisoners to work for any organisation or individual, to enter a contract to sell the products, and to keep the income from prison industry and farming in a bank account to:

- pay prisoners;
- develop and sustain prisoner industry;
- improve conditions for all prisoners; and
- improve facilities for all prisoners.

3. The interest earned from the money held in the bank account may only be used for the same purposes. Article (91) states that the interests of the prisoners and their vocational training must not be made subordinate to the pursuit of financial profit.

4. Prakas 217 (header dated 31 March 1998), is the Prison Industry and Farming Procedure – it is signed by General Director Heng Hak on 31 March 2008, and includes the following points:

- *The prison must establish contact with a garment factory or local enterprise to provide opportunities for the practical needs of prisoners returning to the local area.*
- *The prison must establish an accounting system to appropriately manage income and expense of prison industry and farming.*
- *The income earned from prison industry and farming is divided into four distributions:*
 - 1. To support the staff and prisoners directly involved in the production work including prisoners who provide daily services is allocated 60%.*
 - 2. As reward and incentive for prisoners who present with good achievement in employment is allocated 10%.*
 - 3. To support daily prison operation is allocated 10%.*
 - 4. To support for the expansion of industry and farming included to Provincial Municipal Prisons 14% and 6% for administration service.*

Staff in charge of prison industry and farming shall have the following tasks:

- *Record and maintain a register of working hours and rate of prisoner wage.*
- *Maintain register for income and expense of individual prisoner.*

5. Using prisoner labour is an internationally recognised practice and is common among most developed jurisdictions. The benefits are many, for the prisoner, the staff and the agency. In a capacity building environment AusAID should acknowledge that the risks exist and balance them against the many and varied benefits of increased confidence, skill development, ownership, rehabilitation, reintegration, increased capacity, learning and self sufficiency.

ANNEX 5: Capital Works Priority Needs

Priority needs for infrastructure/capital works

105. Capital works have been scoped and budgets approved for prisons, courts and police posts at Phnom Penh, Prey Veng Province, Battambang Province, Kandal Province. No scoping works to date have commenced at Kampong Thom Province, Bantey Meanchey Province and Kampong Cham Province. The capital works implementation menu proposed capital works to support CPCS component objectives. There has been no scoping of works or any indication that capital works are proposed to support this component. Capital works projects proposed in the implementation menu such as multi-purpose village halls; assistance to improve current facilities used by local networks which contribute to community safety, such as women's groups; and health programs and development of facilities within Pagoda system to support crime prevention activities need to be considered.

106. In addition to addressing overcrowding, the priority needs for capital works in prisons should remain focused on addressing sanitation improvements, water supply, health posts to Ministry of Health standard to qualify for medicine supply, workshops and farming to support rehabilitation and re-integration, fencing to promote outdoor activities, separation of men, women and juveniles and meeting rooms to improve access to justice. Priority needs for court buildings centre around the model court concept and can be applied to Bantey Meanchey Province and Kompong Thom Province.

107. Priority needs for police posts should concentrate on the best practice (model police post) concept for Kandal Province, Prey Veng Province and Battambang Province. Subject to sustainability considerations, such as identification of budget lines for maintenance, a forensics investigation database also warrants consideration. Providing capital works at prisons which support both component objectives and sustainability, such as farming to provide food and income, water tanks or connection to town water supply to reduce the cost of provision of potable water, sewing and selling garments, using prison labour in construction projects to fund prison improvements is worth consideration. Solar power panels for electricity supply should also be investigated. Solar panels have been installed in the current schools construction project and are suitable for supply where electricity demands are low. Composting toilets may also be worth investigation at the new prison recently built at Bantey Meanchey, and for the new prison proposed at Kompong Thom. Installation of more water tanks for rainwater collection at each prison to increase storage capacity also merits consideration.

Small-scale capital works – priority needs (corrections specific)

108. CCJAG notes that the GDOP has provided preliminary advice to CCJAP3 that its short-term priorities are: health clinics; ventilation, light and classification; physical separation of women and juveniles; lawyer and family visits; staff accommodation; and hygiene and sewerage. GDOP also advised that its strategy for overcrowding is to construct a new central prison, CC4, to hold longer term offenders. In light of this advice, CCJAP3 appears to have lessened its intention to address overcrowding as a priority for Provincial facilities.²² CCJAG does not agree with this last statement, and especially with the focus turning to prisoner health and wellbeing. Overcrowding in the prison system generally should be on the agenda for discussion between CCJAP3, AusAID and the GDOP,

²² CCJAP 'Implementation Menu' for Component 5.

particularly in the context of the almost certain upward pressure on prisoner numbers resulting from the global economic recession.

Kompong Thom – existing prison

109. This prison, built circa 1910 by the French, is described as the worst prison in Cambodia and currently holds 220 prisoners. Prisoners are kept in dark, unventilated and harsh conditions: there are no ‘facilities’ to speak of. Indeed, the Prison Chief stated that he arranges with the lawyers of women with children to have the children removed to an orphanage. The only positive thing that can be said is that women, men and juveniles sleep in separate places (although juveniles sleep with low-security males). Staff members suffer similar conditions. To describe the very rudimentary structures donated by NGOs as (i) accommodation and (ii) an ‘education building’ is both inventive and generous. ICRC however, has arranged water and sanitation and LICAHDO provides some medicines.

110. There appears to be a reluctance to spend any funds at this prison because a new one is “imminent”. The commencement date for construction is not yet known and is estimated to take approximately three months. The current conditions at this prison warrant urgent attention and there is scope for CCJAP3 to support the GDOP and provincial authorities to conduct small-scale capital works, some of which could later be transported to the new prison site. CCJAG notes that other donors and NGOs might also be available to assist the GDOP and provincial authorities in such small-scale works.²³ More generally, it is also suggested that a portion of FSF funds be earmarked for this kind of urgent small-scale works.

Kompong Thom – proposed new prison

111. A site has been selected for the new prison at Kompong Thom and the appropriate documentation has been approved. A wooden fence is being constructed to delineate the boundary, although no actual construction commencement date is determined as yet. Small-scale capital works identified for which funding through the FSF has been sought includes: accommodation for women and juveniles; a health centre; vocational training building; and a building for legal visits. These requests are expected to be supported and they support the current focus of the GDOP’s Prison Reform Policy.

Banteay Mean Chey Prison

112. Designed by a Thai company, the new prison has an impressive look – from the outside. Inside the perimeter wall there is more than sufficient land to cope with any required expansion of prisoner accommodation or facilities and exercise space. However, the prison is currently without any separation fencing which limits opportunities for prisoners to be out of cells. The new health centre has a series of rooms – all completely empty; the nurse’s station has no desk or chair. The prison design and construction does not comply with any CCJAP3 or GDOP standards. Doors to the cells allow only very short people to enter, and the lack of ventilation is apparent. There is a lack of concrete pathways across and throughout the prison.

113. CCJAG is concerned that the Prison Chief is only allowing 7 to 10 prisoners out during any one shift – citing lack of fencing, prisoner / staff ratios and staff safety as reasons. Given the prison is holding 500 prisoners this practise should be reviewed immediately. The CCJAG also noted with concern that a number of very young juveniles was being kept in the same cell as adult males. The

²³ Prison Fellowship is considering providing a raised floor and a shelter – and should be supported in their endeavours.

Prison Chief is continuing to hold 62 prisoners at the old prison and expects to move them into the new prison in the near future. There is an absence of prison industry.

114. Water supply was raised as the most critical issue. CJAG was advised the prison needs 75 litres of water per prisoner per day for washing and cleaning purposes (which seems extravagant) - the prison is buying in drinking water. There are no gutters or water harvesting systems. A header tank outside the prison walls holds 3,000 litres of water pumped up from the river and is apparently insufficient for the prison: and the quality of the water is poor. CCJAG suggested that the 5,000 litre plastic water tanks from the old prison be transferred to the new one to double the storage capacity supply. The prison chief is trying to negotiate a town water supply for drinking purposes only. An expert review of water supply and demand is required.

ANNEX 6: TOR – Capital Works Program Management Advisor

Position Description Capital Works Program Management Adviser (Law and Justice)

Background

The Government of Australia (GOA) has been providing support to the criminal justice sector in Cambodia since 1997, when the first phase of the Cambodia Criminal Justice Assistance Project (CCJAP1, 1997-2002) commenced. This was followed by a second phase of support (CCJAP2, 2002-2007).

GOA has committed to this third phase of the CCJAP project (Feb 2007- Jan 2012). CCJAP3 consists of support in several key areas: Police; Courts; Prisons; Crime Prevention and Community Safety; and support for the Royal Government of Cambodia's Legal and Judicial Reform Strategy. The focusing themes are anti-corruption and justice for juveniles and other vulnerable groups. It is critical that this investment has demonstrable results.

A considerable amount of capital works has been undertaken in phases 1 & 2 and with phase 3 capital works aimed at:

- Small high value projects over the whole of the law and justice sector;
- Projects which can be implemented by counterpart agencies, as a basis for capacity-building and sustainability.

Capital works projects are therefore limited to:

- Alterations and refurbishment of existing buildings;
- Additions and alterations to existing complexes of buildings, including small new buildings;
- Support to Royal Government of Cambodia (RGC) to support improvements in planned new law and justice building works.

The Capital Works Program is funded through the Flexible Fund Facility (FSF) which provides funding to activities that support the project component objectives, and also assists the partner agencies develop broader capital works policies and strategies.

The position of Capital Works Program Management Adviser is an opportunity for a suitably qualified applicant to advise CCJAP3 on program management, project management, contract management, maintenance management and capacity building to support the capital works requirements of CCJAP3.

Key Result Areas

- Management, coordination and oversight of CCJAP3 capital works program;
- Development of maintenance strategies and management, coordination and oversight of maintenance programs;
- Capacity building of institutional processes, project and partner agency personnel and the identification of opportunities to build and maximise capacity building initiatives under capital works activities.

Main Activities

- Provide strategic oversight of infrastructure activities and to undertake planning, direction and monitoring against the objectives of the capital works program;
- Effectively consult with key stakeholders to help determine capital works projects to support component objectives;
- Provide a critical, technical perspective on capital works being undertaken to ensure that appropriate methodologies and techniques are being adopted;
- Carry out appraisal, assessment and review of project designs and proposals in association with project capital works officers and partner agencies;
- Undertake strategic analysis of capital works program to ensure the Program is being developed and implemented in line with such analysis, noting partner agency priorities and longer term concerns over sustainability and affordability;
- Undertake contract monitoring, evaluation and assessment of contractor performance; and
- Ensure infrastructure activities are able to integrate any relevant strategies from broader RGC initiatives and those of other donors.

Selection Criteria

1. Demonstrated high-level Infrastructure Program Management and implementation experience, in a challenging environment meeting deadlines and achieving required outputs in a timely, effective, efficient and sustainable way;
2. Proven ability to provide strategic direction, critical analysis and program advice on infrastructure activities supporting longer term development goals;
3. High-level interpersonal, representation and liaison skills including the ability to provide advice and communicate effectively both in writing and orally, with a diverse range of stakeholders, including senior representatives of the RGC and from GOA;
4. Demonstrated understanding of cultural diversity and proven capacity to engage, work with, and develop collaborative relationships with culturally, socially and ethnically diverse groups in an effective manner in remote or developing country contexts;
5. Proven ability to mentor, train and support two project capital works officers and partner agency counterparts through capacity building and skills transfer; and
6. Relevant qualifications to provide technical and advisory services described.

Reporting

The position will report to the Team Leader.

Location

The position is primarily based in Phnom Penh, Cambodia, but will require regular travel to the provinces.

Duration

The position will be for an initial contract period of 24 months.

ANNEX 7: Example Implementation Schedule for Capital Works

Task Time	Year 1				Year 2				Year 3				Year 4				Year 5			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Output 6.11																				
Task A																				
Task B																				
Task C																				
Task D																				
Task E																				
Task F																				
Task G																				
Task H																				
Task I																				
Task J																				
Task K																				
Task L																				
Task M																				
Task N																				
Task O																				

ANNEX 8: Incorporation of CCJAG3 Capital Works Recommendations

The following list highlights which CCJAG 3 recommendations have been incorporated into current project activities:

No.	Recommendation	Outcome
1.	Develop a strategy for stakeholder consultation, evaluation and priority setting.	Not implemented
2.	Form a capital works stakeholder focus group.	Procurement committee formed with Ministry of Justice. Informal design group chaired by General Department of Prisons and includes United National High Commission for Refugees, International Committee for Red Cross and CCJAP3. Objectives to develop designs for water, sanitation, building design, prison layout. No progress in forming capital works committee with CNP.
3.	Translate the procurement documents into Khmer language.	Document translated but Agencies do not understand documents.
4.	Develop a management structure and management method for implementation of capital works with each agency suited to each project site.	Not implemented – see recommendation No.1 from CCJAG4 re Capital Works Implementation Strategy.
5.	Adjust speed of implementation of capital works to suit capacity of counterpart agencies.	Speed of implementation of capital works too slow for GDOP. Capital works at Battambang court and Prey Veng court awaiting MOJ approval since February 2009. Little engagement with CNP regarding implementation capacity for capital works.
6.	Develop a capital works risk matrix.	Not implemented.
7.	Adopt a risk management approach to determine building standards.	Adopt Australian standard in building design. (See recommendation 74 in this report regarding adoption of a national standard.)
8.	Develop a safety management plan for each capital works site.	Undertook safety training at current work sites, no safety management plan developed.
9.	Undertake regular project meetings with the implementing agency whilst capital works in progress including taking minutes to record project issues and actions.	Not implemented.
10.	Engage prisoners and prison guards in capital works projects.	Implemented.
11.	Monitor and evaluate the benefits and challenges of capital works projects using prisoners and prison guards and record as minutes at project meetings.	Not implemented.
12.	Establish a forensics computer database to assist police investigations.	Not implemented.
13.	Verify that changes to courtrooms will support the DANIDA court model.	Implemented.
14.	Re-evaluate scope of works in prisons to improve access for prisoners.	Implemented through Donor technical working group.
15.	Guidance be provided to implementing agencies on methods of project implementation. (See recommendation 74 in this report regarding adoption of a national standard.)	Not implemented.
16.	Establishment a Monitoring and Evaluation Framework for capital works projects.	Not implemented.

ANNEX 9: List of CCJAP3 Staff Members

	NAME	POSITION
1	Alan McCagh	Project Technical Director
2	David Moore	Team Leader
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	Peter May	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	Vacant	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	MOI Liaison Officer