

Australia Assistance on Criminal Justice in Cambodia

Legacy Review

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Executive summary

Since 1997 and over four different phases, Australia has provided continuous law and justice support to the Royal Government of Cambodia (RGC) through the Cambodia Criminal/Community Justice Assistance Partnership (CCJAP)¹. The four CCJAP phases provided assistance to the police, courts and prisons, with a combination of technical advice, capacity development and capital works, focused on selected partner provinces. Each phase varied from its predecessor, as each adopted a different approach to correspond to the changing Cambodian environment in which it was conducted. Conceptual changes in law and justice development also contributed to the variation in CCJAP's approach over the 19 years of programmatic activity.

Over its nineteen-year history, CCJAP reported a range of achievements, among the most significant of which has been prisons development. Above and beyond, capital infrastructure, of key sustainable import has been the agreement with the Ministry of Health to accredit the prison health services, as prison health workers are now supported by Operational District Health Services and provided with greater access to drugs and medical equipment. Another notable achievement has been the inspirational effect CCJAP has had on the Cambodian National Police (CNP). Overall, the assistance CCJAP provided – from the capital investment in building and renovating police posts to the various training courses to the introduction of the Community Policing (CP) pilot in Phase IV – enabled senior officials to begin to think differently about police and policing and launch its own crime prevention/reduction initiative.

The Legacy Review also highlights a number of important law and justice lessons learned, some of which are also applicable to development endeavors more generally. Among these lessons learned are, first, that development is possible, even in difficult political environments, but programs need to be grounded in solid analysis of where the opportunities lie, and need to temper their ambitions to what is realistic and achievable. Four specific types of 'moments of political opportunity' exist – champion of change, spaces and fissure, tension and conflict, and at the societal margins – and need to be analyzed accordingly. When they arise, donors need to forge alliances, support constituencies for change, and assist in propelling feasible and pragmatic development before the window of opportunity closes, which it will.

Second, in law and justice programming, there is a dynamic tension between best practice and context. Even though it is crucial for practitioners to be conversant with international best practice, there should be no presumption that best practice is necessarily transferrable, applicable and appropriate in every context. Third, the most effective law and justice programming methodology is a flexible, problem-solving approach. This requires a supple or iterative design, which begins by working

¹ CCJAP was renamed from the Cambodia Criminal Justice Assistance Program to Cambodia Community Justice Assistance Partnership for the fourth and final phase.

on a limited set of issues and looks for opportunities to broaden the engagement once a better understanding of the political and institutional climate has emerged. Fourth – mirroring the experience of other law and justice programmes around the world – supporting the development of sectoral law and justice strategies is unlikely to improve performance. Fifth, CCJAP supported large and small capital infrastructure projects. The key to undertaking such development is to layer infrastructure (hardware) with organisational and managerial reform (software). When multi-layering of programming does not occur, capital infrastructure projects tend to be ineffective and produce little value for money.

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1. Introduction

This Legacy Review examines the 19-year history, from 1997 – 2016, of Australia’s support to the Cambodia’s law and justice sector. The CCJAP, whose history can be divided into the four phases of the program, was the vehicle by which that support was provided. The goal of this Review is to assess ‘what CCJAP has been left behind’ and what lasting effect the program has had on the Cambodian criminal justice institutions and, most importantly, for the intended beneficiaries, Cambodian citizens.

This Review is divided into six sections, including this Introduction. The second section summaries the methodology of the Review and the third briefly outlines the history of the program. The fourth synthesizes the outputs and achievements of each of the four phases and the fifth characterizes the principal legacies of the 19-year Cambodia Criminal Justice Assistance Project, with the potential to endure over time. The sixth and last section identifies key lessons learned across the history of program.

1.1 Research Methodology and its Limitations

This Legacy Review was designed as a desk review, consisting of a close reading of Completion Reports and evaluations of CCJAP Phases I – III from which was generated a set of ‘most significant’ outcomes and results. The conclusions of the Independent Evaluation of Phase IV, an assessment conducted by the same team as undertook this Legacy Review, were also taken into account.

Taken together, these claims and conclusions were assessed against additional documentary evidence, materials generated by the program (such as surveys and National Management Board minutes) and third party reports. A limited number of interviews were undertaken with key stakeholders from each of the main branches of the justice system. Selected discussions with well-informed independent observers were also conducted.

This Legacy Review is limited in scope and does not, for example, assess the extent to which CCJAP supported or was supported by, related Australian aid investments, such as its gender equality, violence against women, or anti-trafficking against persons initiatives. The Legacy Review also does not discuss the various ways in which DFAT’s political engagements supported the reforms that CCJAP supported, as that is beyond its purview.

2. History of CCJAP

Cambodia offers a challenging and complex environment in which to support law and justice development. Cambodia emerged in the early 1990s from two decades of conflict and genocide with its justice institutions almost completely destroyed. The subsequent 20 years has seen a long and often slow process of post-conflict state

building. Even though there is sufficient political openness to allow for competitive elections, the ruling party has succeeded in absorbing or splintering its main rivals and the political environment has been characterized as a ‘one party plus’ system. It is in this complicated environment that the CCJAP has been conducted.

Beginning with consultations in 1994 to design what became the first phase of CCJAP, the Australian Government has supported the Royal Government of Cambodia (RGC) with criminal justice sector assistance. From 1997 through to June 2016, CCJAP has progressed through four phases. All four phases provided assistance to the police, courts and prisons, with a combination of technical advice, capacity development and capital works, focused on selected partner provinces.

Each phase varied from its predecessor, as each adopted a different approach to correspond to the changing Cambodian environment in which it was conducted. Conceptual changes in law and justice development also contributed to the variation in CCJAP’s approach over the 19 years of programmatic activity.

Over the four phases, the total Australian contribution to the development of criminal justice totalled at least \$67.7 million (including monitoring and evaluation costs).

CCJAP Phase	Timeline	Spend
Phase I	1997 - 2001 ²	\$13.9 million
Phase II	2002 - 2007	\$19.4 million
Phase III	2007 - 2012 ³	\$25.7 million
Phase IV	2013 - 2016 ⁴	\$8.7 million

2.1 Phase I

Cambodia’s law and justice institutions emerged decimated from the years of conflict with little capacity, weak legitimacy, and only a handful of trained lawyers remaining in the country. CCJAP Phase I concentrated on the provision of technical assistance to the Judicial Police, Courts and Prisons service. The objective was to stand the criminal justice system up, enable the institutions to begin to function, and strengthen human rights within the Cambodia law and justice agencies. Training was a key element across the program.

The efforts by CCJAP’s advisors within the Judicial Police concentrated on promoting greater professionalism and efficiency, with one of the activities being the development of an operational procedures manual. Phase I staff worked to introduce new processes, procedures, and manuals. For the courts, this included accountability systems on arrest and imprisonment and a handbook of criminal law

² Phase I had a program extension from April 2000 – June 2001.

³ Phase III began transitional activities in February with full implementation beginning in July 2007.

⁴ Phase III was to close in February 2012, but, extended twice, did not officially close until January 2013; Phase IV began in March 2013.

and procedures. With the Prisons Department, the goal was, first, to support the separation of prison operations from the Cambodian National Police (CNP); second, to improve basic prison facilities, especially for the treatment of women and juvenile prisoners; and, third, to ensure the provision of minimal health services to the prisoners.

Phase I also had a large capital infrastructure component.

Working in five provinces and Phnom Penh, Phase I employed ten full-time Australian and a number of short time technical advisers.

2.2 Phase II

After five years of post-conflict (re)construction of the criminal justice system, Phase II shifted CCJAP's focus toward equitable access to justice. Other than the construction of the new 'model' prison in Kandal, the activities of its six components⁵ were largely concentrated on institutional capacity building. Greater attention was also given to trying to establish partnerships between the criminal justice system and civil society organizations.

Program activities were divided between localized implementation efforts in Phnom Penh and Kandal Province, to pilot initiatives that could thereafter be scaled up, and national efforts within the Ministries of Interior (MoI) and Justice (MoJ), and with the General Department of Prisons (GDoP). Support was given, for example, on improving the investigative capacity of the CNP, the drafting of a National Crime Prevention Strategy Framework, the development of a new Court handbook, and better juvenile justice and victim support practices. One of the objectives in the judicial component was to separate the courts and the prosecutorial functions. Institutional strengthening projects concentrated on the development of the RGC Legal and Judicial Reform Strategy (LJRS) and its plan of action, as a mechanism by which to articulate and coordinate law and justice sector priorities.

The Crime Prevention and Community Safety (CPCS) initiative was also launched. The CPCS was designed, first, to build capacity for commune leaders and village chiefs as implementers of community policing approaches in cooperation with the CNP and, second, to increase the awareness of local residents in general, particularly of

⁵ "Crime Prevention and Community Safety – working mainly within Kandal province and in 11 districts within the province;

- Investigation Skills and Capacity – working mainly with the police departments at national level and at provincial level in Kandal province;
- Trial and Sentencing – working with the Ministry of Justice, the courts and Judiciary.
- Prisoner Health and Rehabilitation – working mainly at the national level and in Kandal province, but also with two other major prisons and with prison Governors from around the country;
- Institutional Strengthening – working mainly at the national level with the Ministry of Justice and the Ministry of Interior; and

Project Management" *Independent Completion Report: Cambodia Criminal Justice Assistance Project PCCJAP II*, July 2007, p. 7.

women and youth. This initiative was seen as a way in which CCJAP could better align its local programming with the RGC's National Decentralisation and Deconcentration Reform Framework (NDDRF).

In the prisons, Phase II supported large-scale infrastructure projects. The most substantial investment was in a new 'model prison' in Kandal, designed to showcase good corrections practices. However, the new facility was too different from the rest of the prisons infrastructure to serve as an effective model, and was not in fact used to showcase reforms. Furthermore, the prison rapidly became overcrowded, which nullified its value as a model prison.

It provided assistance to the development of a Corrections Management System, including its budgeting process. Support was also given in the formulation of a corrections strategy plan and continued improvements in prisoner health and rehabilitation.

In Phase II, the number of full time-long-term Australian technical advisors was reduced to six full time Australian advisers, supported by short-term consultants and twelve Cambodians. Local law and justice support was only conducted in one province, Kandal Province.

2.3 Phase III

A decade into its law and justice support for the RGC, it was evident that the Cambodian populace continued to exhibit low levels of trust and confidence in the CNP and the judiciary. The access to justice approach was also perceived, despite the LJRS, to have continued the 'silo-ing' of support into the separate institutions and agencies of the law and justice sector.

In response, CCJAP modified its program activities and sought a more integrated law and justice approach. This meant that Phase III "no longer look[ed] to work through in-line positions but through cooperation at a strategic level particularly in the areas of community safety, gender based violence, and the human rights of detainees."⁶ The program also explicitly integrated and aligned its activities into three of the seven objectives espoused in the LJRS that had been produced and, therefore, supported the capacity of the Council on Legal and Judicial Reform and its General Secretariat to coordinate implementation of the LJRS. Across the law and justice sector, therefore, the program assisted in the drafting of strategic plans and budgeting procedures for the CNP (along with annual plans), MoJ, and GDoP.

Institutional capacity development continued with judicial assistance for the drafting of Criminal Codes Legislation and a project undertaken to develop non-custodial and alternative sentencing procedures. A 'model court' initiative was launched with the intention to develop further a Courts Procedures Handbook. Efforts continued to develop court registries and train Court Registrars. In corrections reform, prisoner

⁶ Briefing: Meeting between HOM and HE Sar Kheng, Thursday 1 August 2013.

health and rehabilitation work developed a “prisons model” and additional training was provided to prison personnel, focusing on executive capacity development.

In policing, training was provided to improve the technical skills and management capacity of the CNP in investigations, forensics, and case file preparation. Effort was also undertaken to increase the role of female CNP officers in the investigation and prosecution of crimes against women and children. Assistance was also provided for the development of a national system of crime statistics, mirroring comparable work on data systems in MoJ and the courts’ information management efforts.

Phase III introduced a new approach to capital investments. Rather than constructing large new facilities, it used investments to adapt existing facilities (e.g., security fencing and health posts for prisons; refurbishment of courthouses). It also tried to integrate these investments better with its capacity building work – for example, investments in prisons were designed to support the implementation of new standard operating procedures.

CCJAP also deepened its CPCS support in an effort to align and integrate CPCS more fully into RGC’s Village and Commune Safety Policy (VCSP), which was a key part of the NDDRF. This effort represented a move away from the previous CCJAP emphasis on crime prevention/reduction. Implementation of the CPCS’ awareness-raising workshops and training were conducted by and through the assistance of sub-national authorities, and, for instance, the CNP and Commune Committee for Women and Children (CCWC). Above and beyond awareness-raising, utilizing the CNP as implementers of the CPCS had a twofold purpose: to bring the RGC closer to the populace and thereby increase its legitimacy and to increase the capacity of the RGC through its delivery of programming.

Phase III expanded its geographic coverage, echoing the work conducted in Phase I. Nine provinces were targeted, rather than just the Phase II pilot initiative in Kandal Province. Capital infrastructure continued with the building of the Kandal Court and police posts, among other capital programs.

In this phase, CCJAP also reduced its reliance on long-term Australian technical advisors.

2.4 Phase IV

After sixteen years, it was announced that CCJAP Phase IV was to be the fourth and final phase of Australia’s support for law and justice development in Cambodia. Phase IV focused on three programmatic outcomes, each of which was a continuation and deepening of previous support:

- Reduced prison overcrowding through the introduction of pre-trial judicial mechanisms;
- Crime prevention programming for women, children and youth to create safer communities; and

- Effective management of the law and justice sector through the collection and use of data.

During this phase, with the closing of the CPCS, a new pilot initiative was launched, the Community Policing pilot. The CP pilot completed the transition that had begun in Phase III from crime prevention/reduction to community-policing programming. The core activity of the pilot was the development and introduction of four tools:

- identification of local neighborhood/community safety and security challenges;
- mapping of safety and security incidents;
- planning technique to address clusters of incidents; and
- logging of ways in which incident clusters were addressed.

3. Outputs and Achievements of CCJAP

Over its nineteen-year history, CCJAP reported a range of achievements. This section outlines the more significant outputs and accomplishments of each of the four phases of the program. This section also identifies a number of programmatic efforts that did not succeed. These are highlighted for reference for discussion in Section 4 as lessons to be learned from CCJAP.

It should be noted that this section does not attempt to classify each and every CCJAP endeavor as to whether it was effective or not. Such analysis resides in the various program completion reports and the 2012 Mid-Term Evaluation of Phase III.

3.1 Phase I

Prison development represents the most significant achievement of Phase I. Of greatest import is the increase in the number of hours that prisoners were able to spend out of their cells, almost doubling from 3.3 to 6 hours per day, which notably improved the physical and mental health of the incarcerated. Significant institution building outputs were also achieved, including the separation of the GDoP from the CNP/MoI, the establishment of correctional facilities dedicated to housing women and children detainees, and the initiation of a prisoner health strategy. Administrative and operational prison procedures were also drafted.

In a parallel project, administrative and operational procedures were drafted for the Judicial Police and Criminal Law Procedures were written, a prerequisite for the courts to begin to hear criminal cases according to international standards.

As part of the program's initiative to rehabilitate the criminal justice institutions, various units were established within the CNP, including Juvenile Support, Child Sexual Exploitation, and Sexual Assault. Beginning the long-term effort to improve the use and management of information, a National Police Information unit was created, as well as a Computer Training School. CCJAP support also ensured that the

CNP adhered more frequently to international standards for the detainment of individuals.

Capital construction took place in four provinces, including two new police stations, a new courthouse, accommodation for women and children in five prisons and a new prison training school.

3.2 Phase II

Agreement by the Ministry of Health to accredit the prison health services marked an enormous step forward in corrections development, as prison health workers were supported by Operational District Health Services and provided with greater access to drugs and medical equipment. Capital construction was another principal achievement of Phase II, including the new Kandal prison, refurbishment of the Kandal Court and Prosecutor's buildings,⁷ and upgrading of health clinics at Kandal Prison and Correctional Centre's 1 and 2 in Prey Sars. The importance of the Kandal prison was that it was a tangible reflection of a 'model prisons' management and rehabilitation approach of the GDoP.

A new Court Procedures Handbook was completed, although the subsequent passage of the Criminal Procedure Legislation meant that the Handbook would have to be revised and updated. Extensive training for Court Registrars was undertaken, but CCJAP was unable appreciably to improve the court records management system. Phase II successfully supported the separation of the prosecutor's unit from the courts. However, there was "failure to get any movement on non-custodial sentencing."⁸

The launching of the CPCS was strongly supported by the Governor of Kandal Province and 120 awareness-raising training programs and projects were conducted. During the evaluation of Phase IV, a number of stakeholders indicated that CCJAP's support provided through the CPCS persuaded the RGC to develop its Village and Commune Safety Policy approach, which is a notable achievement.

On the other hand, Phase II "was not able to produce... a National Crime Prevention Strategy Framework."⁹ The CNP were given a "great deal of training... with little evidence that much has changed in terms of policing practices or attitudes,"¹⁰ particularly with regard to investigation and skills capacity.

There were "extremely limited gains" made in improving gender equity despite 150 CNP female officers being trained.¹¹ One of the reasons identified was that

⁷ It should be noted that according to the Independent Completion Report, the Kandal prison, while the already overcrowded, was being adequately maintained, but the Court building was not, *Independent Completion Report Team*, July 2007, p. 11.

⁸ *Independent Completion*, p. 8.

⁹ *Ibid.*, p. 12.

¹⁰ *Ibid.*, p. 8.

¹¹ *Ibid.*, p. 13.

there was a “lack of sound, in-depth research into the underlying issues around gender equity and especially how these manifest in the law and justice sector.”¹²

Finally, the LJRS and Plan of Action were drafted, setting out the RGC vision for law and justice development.

3.3 Phase III

Phase III’s more integrated approach to law and justice planning produced a series of policies and strategic plans, including the CNP’s Strategic Plan and Annual Action Plans, and the first ever Strategic Plans for MoJ and GDoP. New laws on corrections were passed and a Court registration system completed and implemented, although not used for managerial purposes. Prison conditions progressively improved with regard to increased ventilation, lighting, food and sanitation, and health services.

During Phase III, over 300 CPCS awareness-raising trainings were conducted, attended by 6,000 beneficiaries, 60% of whom were women and 20% youth. These activities were increasingly integrated into the VCSP and the NDDRF.

Capital infrastructure building accelerated too, including the building of 17 police post buildings, 4 judicial police buildings, 4 court buildings, 1 appeal court building, 4 prison health clinic buildings, 3 prison workshop buildings, 2 prison kitchen buildings, 6 prison family visit buildings and 7 prison holding cells.

At the same time, very few of the efforts to improve inspection, monitoring and reporting systems in the law and justice sector produced any visible results. Nor did efforts to encourage the exchange of performance information between the various institutions and agencies of the sector.¹³ There also seemed to be “a lack of political commitment to judicial reform” of the part of the RGC.¹⁴ No progress was made on the implementation of the LJRS or on introducing overarching management of the law and justice sector.

3.4 Phase IV

While two of the three components of Phase IV were closed prematurely due to lack of evidence that additional programmatic effort would produce tangible results, the process by which CCJAP progressively closed these components through an ‘on call’ mechanism with the MoJ and GDoP was a success and an example of good development practice.

During Phase IV, CCJAP placed greater scrutiny on budgetary controls and vigorously emphasized issues of value for money. This helped to lower the overhead and administrative costs for implementing CPCS activities from 42% to 15% of total costs.

¹² *Ibid.*

¹³ *Completion Report*, July 2012, pp. 11-12.

¹⁴ *Ibid.*, p. 12.

The transition in CCJAP's programming that occurred during Phase IV from CPCS to the CP pilot had an inspirational effect on the CNP. Overall, the assistance CCJAP provided – from the capital investment in building and renovating police posts to the various training courses to the introduction of the CP pilot – enabled senior CNP officials to begin to think differently about police and policing. The four tools of crime prevention/reduction introduced by the CP pilot were sound, intelligent, and reasonable and, in response to CCJAP's support, the CNP launched its crime prevention/reduction initiative.

In Phase IV, however, a number of empirical studies were conducted that indicated that overall CCJAP has not been successful in increasing overall safety and security in Cambodia. Furthermore, because the data has not and cannot be disaggregated by gender, CCJAP is unable to speak to whether its programming had any positive effect on the safety and security of women and children.

4. CCJAP Legacy Results

Within CCJAP's overall outputs and achievements three results stand out of special note:

1. the establishment of a healthcare system within the correctional system;
2. the transition of the CNP toward a more crime prevention/reduction approach; and
3. the development of a small group of Cambodia staff conversant in law and justice.

Each of these accomplishments is an outcome rather than an output. Each also has a reasonable likelihood of being sustained. For that reason, the successful establishment of court registries is not included as a CCJAP legacy. The registries exist and data continues to be entered into them. However, that data is not used to manage court performance and, therefore, the accomplishment remains notable but is an output rather than an enduring legacy.

Similarly, the CPCS initiative has raised the awareness of thousands of Cambodians on a number of crucial law and justice challenges, such as domestic violence, trafficking of persons, and traffic safety. This is a significant output. It is, however, not a sustainable outcome. Awareness wanes over time and there is no known causal relationship between increased awareness and a change in behavior. Furthermore, the empirical evidence collected by CCJAP suggests that safety and security has not improved as a result of increased awareness of rights.

Over its four phases, CCJAP has supported the building of capital infrastructure, from prisons to police posts. Construction and renovation of facilities is crucial for the development of an effective law and justice system. However, it is not a sufficient condition for qualifying as an enduring legacy of the program. The legacy of the new prison in Kandal is a case in point. Conditions have improved, but the prison is now considerably overcrowded and the improvements achieved are at significant risk.

4.1 The Corrections System

CCJAP has produced a rare result in law and justice development programming, a notable improvement of a corrections system. CCJAP has assisted in the establishment of an independent GDoP; supported the introduction of new corrections legislation and administrative rules, regulations, and procedures; and improved prison services across the board, all of which has directly benefited the wellbeing of the incarcerated and strengthened prison security. In addition, the program has facilitated and supported the establishment of a lasting working relationship between two national ministries and agencies, the GDoP and the Ministry of Health (MoH), to improve the healthcare of those imprisoned in the country's corrections system. Healthcare workers in the corrections system are now certified by the MoH, as are the health posts in which they work. The MoH now provides medicines and supplies as well and, despite ongoing challenges, the ongoing working relationship between MoH and GDoP accrues to the benefit of those who have been incarcerated.

This result is not just about prison development, the healthcare of the incarcerated, and their human rights, all of which is in itself more than significant. The result also centers on CCJAP's having promoted and supported the creation of a successful collaborative relationship between two independent government agencies so that working together they are able to produce an improvement in a tangible, measurable, and real public good and service. It is an example that a defined problem-solving approach can be successful across government agencies and is a model of good development practice.

To achieve these results, CCJAP, over all four phases and more than a decade of patient assistance, supported a series of prison system development initiatives. In Phase I, CCJAP provided medical supplies and conducted training and assisted in the drafting of the training curriculum for prison health staff. During this phase, the first iteration of the Prison Health Operating Manual (PHOM) was drafted. Phase II witnessed the establishment of the relationship between the two RGC institutions, building of capital infrastructure and an updating of the PHOM to meet MoH protocols. Finally in Phase IV, the PHOM had to be revised again to coincide with new MoH guidelines.

4.2 CNP Transition to Crime Prevention/Reduction Orientation

The gradual awakening of the CNP to the benefits of adopting a proactive crime prevention/reduction orientation rather than a reactive suppression policy is a notable accomplishment of CCJAP. This is a profound change in philosophy, organizational culture and practice that necessarily takes many years to accomplish, but which has made visible progress in the Cambodian context. Comparable to the changes that have occurred in the corrections system, it is a rare occurrence in law and justice programming to witness a national police service transition to a new

policing approach through the support provided by a donor. In the case of Cambodia and Australia, this transition is, in many ways, inspirational.

The CNP transition began in Phase II with the initiation of the CPCS. Even though it was conceived as a project to reduce crime, the CPCS was, effectively, a nascent community-policing endeavor designed to bring communities and police closer together through awareness-raising and legal education, much of which was delivered by the CNP. Alongside the CPCS, the RGC had begun the NDDRF, which, among other objectives, was intended to stimulate local development through administrative decentralisation and deconcentration. As part of that project, the VCSP was launched.

Through Phase III and into IV, the program sought to integrate and align the CPCS with the VCSP as a means by which to enhance local safety and security, as well as augment the legitimacy of the CNP, all of which is consistent with the rationale of community policing. In Phase IV, however, it was decided to close the CPCS and introduce a pilot project, the CP pilot, whose four tools, which are sound and reasonable, define the essence of a crime prevention/reduction initiative.

According to the CNP, the cumulative effect of the assistance CCJAP has provided – from the capital investment in building and renovating police posts to the various training courses to the introduction of the CP pilot – enabled senior police officials to begin to think differently about police and policing. The CNP were encouraged by the construction and renovation of police posts that occurred in Phases III and IV, which has had a positive effect on the residents in surrounding neighborhoods, as Cambodians perceive that they have greater access to the police. The physical condition of the posts has also generated a perception in the public that the police in the posts are providing more responsive service and conduct more active patrolling.

In July 2015 CCJAP-sponsored a seminar conducted by the CNP, at which the crime prevention/reduction approach of the CP pilot was further elaborated. Thereafter, the Department of Administrative Police Post Affairs (DAPPA) submitted a request to the General Police Commissioner to scale up the CP pilot exercise from three to twenty-two provinces. The General Police Commissioner, after consulting with Deputy Prime Minister and Minister of Interior, approved the scale-up.

Unquestionably, CCJAP deserves credit for seizing upon the political opportunity that prompted a reformist change in the CNP.

4.3 Human Capital of Cambodia Staff

When CCJAP began in 1997, the years of war had had a devastating effect on the country's human capital. For the first two phases of CCJAP, the program was heavily dependent upon Australian long-term technical advisors and short-term consultants. Cambodians primarily worked as interpreters, drivers, and administrative staff.

While CCJAP sought to improve the effectiveness of RGC institutions, along with the capacities of their personnel, an unintended consequence was the development of the program's own Cambodian staff as, in Phases III and IV they became the primary implementers of the CCJAP. This shift is not only good development practice. It can have a lasting long-term effect as the program has built a cadre of knowledgeable law and justice practitioners who can work across the sector and in different organizations, institutions, and agencies – public, private, INGO, and NGO.

5. Lessons Learned

Over its 19-year history, CCJAP has amassed a number of lessons learned. This section enumerates the most important ones.

5.1 Political Context and Political Openings

CCJAP shows a mixed history of achievement. A number of ambitious law and justice development objectives did not progress, despite sustained efforts from the program. The court system in particular has proved to be impervious to reform. On the other hand, there was important progress in specific areas, most notably in the corrections but also in some elements of policing.

The pattern of achievement has an evident political logic to it. The political economy analysis of Cambodia shows that the control of the justice system and security services protects political and economic interests. There has been steadfast resistance to any initiatives that would move towards greater judicial independence. There has been little enthusiasm for reforms that would increase the transparency of court operations (or any other law and justice institution), so as to facilitate external accountability. Though difficult to prove, there is evidence that RGC has kept the Ministry of Justice as a weak institution with no real capacity to manage the court system, let alone reform it.

The effective work with the corrections system is marginal to these political interest. The regime has no reason to resist measures to improve the health of prisoners or the quality of prison infrastructure, provided that donors are willing to pay for them. The prison service receives a minimum level of budgetary support from the state, and therefore has an interest in partnering with a donor. The GDoP's leadership had an interest in modernizing and professionalizing the prison service, which formed the basis of an effective partnership.

The success with the police has a different political significance. The CNP is influential and relatively well resourced. It has not been willing to accede to development that challenges its basic structure or increases its level of accountability. However, its leadership has shown a strong interest in professionalizing aspects of policing. It has also been supportive of measures that can appreciably improve the interaction between police and local communities and the capacity of local police to respond to community needs. This reflects a wider

interest by the Cambodian regime in decentralization and local democracy, in order to increase its legitimacy among its core rural constituency.

While there is a clear political logic to what is achievable in the Cambodian context, the program has been relatively inefficient at identifying these opportunities and focusing its resources where they can be most impactful. The designers of the different phases did not make good use of political analysis to assess which goals were likely to be achievable.

The first lesson is, therefore, that change is possible, even in difficult political environments, but programs need to be grounded in solid analysis of where the opportunities lie, and need to temper their ambitions to what is realistic and achievable.

The challenge is to recognize the four types of moments of political opportunity – champion of change, spaces and fissure, tension and conflict, and at the societal margins (see Box below) – and, when they arise, forge alliances, support constituencies for change, and assist in propelling feasible and pragmatic development before the opportunity closes, such as corrections development in the case of Cambodia.

The political opportunities for change are also likely to be transitory in nature. This suggests that, not only must the design be based on a clear assessment of what is feasible, but that assessment needs to be updated regularly over the life of the engagement. Programming needs to be based on an understanding the temporal political dynamics and relative power balances that characterize these transitory ‘moments,’ as in the transition from CPCS to the CP pilot and the CNP’s interest in establishing a nation-wide crime prevention/reduction initiative. It also requires acknowledging the inevitable political trade-offs that will have to be made to facilitate development during these moments, all of which suggests a temporal and dynamic analysis, one that is different from the traditional law and justice political economy assessment.

Four Different ‘Moments of Political Opportunity’

- *champion of change* appears who advocates and can deliver development, although, typically, the champion’s ability to deliver development is less than it initially appeared, lasts for a shorter period of time than anticipated, and may not be sustainable; these moments, however, are valuable in establishing new standards and enabling environments from which subsequent periods of development can proceed;
- *spaces and fissures* open up within the networks of the recipient country’s political elite(s) and the donor can leverage its political influence with elements of those networks to underwrite development; during these moment(s) of opportunity, law and justice development can have far-reaching and, often, unexpected effects and reforms have some prospect of producing sustainable results; this may be particularly true for access to justice for and ending violence against women programs;
- *tension and conflict* arises with the networks of the recipient country’s political elites(s) and, within that conflict, elements of those networks seek out donor assistance to further their own agendas; donor involvement during this moment is a high-risk activity of political arbitrage, for which the donor assumes a significant degree of reputational risk;
- when development can occur *at the societal margins*, without appreciably affecting balances of power and the self-interests of elite networks within the recipient country; this moment, however, should not be underestimated because ‘working at the margins’ may generate law and justice development that substantially improve the lives and livelihoods of particular demographic groups, including vulnerable and marginalized populations; access to justice for and ending violence against women may be development initiatives that can readily be programmed under this rubric.

5.2 Best Practice and Context

In law and justice programming, there is a dynamic tension between best practice and context. Even though it is crucial for law and justice practitioners to be conversant with international best practice, there should be no presumption that best practice is necessarily transferrable, applicable and appropriate in every context. It is a standard law and justice development strategy to advocate and support community-policing initiatives. The same applies to programming to end domestic violence and gender equality. While politically important, in some instances such as in Cambodia, familiar and best practice programming are not necessarily effective.

For example, the standard approach to community policing in law and justice development involves empowering local communities, through their civilian leadership, to lead on joint initiatives with the police. In Cambodia, due to the legacy of its wars, the power in this relationship clearly lies with police and there is no

current desire on the part of local community leaders to challenge this. Consequently, it is unlikely that local civilian leaderships will assume the responsibilities necessary for the implementation of an effective community-policing project. As a result, best practice may not be an appropriate strategy. Instead, a more crime prevention/reduction approach, where the police are in the lead, may be a better fit with local realities.

In a similar way, good practice in gender equality and ending violence against women may be in slight divergence with the Cambodian context. In Phase II it was noted that CCJAP gender equality and access to justice programming for women had been ineffective and reports stated that in-depth research was required into the underlying gender challenges in the law and justice sector. In Phase IV, CCJAP undertook more research, though it did not delve deeply enough into Cambodian cultural processes and normative values systems. The findings, however, indicated that the Cambodian police were not ‘agents of change’ for improving gender equality or tackling violence against women. It also appears that the CNP is not committed to being such ‘agents of change,’ at this point in time. Nevertheless, following best practice, the CP pilot implicitly advocated for ending violence against women being a cornerstone of its pilot.

5.3 A Problem-solving Approach

The most effective development programming methodology is to take a flexible, problem-solving approach. This entails a more flexible or iterative design, which begins by working on a limited set of issues and looks for opportunities to broaden the engagement once a better understanding of the political and institutional climate has emerged.

It is possible that this was the original concept behind the design of phase IV. The design seized on two issues – the causes of prison overcrowding and the use of data to improve law and justice system performance – that may have lent themselves to a problem-solving approach. For example, prison overcrowding is a complex phenomenon with many causes. Analysing the drivers of overcrowding could reveal a range of inefficiencies in the administration of criminal justice, which could then be the subject of specific programming. It can also help to build a demand for data and evidence in resolving law and justice challenges. This approach might be more suitable for promoting development in the Cambodian context, than attempting to formulate an overall reform strategy.

As it happened, this flexible approach was not followed through into the design of the Phase IV, which focused alternative sentencing as the solution to prison overcrowding. It therefore led with a proposed solution, rather than taking a flexible approach to understanding and resolving the problem. The alternative sentencing option proved infeasible in the Cambodian social and political climate, and the activity was abandoned.

5.4 Alignment, National Priorities, and Law and Justice Coordination

Alignment with national priorities is clearly important for law and justice programming, as in other areas of development assistance. But it is clear from the history of CCJAP – as well as other Australian law and justice programs – that pushing counterparts to develop a written strategy does not necessarily produce a valid statement of priorities to which programming can meaningfully align. The result might just produce a shopping list of projects for which counterparts would like donor funding. Nor does it of itself drive improved collaboration between law and justice institutions at the policy or strategy level. Alignment must be informed by political analysis – where are the political openings, the constituencies for change, the feasible initiatives that can be supported?

One of the lessons from CCJAP – mirroring the experience of other law and justice programmes around the world – is that developing an overall development strategy for the law and justice sector is unlikely to improve performance. Law and justice agencies have very different mandates, interests and organizational cultures (especially as between ministries of interior, ministries of justice, and courts) and are unlikely to reach a genuine meeting of minds on how to improve their joint working. Instead, the tendency will be to approach any sector-wide initiatives in terms of ‘dividing the cake’ of donor assistance across the agencies.

Given programming that was seen as ineffective, CCJAP decided to test the strength of national ownership for particular initiatives by instituting the ‘on call’ system for particular strands of assistance. Cambodian stakeholders were asked to request specific support with the accompanying rationale, before CCJAP would provide assistance. This revealed that there was no political appetite within the judicial institutions or RGC for assistance – particular around alternative sentencing and improving the use of data. This proved to be a rather effective mechanism for early exit from programming elements with little prospect of success.

5.5 Matching Infrastructure to Institutional Development

Through the life of CCJAP, the program struggled to manage its substantial capital investments in infrastructure in such a way as to dovetail with its institutional development goals. It made substantial investments in a model prison, which did not prove to be an effective means of promoting development across the corrections system. It made a range of other investments in police posts and courthouses. The challenges of procuring infrastructure works in Cambodia meant that these investments were managed through substantially separate structures from the rest of the programme and worked according to different time scales. For various reasons, they frequently had different geographical remits (as compared to the choice of partner provinces for CPCS activities). For all these reasons, it was difficult to identify much contribution from the infrastructure works to the wider institutional development agenda, beyond securing the good will of the counterparts.

The one exception to this pattern was in the corrections area, where at various stages small, target investments into improving existing facilities (e.g., health posts or fencing for prisons) was used to support institutional goals (e.g., improving health services for prisoners or introducing a dynamic approach to security, to enable prisoners to spend more time outside of their cells). The key was layering infrastructure (hardware) alongside organisational and managerial reform (software). When multi-layering of programming does not occur, capital infrastructure projects tend to be ineffective and produce little value for money.

5.6 Utilizing Existing Analyses and Resources

Over the course of CCJAP, completion reports, Management Board meeting minutes, and evaluations were, often, repeating the same themes, if not the same language. The repetition evinced in these analyses indicates the existence of underlying and enduring programmatic dynamics. It is important for programs to recognize such patterns, for it is likely that such repetition implies that the program may be overlooking crucial factors in the environment in which it is operating.¹⁵

For instance, at the end of Phase II, the CCJAP completion report observed that there was little incentive within the RGC to pursue alternative and non-custodial sentencing. In Phase III, the lack of RGC commitment to judicial reform was noted, as was the inability to achieve progress in development that pertained to recording, measuring, or monitoring almost any type of law and justice performance in any institution. Nevertheless, two of the three Phase IV components related to performance measurement and non-custodial sentencing. The repetition of language should have alerted practitioners to question the plausibility of producing results in those two Outcomes. The questions that should have been asked to justify undertaking these development activities were: (1) what has changed and (2) what is different now? It is more than possible that the context had changed, but without explicitly identifying the change, the likelihood is a repetition of past mistakes.

In a similar vein, national staff are an invaluable resource, particularly in programs that have been conducted over multiple phases, as in CCJAP, and on which they have been employed as implementing practitioners. It is not merely that they know the context, but, in such instances, they hold the institutional memory. The challenge is how to utilize them in designing subsequent iterations of the program.

Frequently, national staff are ‘consulted,’ but not included in design teams. ‘Consultations’ frequently mean little more than a briefing or two on the existing project, when national staff may have invaluable insight into directions in which the program could beneficially move – which is the case of CCJAP.

This use of national staff is more than understandable given conflict of interest and proprietary knowledge issues. Nevertheless, it would behoove law and justice

¹⁵ It is equally possible that the repetition is giving voice to an intended activity and outcome, one that is ‘hoped for’ but has not yet been achieved.

programming if an alternative method could be devised so that future iterations of the programming could avail themselves of a priceless resource.

5.7 Management of Political Relationships

Generally, the Australian government managed relationships with its Cambodian counterparts and stakeholders well. However, when CCJAP underwent significant changes in the transition from Phase III to IV, it largely outsourced the management of the relationships to the CCJAP managing contractor. This results in poor management of expectations and a loss of political capital and influence.

It is important to acknowledge that contractors have a different set of interests to the donors, particularly around retaining access and support, and are therefore not well suited to delivering difficult or unwelcome messages.

5.8 Surveys, Empirical Studies, Monitoring and Evaluation

Over its four phases, CCJAP contracted and conducted a number of studies examining the efficacy of CCJAP programming on questions of safety and security. These empirical surveys were sound pieces of work, providing a solid foundation upon which to conduct CCJAP programming. Unfortunately, as CCJAP progressed through its iterations, the instruments upon which these surveys were conducted were not used for subsequent empirical studies and assessments. Consequently, important empirical data could not be compared and contrasted over time. The opportunity to use priceless long-term empirical data was lost. New questions can be added and subtracted, but the basic structure of the survey instruments should remain constant over programmatic iterations.

Empirical data also needs to be carefully and strategically used, interpreted, and scrutinized. In Phase IV, CCJAP wisely contracted an empirical study on the efficacy of police posts as a means by which to increase safety and security. The findings of the study, however, did not indicate that police posts were likely to have great utility in reducing crime. Nevertheless, CCJAP proceeded to build new police posts, which was a good political decision given the context. Within the next 18 months, CCJAP changed its programming and initiated a pilot project that adopted a more crime prevention/reduction model of policing, which is more consistent with the findings of the survey and the political imperative to build new police posts. However, this change of programming, whose tools are sound and intelligent, was not associated with the supporting evidence of the survey, which it could and should have been.

5.9 Technical Assistance and Monitoring and Evaluation

At various moments during CCJAP there was a mismatch between the objectives the program was trying to achieve and the activities intended to produce those objectives, in that there was no plausible theory of change and no known empirical evidence to suggest the likelihood of the specified activities producing the desired

results. Subsequent surveys that CCJAP commissioned highlighted the program's inability to achieve the intended outcomes. These discrepancies, however, could have been identified earlier, as they existed and were evident in program design documents. It appears, therefore, that Australia needs to strengthen its law and justice support and finds ways in which technical weaknesses in law and justice designs can be avoided.

Annex A: Acronyms

ASTWG	Alternative Sentencing Technical Working Group
AusAID	Australian Agency for International Development
CCJAP	Cambodia Criminal/Community Justice Assistance Partnership
CNP	Cambodian National Police
CCWC	Commune Committee for Women and Children
CPCS	Crime Prevention and Community Safety
CP	Community Policing
DAPPA	Department of Administrative Police Post Affairs
DFAT	Department of Foreign Affairs and Trade
GDoP	General Department of Prisons
LJS	Legal and Judicial Reform Strategy
MoH	Ministry of Health
Mol	Ministry of Interior
MoJ	Ministry of Justice
NDDRF	National Decentralisation and Deconcentration Reform Framework
NMB	National Management Board
PHOM	Prison Health Operating Manual
RGC	Royal Government of Cambodia
ToT	Train-the-Trainers
VCSP	Village and Commune Safety Policy

Annex B: Evaluation Plan

Introduction

This Evaluation Plan describes the Agulhas team approach to undertaking the Independent Evaluation of the Cambodia Community Justice Assistance Partnership (CCJAP). Within the scope of the Terms of Reference (ToR), it sets out how our objectives, our evaluative approach, our methodology and our work plan.

The Evaluation Plan consists of four parts. The first substantive section is a brief synopsis of the four-phase history of the Government of Australia's (GoA) Law and Justice Sector (LJS) support in Royal Government of Cambodia, which since 1997 has contributed over \$69 million to the development of the sector.

The next part sets out the methodology for evaluating CCJAP Phase IV, in order to validate and assess its effectiveness in achieving its three strategic objectives: to reduce prison overcrowding; improve community safety; and improve data management. In this section, the Independent Evaluation's analytic framework and methodology will be discussed and outlined with respect to DFAT's principal evaluation criteria, namely relevance, efficiency, effectiveness, gender, and sustainability.¹⁶

These criteria ensure that the Independent Evaluation addresses the main elements underlying the assistance, from the relevance of its objectives through to the ultimate impact on beneficiaries. However, because GoA assistance is only ever one of many influences on the development of law and justice in Cambodia or elsewhere, even with statistically reliable data, it is unlikely to be feasible to apply a strict approach to **attributing** impact to GoA's support. The Independent Evaluation will, therefore, look more broadly at the **contribution** made by GoA's assistance and at whether CCJAP's Phase IV underlying theories of change are plausible based on the available evidence.

The third substantive section discusses how the Independent Evaluation will gauge CCJAP's legacy over all four phases of its existence, from 1997-2016. According to the ToR, this analysis is primarily intended to be a desk review of the program's overall achievements and progress over its lifespan with a focus on policy and legal frameworks. However, while in Cambodia, the Evaluation Team may have the opportunity to weigh whether new policies and laws have been embedded within Cambodia's criminal justice systems, leading to tangible and sustainable achievements, and whether they have responded to Cambodia's evolving needs and national context.

The fourth and final section sets out a delivery plan, including roles within the evaluation team, timelines and outputs.

¹⁶ Solely for reporting and organizational purposes of this Independent Evaluation, impact falls under effectiveness and monitoring and evaluation is to be addressed under efficiency.

Purpose

The purpose of the Independent Evaluation is threefold. First, it is to evaluate the effectiveness of CCJAP Phase IV. The second purpose is to document CCJAP's almost two-decade legacy. The third is to elicit practical and programmatically cogent lessons to contribute to future GoA endeavours in Cambodia, especially with regard to Community Policing Initiative and Ending Violence Against Women initiatives.

Audiences

The main audiences for the Independent Evaluation are DFAT, other Australian law and justice programs, the Australian public, partner governments, implementing partners, and the beneficiaries for whom law and justice programming are designed and implemented.

The evaluation report will be published under DFAT transparency policy, with due consideration to the confidentiality of material collected and feedback from individual stakeholders.

History of CCJAP

The following is a brief recital of all four phases of the CCJAC, to set the context within which the Independent Evaluation is to take place, as well as to lay the foundation upon which the legacy assessment will rest.

Australia has supported the continuous and progressive development of the Cambodian criminal justice sector since 1997, for a total contribution of upwards of \$70 million (all figures in AUD). The initial phase of the CCJAP began in April 1997 and was initially scheduled to terminate in March 2000, but was extended an additional fifteen months through June 2001 (\$12.6 million). This extension facilitated the design of Phase II of the CCJAP, which ran for five years, from April 2002 to February 2007 (\$19.4 million). CCJAP programming then transitioned into Phase III, with full implementation commencing in July 2007 (\$25.7 million). Finally, Phase IV launched in April 2013 is scheduled to close in June 2016 (\$15 million).

All four phases have deployed a systemic and comprehensive methodology to criminal justice development, seeking to link together and, ultimately, integrate the three major agencies of the criminal justice chain into a cooperative and collaborative whole. However, each has sought to address different priorities and objectives and, therefore, adopted different approaches. Phase I was a technical assistance program of institutional strengthening through the development of managerial and operational procedures, along with formal and on-the-job training. Improving the human rights conditions within the sector was also a priority of this first phase. Two judicial police headquarters were constructed and five prisons renovated so that basic criminal justice service could begin to be provided.

Phase II provided support at the national level to the Ministries of Interior and

Justice and deployed a team of six full-time technical advisors, as a means by which to more deeply and vertically integrate the criminal justice chain. It also placed a greater emphasis on partnerships with civil society organizations as part of its effort to ensure transparency and equitable access to justice. While one of this phase's major objectives was to support the drafting and dissemination of a Legal and Judicial Reform Strategy, the CCJAP also initiated a capital infrastructure program. It developed a prisons model. Furthermore, its Prisoner Health and Rehabilitation and Crime Prevention and Community Safety (CPCS) initiatives gained traction. Program documents from the time recognize the challenge of sustainable criminal justice development in a country such as Cambodia with its endemic and chronic deficits.

Expanding its geographic support, Phase III shifted towards greater community-level assistance, in order to try to integrate the delivery of justice services to citizens and meet community demands for more efficient law and justice service provision. Community safety initiatives funded the project's six partner provinces of Kandal, Prey Veng, Battambang, Kampong Thom, Banteay Meanchey and Kampong Cham. This changed geographical focus recognized the importance of delivering tangible benefits to juveniles, women, and other vulnerable groups, as well as the difficulties of addressing community safety purely through national policy initiatives. At the same time, this phase concentrated more than on the role and functions of the General Secretariat for Legal and Judicial Reform as a coordinating body, as well as promoting planning across the sector through the development and use of the Planning Guide for Justice Sector Institutions. The Planning Guide accompanied renewed efforts to support the development of a National Police Strategy and the implementation of a Cambodia National Police Crime Prevention and Community Policing Strategy. Comparable initiatives were undertaken under the auspices of the Ministry of Justice to develop a strategic plan, enhance its managerial and operational systems, and to improve internal management of resources.

Phase IV of the CCJAP, which began in April 2013, has continued the move toward greater community participation and involvement in the development of Cambodia's criminal justice systems. Three new partner provinces were added to the previous six and the program no longer supported in-line advisors, but instead sought greater participation of Royal Government of Cambodia's subnational agencies and commune authorities in the provision of community safety and with regard to gender-based violence and the human rights of detainees. The five pillars of Phase IV are:

- crime prevention and community safety;
- reducing prison populations through the increased use of alternative sentencing and improved prison management;
- strengthening data and decision systems for evidence-based management;
- small-scale infrastructure predominantly within prisons; and
- improving the legal and judicial responses to violence against women.

CCJAP Phase IV Evaluation Methodology

According to the ToR, the first purpose of the Independent Evaluation is to assess and document the effectiveness of CCJAP Phase IV (2013-2016). Employing DFAT's principal evaluation criteria – relevance, efficiency, effectiveness, gender, and sustainability – programmatic effectiveness is to be weighed in light of challenges arising from its design, DFAT management and direction, decisions reached by the National Management Board, and Cambodia's dynamic political economic context.

CCJAP Phase IV Outcomes

Phase IV of the CCJAP had three major objectives and outcomes:

1. to reduce prison overcrowding;
2. improve community safety; and
3. improve data management.

More specifically, the challenge of prison overcrowding was to be tackled through the establishment and implementation of the Cambodian government policies on non-custodial and alternative sentencing. Improved community safety was to be addressed through a community policing methodology, in which support for CPCS activities and Village and Commune Safety Policy (VCSP) were to be the keystones. Finally, the agencies of the criminal justice sector – court, police, and prisons administrations – were to be provided assistance in how to use data more efficiently and effectively in the pursuit of government policies. This design drew on learning from previous phases as to the difficulty of achieving comprehensive criminal justice system reform in the Cambodian context, focusing instead on tackling specific problems and issues.

CCJAP theory of change

Every development initiative has, implicitly or explicitly, a theory of change. Within any single program, it is likely that different programmatic components may have their own theories of change. For this reason, the Independent Evaluation will inquire as to the theory of change that underlies each of Phase IV's three components. That inquiry is vital in any determination of programmatic relevance and, consequently, the Independent Evaluation will place a strong focus on assessing the validity of Phase IV's underlying theory of change, taking into account, political, economic and social perspectives.

This theory-based approach enables us to explore what progress has been achieved against the program's objectives and outcomes, whether the causal assumptions behind the design have proved to be valid through the implementation phase. One of the principal issues in that assessment will be identifying the intended beneficiary(s) of each activity, the problem that the activity seeks to address, and how the theory of change pertains to that beneficiary(s).

In CCJAP's Phase IV theory of change, it is important to note the role played by the program's support for capital infrastructure, which was not part of the original

design, but was added subsequently through a decision of the National Management Board.

Suggested evaluative questions

The evaluative questions outlined in the ToR can be broadly mapped to standard DFAT evaluation dimensions of relevance, effectiveness, efficiency, monitoring and evaluation, impact/sustainability and gender equality.

Criteria	Description
<i>Relevance</i>	<ul style="list-style-type: none"> ▪ Are the objectives and activity outcomes of Phase IV relevant to Cambodian criminal justice priorities? ▪ To what extent has CCJAP IV contributed to Australia's aid program objectives? ▪ Are Phase IV's theories of change plausible and fit-for-purpose?
<i>Effectiveness</i>	<ul style="list-style-type: none"> ▪ Do the three components constitute a coherent and cogent strategy? ▪ Are the activities conducted under each of the three components of Phase IV effective? ▪ Have there been concrete benefits accruing to beneficiaries because of Phase IV activities? ▪ Has CCJAP IV progress been as expected? What has been learnt from the shift in focus in Phase IV (both in its design and program implementation)? ▪ Have more tangible results been possible and are they more likely because of the shift? ▪ Are there any discernible circumstances outside the control of the program that may have influenced the results achieved?
<i>Efficiency</i>	<ul style="list-style-type: none"> ▪ To what extent are inputs and activities clearly focused on concrete outcomes (not just outputs)? ▪ Has management of the activity been responsive to changing needs? ▪ Has CCJAP IV made appropriate use of Australia's and other partners' time and resources to achieve objectives?
<i>Gender Equality</i>	<ul style="list-style-type: none"> ▪ Has CCJAP IV addressed gender equality in planning and implementation and has practical Ending Violence Against Women support been a central programmatic cornerstone?
<i>Monitoring and Evaluation</i>	<ul style="list-style-type: none"> ▪ Is an M&E system being used by CCJAP IV effectively to measure implementation progress, in particular progress towards meeting expected outcomes? ▪ Extent that M&E systems enable timely and accurate reporting? ▪ Extent to which M&E systems enable learning?
<i>Impact and Sustainability</i>	<ul style="list-style-type: none"> ▪ Do government counterparts demonstrate ownership of activities? ▪ Does Cambodia have the financial, cultural/normative, institutional, and other capacities to continue Phase IV activities? ▪ To what extent will benefits endure after CCJAP IV? ▪ What are the enduring legacies produced by CCJAP IV (direct/indirect, intended/unintended)? ▪ Is Australian assistance producing sustainable results – especially with regard to community policing and Ending Violence Against Women?

The assessment of relevance, effectiveness and efficiency will enable the Independent Evaluation to judge the extent to which CCJAP is likely to generate sustainable changes beyond the life of the program and taking into account the changing priorities of the Royal Government of Cambodia and its criminal justice agencies.

Methodology

The evaluation methodology draws upon a naturalistic and constructivist inquiry approach, taking place in the real world setting of the CCJAP IV program and its main implementing counterparts. The findings of the Independent Evaluation will rely, foremost, on the questions posed by and asked of the data and from those findings the conceptual analysis will emerge. This is a relational approach that seeks to build up knowledge from practice rather than imported concepts.

It has three elements:

1. document review;
2. fieldwork and stakeholder engagement; and
3. analysis.

These processes are intended to be mutually reinforcing and collectively are expected to generate more than the sum of their parts.

Document Review

The Independent Evaluation will review an extensive list of key documents related to the planning and implementation of CCJAP Phase IV, including design documents, CCJAP background briefings, progress reports, National Management Board minutes and decisions, monitoring data, financial reports, and exit strategies. Within this documentation, of critical importance for the validity of the findings of the Independent Evaluation is an assessment of existing empirical data produced by CCJAP, as well as any data that can be culled from other sources. Part of that assessment includes a determination of the data's reliability and validity.

An illustrative inventory of documents is attached (see Annex A).

Fieldwork and Stakeholder Engagement

Using its review of documents as a steppingstone, the Independent Evaluation will conduct fieldwork. This stakeholder engagement will draw on opinions from different parts of the 'CCJAP aid chain' – from DFAT to RGC government counterparts within the criminal justice systems, from CCJAP staff and contracted implementers to beneficiaries. Where possible, the Independent Evaluation will meet with secondary stakeholders from international organisations, other development partners and Cambodian society with an interest in CCJAP. This working across the aid chain will ensure that the Independent Evaluation's emergent findings are constantly triangulated and as valid as possible, even if not always fully generalizable.

Boring down, the fieldwork will consist of semi-structured group interviews, individual interviews, participant observation, and site visits, to the extent possible, each of which is intended to assess the key evaluative questions. The Independent Evaluation will use these interviews to encourage participant reflection, enabling an exploration of some of the factors that may drive or constrain implementation and progress, with a view to assessing whether the program is delivering its planned activities, outputs or outcomes within the specified timeframes and budgets.

It can be expected, for instance, that stakeholder discussions may identify additional causal pathways, theories of change not explicated in program documentation, which may inform the Independent Evaluation's initial findings on relevance and plausible sustainability. Through this method of triangulation, the qualitative findings of the Independent Evaluation can be validated, particularly when coupled to the document review.

A selection of proposed fieldwork is attached, as Annex B.

Analysis

The analysis occurs after the stakeholder engagement is completed, when the Independent Evaluation will critically reflect on the document review and its fieldwork for the purpose of identifying significant findings, making observations and developing recommendations for stakeholders.

CCJAP Legacy Review

According to the ToR, the second purpose of the Independent Evaluation is to conduct a desk review, supplemented by a limited number of key informant interviews, of CCJAP achievements and progress over the course of the program's lifetime from 1997-2016. The goal is to assess 'what has been left behind' by programmatic support for legal frameworks, policy documents and operational practices and what lasting effect these have had on the Cambodian criminal justice institutions and, most importantly, for the intended beneficiaries, Cambodian citizens. If legal and policy frameworks have not been embedded in real changes for beneficiaries, it is difficult to conclude that those documents and processes have had or can have a lasting impact. Given the capital infrastructure construction that CCJAP has supported, it is of special import to determine the discernible impact that initiative has had and the tangible benefits it has left behind for beneficiaries.

Methodology

From a close reading of Completion Reports and evaluations of CCJAP Phases I - III, the Independent Evaluation will be able to establish a set of 'most significant' outcomes and results. The Independent Evaluation will also take the conclusions of its Phase IV evaluation as an additional set of 'most significant' outcomes and results. Taken together, these claims will then be assessed against additional documentary evidence, materials generated by the program (such as surveys) and third party reports. This analysis will help validate the extent to which the outcome and result claims have led to sustainable change, and to judge their significance in

the Cambodian context. To complement and further deepen this analysis, a limited number of interviews will be conducted with key stakeholders from each of the main branches of the justice system *and* discussions with well-informed independent observers, with an eye to their judgment of what the most significant legacies of CCJAP are. From this process, and with special attention paid to community policing, gender equality and promoting the End to Violence Against Women, the Independent Team will draw out its understanding of CCJAP's legacy and the major lessons learned from almost two decade support to Cambodia's criminal justice systems.

These processes are intended to be mutually reinforcing and collectively are expected to generate more than the sum of their parts.

The analytic framework for the Legacy Review has three elements:

- i. document review;
- ii. selected stakeholder engagement; and
- iii. analysis.

Document Review

As the Legacy Review is primarily a desk review, the Independent Evaluation will concentrate on documentary evidence, such as Project Completion Reports and previous independent evaluations, to compile a set of 'most significant' outcomes and results. The Independent Evaluation of Phase IV will also be utilized and added to that compilation.

Our focus will not be on assessing the validity of the original results claim from the Project Completion Report or evaluation, although we may comment on the strength of evidence. Rather, the question is whether the outcomes and results asserted in a Completion Report and/or evaluation have been sustained and what is the concrete, enduring legacy of those outcomes and results.

Once a set of outcomes and results has been compiled, the Independent Evaluation will subject that list to validation through an analysis of two additional sets of documentation. First, the Independent Evaluation will analyze other program documentation, such as program progress reports, surveys, National Management Board minutes, to assess the claimed outcomes and results. It is expected that the program will itself have generated important evidence as to whether the results from previous phases have been sustained.

Thereafter, the Independent Evaluation will utilize analyses and reports written by independent observers of Cambodia further to supplement and complement the foregoing analysis and validation of 'most significant' outcomes and results.

An illustrative inventory of documents the Legacy Review will examine is attached, see Annex A.

Stakeholder Engagement

The stakeholder engagement of the Legacy Review is initially based upon fieldwork to be conducted during the Phase IV assessment and those findings will be used to inform the Legacy Review, given the limited time available for the review team to conduct fieldwork.

Nevertheless, the Independent Evaluation will also use its review of documents as a means by which to identify specific questions that may be readily addressed through targeted interviewing. Unlike the 'aid chain' that is to be used for the Phase IV evaluation, the method for selecting stakeholder engagement on the identified questions is threefold. First, in consultation with DFAT, the Independent Evaluation will try to pinpoint selected individuals who have long experience with and/or in the Cambodian criminal justice systems. Second, the Independent Evaluation will rely upon the deep experience and knowledge of its National Consultant to identify such individuals. Third, it is expected that the documentary review will highlight certain individuals who played a pivotal role in the CCJAP and are knowledgeable about criminal justice provision in Cambodia, each of whom, therefore, may be crucial to explicate the program's legacy.

It is expected that from these interviews, that the Independent Evaluation will probe interviewees for their feedback on CCJAP legacy results, validation of the outcome and result claims, and, lastly, their perceptions of any cumulative and catalytic impacts the program may have engendered.

A selection of proposed fieldwork is attached, see Annex B.

Analysis

The Legacy Review ends with an analytical phase analysis, which follows the completion of the stakeholder engagement. The Independent Evaluation will critically reflect on the document review and its fieldwork for the purpose of identifying the significant legacies of CCJAP.

Part of that reflection will include recommendations and lessons learned. These recommendations and lessons learned will be drawn not only from the document review, but also the stakeholder engagement, for one of the questions expected to be posed to selected interviewees will be their assessment of CCJAP's lessons learned.

Delivery plan

Evaluation team roles

The team is composed of two persons: Eric Scheye and Sopheak Ok Serei. Eric and Sopheak will work together in a collaborative manner and it is expected that they will conduct interviews together and separately, thereby taking advantage of Sopheak's privileged access to stakeholders.

Eric is the Independent Evaluation's Team Leader and is responsible for overall management of the evaluation; the development and implementation of the evaluation plan; in-country mission, Aide Memoire presentation and report writing.

Sopheak is the National Consultant and will assist the Team Leader in document review and tracking development of the legal and judicial reform in Cambodia. He will assist in interview/appointment arrangement and will be invaluable for his expert knowledge of the history of criminal justice in Cambodia, offering another means by which the Independent Evaluation can triangulate and validate its findings.

It is expected that an interpreter will be made available to the Independent Evaluation so that Sopheak's knowledge can be utilized to its utmost and not spent on interpretation.

Timeline

The agreed upon timeline is below. As stated in the ToR, it is subject to revision based upon the agreement of the parties.

Timeframe	Activity
March 2016	Team mobilisation
14 March – 8 April (5 working days)	Desk review of background documents and preparation of review plan. <i>Submit the Evaluation Plan to DFAT</i>
8-11 April	DFAT review of Review Plan (including seeking stakeholder feedback) <i>Feedback submitted to review team</i>
11-15 April (1 day)	Finalise the review plan and in-country schedule (with assistance from DFAT - Note: Khmer New Year on 13-15 April)
23/24 April	Team arrive in Cambodia
25 April-6 May (12 working days – includes weekend)	In-country mission for data collection, interviews. <i>Draft Aid memoire and present (on the last day of the mission) to DFAT and selected stakeholders</i>
6 May	Present Aid Memoire to DFAT in the morning, revise as appropriate and present to selected stakeholders in the afternoon
7/8 May	Team depart Cambodia
9-20 May (9 working days)	Draft Evaluation Report and Report on Legacy of CCJAP (1997-2016). <i>Submit the Draft Reports to DFAT</i>
20-27 May	DFAT review Draft Reports and provide feedback <i>Feedback submitted to review team</i>
6 June (3 working days)	Finalise and submit Final Evaluation Report and Report of Legacy of CCJAP to DFAT

Ethical considerations

The team will following standard ethical principles when completing the research, particularly with a view to mitigating the risk of harm to participants, respecting privacy, confidentiality and anonymity where necessary and ensuring that all participation is voluntary, premised on consent and free of external pressure.

Performance rating

The Independent Evaluation will use the DFAT quality assurance rating scale to make an overall judgment regarding CCJAP Phase IV's relevance, effectiveness, efficiency, gender equality, and sustainability.

Research limitations

Our inductive, reflective multi-stakeholder approach is intended to triangulate competing evidence sources and arrive at conclusions based on the balance of probabilities and plausibility.

The time given to conduct fieldwork for both the Phase IV evaluation and the Legacy Review is limited. The Evaluation Team will attempt to increase its fieldwork by, occasionally, separating the team and conducting parallel stakeholder interviews. To do so, however, requires that an interpreter accompany the Team Leader for his interviews.

Outputs

The ToR calls for an Aide Memoire presentation at the conclusion of the fieldwork.

As set out in the TORs, the Evaluation Team will deliver two separate reports: a CCJAP Phase IV Assessment and a CCJAP Legacy Report. The ToR asks for recommendations and lessons learned. As a number of the recommendations and lessons learned may be similar across the two Reports, it remains to be determined in which Report they would be best placed or whether they belong, respectively, in each. Discussions with DFAT will be determinative of where recommendations and lessons learned are situated.

The Phase IV Assessment is expected to build on the following structure to address the key themes of the Independent Evaluation:

- an executive summary (should be able to be read as a stand alone document);
- background on the aid activity;
- an outline of the evaluation objectives and methods;
- findings against the evaluation questions divided into five main categories for the Phase IV assessment: relevance, efficiency, effectiveness, gender, and sustainability;
- evaluation criteria ratings presented at the beginning of each section of the Phase IV assessment;
- conclusions for the Phase IV assessment.

The structure of the Legacy Review remains to be discussed with DFAT, conversations that are expected to take place during the field visit.