

AUSAID/WORLD BANK COLLABORATION



Australian Government
AusAID

EAST ASIA AND THE PACIFIC JUSTICE FOR THE POOR INITIATIVE **2008 - 2013** **(EAP-J4P)**

January 2008



Indonesia



Cambodia



Timor-Leste



Solomon
Islands



Vanuatu

Table of Contents

Executive Summary.....	5
1. Background.....	8
1.1 Fit with Organisational Priorities.....	11
Addressing the Special Problems of Fragile States and Conflict-Ridden Countries	12
Fostering a “Knowledge and Learning” Agenda across the Bank Group to Support its Role as a Brain Trust of Applied Experience.....	13
Enhancing the Demand Side of Good Governance.....	13
2. Overview of J4P	14
2.1 Aims and Objectives	14
2.2 J4P Approach.....	14
2.3 Program Trajectory.....	15
2.3.1 Research, Analysis & Dialogue.....	16
2.3.2 Experimentation.....	16
2.3.3 Scale-Up & Mainstream.....	16
2.3.4 Ongoing Activities	17
Dialogue.....	17
Capacity Development	17
Effective Monitoring & Evaluation.....	17
Partnerships & Knowledge Sharing.....	18
3. Goal & Structure of the EAP-J4P Initiative.....	19
3.1 Goal.....	19
3.2 Structure.....	19
3.3 Relationships and Linkages with Existing Programs and Initiatives	20
4. Country Programs	21
4.1 Strengthening Existing J4P County Programs.....	21
4.1.1 Indonesia	22
Situational Analysis	22
Activities.....	23
Promoting Development Effectiveness.....	23
Women’s Legal Empowerment (WLE)	23

Village Judicial Autonomy	23
4.1.2 Cambodia.....	24
Situational Analysis	24
Activities.....	24
Justice Sector Performance Evaluation (Giving Voice to the Poor)	24
Community Safety and Crime Prevention.....	24
4.2 New Country Programs	25
4.2.1 Timor-Leste.....	26
Rationale and Situational Analysis.....	26
Activities.....	26
Interaction and Relationship between Different Justice and Governance Systems.....	26
Management of Land Disputes.....	26
Public Legal Education and Legal Aid Services.....	26
Youth and Community Safety.....	27
4.2.3 Vanuatu.....	27
Rational and Situational Analysis.....	27
Activities.....	27
Building Local Policy Oriented Research Capacity.....	27
Land and Livelihood Issues	28
Local Governance and Administration.....	28
Labour Disputes	28
5. Regional Program	29
5.1 Analytical & Advisory work	29
Rationale.....	29
Aims.....	29
Themes	30
Land and Natural Resources	30
Development Effectiveness.....	30
Gender Equality	30
Legal Pluralism and Non-State Justice	30
Activities.....	31
5.2 Community of Practice & Knowledge Sharing.....	31
Rationale.....	31

Aims.....	31
Indicative Activities	31
5.3 Innovation & Development.....	32
Rationale.....	32
Aims.....	32
Activities.....	32
6. Implementation and Collaboration.....	33
6.1 Management.....	34
Multi-stakeholder working groups.....	34
Country Programs	34
Program Secretariat.....	35
Regional Steering Committee	35
6.3 Monitoring, Evaluation & Reporting.....	35
Overall Program Oversight & Reporting	36
6.4 Sustainability	37
6.5 Risk.....	38
6.6 Indicative Budget and Disbursement Schedule.....	40
Other Financial Inputs	41
Audit Arrangements.....	41
Annex A: Country Programs.....	42
Annex A.1 – Indonesia.....	42
Annex A.2 – Cambodia	53
Annex A.3 – Timor-Leste	59
Annex A.4 – Vanuatu	68
Annex A.5 – Solomon Islands.....	78
Annex A.6 – Proposed Joint World Bank – AusAID Scoping Mission for the Establishment of Justice for the Poor Program (J4P) in Fiji	86
Annex B: Regional Program.....	91
Analytical & Advisory Work.....	91
Communities of Practice & Knowledge Sharing.....	102
Innovation & Development	103
Indicative Budget & Disbursement Schedule	105
Annex C: EAP-J4P Program Monitoring & Evaluation Framework	106

Executive Summary

Both the World Bank and AusAID actively support justice sector reform programs in the East Asia and Pacific region, and such reform is a key priority for most client governments. While there is increasing recognition that a well functioning legal and regulatory system is an important foundation for sustainable development, there is much less agreement about how such systems develop. While recent experience in promoting legal and judicial reform has generated some partial successes and lessons learnt, there is a growing understanding of the limitations of more traditional approaches.

The Justice for the Poor program (J4P) is an attempt by the World Bank to grapple with some of the theoretical and practical challenges of promoting pro-poor justice reform in the developing world. The J4P approach is characterized by an appreciation that justice sector reform efforts are often launched without sufficient understanding of the dynamics of the pre-existing decision-making and dispute resolution processes they attempt to alter; thus the program takes a detailed engagement with the local context as its starting point.

J4P is also based on an understanding that more equitable justice systems, where they do exist, have tended to emerge iteratively through processes that are often heavily contested. In this context, J4P is open to more process oriented solutions to development challenges and to the overarching problem of how equitable legal and regulatory systems emerge. The program focuses on ways in which people- particularly the poor and marginalized- experience the justice system and is characterized by a focus on the demand for reform.

The proposed AusAID/World Bank East Asia Pacific Justice for the Poor Program (EAP J4P) will build on the experience of the Justice for the Poor program to date, while also drawing on AusAID's vast experience in Justice Sector Reform in the region. The program is aligned with the strategic priorities of both organisations, while providing a platform for effective collaboration and donor harmonisation. The program approach is aligned with key priorities outlined in the AusAID's 2006 White Paper¹- such as development effectiveness, promoting the demand for better governance, land and gender-, and with President Zoellick's strategic themes on addressing the special problems of fragile/conflict-ridden states and fostering a knowledge learning agenda, as well as the new Bank's Governance and Anti-Corruption Strategy².

The overall objective of the regional EAP J4P initiative is to support local justice and governance reform processes, facilitate knowledge sharing and improve understanding of and approaches to pro-poor justice reform efforts.

Firstly, the initiative will invest in country programs, strengthening and expanding the two existing J4P programs in the region (those in Cambodia and Indonesia) and developing a number of new country programs. Both the Indonesia and Cambodia country programs have already

¹ AusAID (2006) *Australian Aid: Promoting Growth and Stability*. A White Paper on the Australian Government's Overseas Aid Program, p 16-17.

² "Strengthening World Bank Group Engagement on Governance and Anticorruption", available at <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTGOVANTICORR/0,,menuPK:3036107~pagePK:149018~piPK:149093~theSitePK:3035864,00.html>

forged strong relationships with partner governments and civil society, and have helped design government, World Bank and other donor funded reforms. For the next five years of programming, the overall focus in these countries will be on mainstreaming appropriate governance and conflict resolution principles, expanding program reach on the basis of identified ‘good practice’, documenting the development impacts of different initiatives, and continuing to support rigorous reach and analysis at the country level.

In its initial programming, the EAP-J4P will invest in several new country programs (Timor-Leste, Vanuatu, and possibly Fiji and Solomon Islands), supporting research and operational activities that aim to identify, test and evaluate innovative pro-poor approaches to justice reform. Research and programming will be context-specific and demand driven, and will rely on an in-depth understanding of the operating environment. Rather than introducing new solutions and models of reform, J4P will seek to support innovative local initiatives and facilitate cross-country exchange and learning.

In each country, in-depth program preparation needs to be undertaken in order to fully map out the scope of the different programs and develop more detailed work plans. Program design will seek to strike a balance between the need for contextual analysis and the need to deliver some immediate tangible benefits to the poor by identifying and supporting a number of practical initiatives that could be implemented in the earlier stages of program development. In addition, individual country designs will seek to clearly identify targeted beneficiaries and specific outcomes, which will be refined as the program develops.

Secondly, the initiative will work at a regional level by conducting cross-country comparative work structured around specific themes and by supporting the establishment of a regional community of practice. The agenda of the community of practice and the cross-country work will be predominantly driven by the research and development experience of the country programs. However, the community of practice will also provide an opportunity for local partners in non- J4P countries with similar development challenges to engage in a broader exchange of ideas and community of practice.

The development of a comprehensive regional program is a long-term enterprise, which requires significant human and financial resources. To this end, the program will be flexible enough to develop and change priorities over time, while beginning work in a number of agreed on strategic areas- namely land, development effectiveness, gender and legal pluralism. The program itself will be developed iteratively, building a solid understanding of the local context before scaling up activities at both country and regional level. Activities will be tailored to government priorities and to both World Bank and AusAID operations with a view to ensuring that ongoing research and analysis conducted in the various countries have maximum impact on government policy and the design and implementation of existing reform initiatives.

In order to ensure effective collaboration and consultation with governments, donors and other stakeholders the program will establish multi-stakeholder working groups at both the country and regional levels, which will be responsible for preparing annual activity plans and providing ongoing input into the design, implementation and monitoring of different parts of the program. It is envisaged that AusAID counterparts will be actively involved in country and regional working groups to ensure that J4P’s work directly benefit AusAID’s programs in the region.

The initiative will be funded and managed through a Bank-executed Trust Fund. Overall trust fund management, supervision and administration responsibility will rest with a designated task team leader (TTL) who will monitor project implementation, oversee disbursement of funds to country and regional programs, and ensure alignment with trust fund objectives. The TTL will be supported by the program secretariat and the team leaders of both country and regional programs. The initiative will be guided by a Regional Steering Committee made up of managerial staff from both the Bank and AusAID. The primary responsibility of the Steering Committee will be to review annual work plans and provide substantive and strategic input.

While the different country programs will develop their own in-depth monitoring and evaluation (M&E) system, these will be guided by a regional M&E framework which sets out standards and guidelines, and which will allow for some aggregation of outcomes and impact across the program. Formal oversight and reporting to AusAID and Bank management for the overall program will be done through the standard Bank electronic reporting system for trust fund activities, which includes country and regional progress reports and an overall trust fund completion report. In addition to regular trust fund reporting, supervision missions will take place at least twice a year to assess program progress and provide guidance to country teams; each program will be subject to an annual review which will be undertaken in consultation with AusAID and the client government. A more thorough independent review of the progress of the entire EAP-J4P Initiative will be carried out within three years of initiation of activities. The J4P public website, www.worldbank.org/justiceforthe poor, will maintain up-to-date information on the administrative procedures and substantive activities of the EAP-J4P Initiative.

The proposal is a request for a 5-year funding commitment from AusAID, currently based on an indicative budget from AusAID of approx US \$13 million. Given that different thematic aspects of the program may develop over time and that new country programs may come on board, the trust fund will be established in such a way as to allow for expansion and further contributions. The Bank will still provide technical, intellectual, programmatic and financial contributions to the EAP-J4P initiative, including senior staff time through the EAP-J4P management processes, program supervision, office space and equipment, administrative and human resources support, and technical advice and review.

1. Background

Both the Bank and AusAID actively support justice sector reform programs in the region, and such reform is a key priority for most client countries. The proposed AusAID/World Bank *East Asia - Pacific Justice for the Poor Initiative* (EAP – J4P) will bring together a set of innovative research and development activities that build on the considerable experience both organisations have in this area. The program will provide a platform for effective collaboration and ensure donor harmonisation.

While it is widely accepted that justice institutions are crucial to effective governance and sustainable development³ there is still limited understanding of how equitable justice systems emerge, and thus how they can be supported or promoted. In practice, inequalities in power and the effectiveness of law and justice institutions have a two-way causal relationship. Political and economic elite may establish, maintain, subvert or ignore weak institutions to protect their power base - either by excluding other groups or actively discriminating against them. In turn, weak institutions are open to corruption or elite capture. Justice institutions controlled by weakly accountable political interests tend to serve - rather than curb - abuses of state power. Given the self-reinforcing nature of inequality - what the World Development Report (WDR) 2006 termed 'inequality traps' - there is now a widespread recognition of the need to focus on the demand side of governance and on promoting more equitable terms of engagement in the reform process. This also recognises the limits of state centred reforms particularly in certain situations⁴ where the majority of the population is governed by non-state rule systems and/or exists outside of the reach of the state. As such, the limits of purely state-centred law and justice reforms in the EAP region and elsewhere have led to a focus on complementary and supplementary approaches that respond to the needs of the poor and marginalized.

³ While there has been some debate about whether the 'rule of law' is indeed a pre-requisite for development, with countries such as China being cited as evidence to the contrary, the need for effective legal and regulatory frameworks and institutions of some form is rarely questioned. Moreover, in the past few decades there has been a much greater emphasis placed on the importance of equity- promoted and enforced through equitable laws and institutions- for inclusive and sustainable economic growth- See *World Development Report 2006*. What is less clear, however, is what such institutional and regulatory arrangements might look like and how societies might go about promoting them. In this regard, there has been some criticism of that is seen as the 'rule of law' orthodoxy and reform efforts predominantly based on the transplantation of western model legal frameworks and institutions; many of these efforts have faced serious challenges. For a discussion of these issues see-for example, Carothers, Thomas (2004) "Promoting the Rule of Law Abroad: The Problem of Knowledge," in Thomas Carothers (ed.) *Critical Mission: Essays on Democracy Promotion*, Carnegie Endowment for International Peace, Washington DC. These criticisms have led to a focus on more 'homegrown', context specific solutions to promoting the development of more equitable justice systems.

⁴ The measurement as to what is a successful Justice Sector Reform is probably still in its early stages, though meantime, several commentators have questioned some state-centred approaches to justice sector reform. See, for example, Faundez, J. 1997. *Good Governance and Law: Legal and Institutional Reform in Developing Countries*. New York: St. Martin's Press.; Gardner, J. 1980. *Legal Imperialism: American Lawyers and Foreign Aid in Latin America*. Madison: University of Wisconsin Press; Gupta, P., R. Kleinfeld, and G. Salinas. 2002. *Legal and Judicial Reform in Europe and Central Asia*. Washington, DC: World Bank, Operations Evaluation Department; Hammergren, L. 1998. *The Politics of Justice and Justice Reform in Latin America: The Peruvian Case in Comparative Perspective*. Boulder, CO: Westview Press; Lawyers Committee for Human Rights. 1996. *Halfway to Reform: The World Bank and the Venezuelan Justice System*. New York: Lawyers Committee for Human Rights, Rose, C. V. 1998. "The 'New' Law and Development Movement in the Post-Cold War Era: A Vietnam Case Study." *Law and Society Review* 32 (1): 93-140.

Thus the proposed AusAID-World Bank collaboration comes at an opportune time, as donors and host country governments have increasingly recognized the importance of working with local institutions and authorities. Both AusAID and the World Bank recognize the interrelated nature of justice and governance structures, and the role both play in creating economic and social stability in the region. This relationship goes deeper than formal state institutions – indeed, rule-making and rule-enforcing structures may in fact be more intertwined with everyday socio-economic life at the local level than at the national or regional. EAP-J4P, which will feed research directly into program design and implementation, will explicitly connect justice and governance, as well as theory and practice. The program aims to inform and enhance the effectiveness of justice sector and broader sectoral and governance programming supported by both organizations.

While the regional program will emerge out of country priorities and needs, the approach will build on the World Bank’s ongoing Justice for the Poor program (J4P) which currently operates in selected countries in East Asia (Indonesia and Cambodia) and Africa (Kenya and Sierra Leone).⁵ These country programs inform and then evaluate innovative pro-poor approaches to justice reform and other development initiatives, as part of broader governance and sectoral strategies. They do so by establishing an empirically-based understanding of how the poor navigate through and/or are excluded from decision making processes, local governance institutions and justice systems, and by exploring ways of promoting more inclusive and equitable decision making and dispute resolution processes. Further, the program aims to support locally developed initiatives and solutions by building on ‘success stories’ and existing reform efforts.

The J4P program recognises that a large percentage of poor and marginalised live under non-state or customary justice systems that are complex, numerous, and idiosyncratic and are more often than not affected by multiple legal orders – a context of legal pluralism. Such rules systems are deeply constituent elements of cultural norms and social structures, and, being mostly unwritten, are extremely difficult for outsiders (national or international) to fully comprehend. Concepts of justice are closely intertwined with (and are deeply embedded in) the social, economic, and political structures and belief systems of a given society. Any attempt at pro-poor judicial reform, therefore, needs to commence with a detailed understanding of these different regulatory orders whereby the poor achieve or are denied justice. Further, it does not focus on trying to externally engineer greater ‘compatibility’ between state and non-state systems, but rather on creating new mediating institutions wherein actors from both realms can meet—following simple, transparent, mutually agreed-upon, legitimate, and accountable rules that adhere to minimum human rights standards—to craft new arrangements that both sides can own and enforce. That is, J4P focuses more on the process of reform than on promoting some idealised end-state.

The program also reflects an understanding that law and justice cut across all sections of socio-political and economic life, and that the ‘rules of the game’ in any given context have a direct

⁵ The Justice for the Poor Program is being implemented as a collaborative effort between the World Bank’s Legal Vice Presidency, Development Research Group, Social Development, and Public Sector Governance. As a cross-sectoral initiative within the Bank, it draws on a broad range of multi-disciplinary expertise. It also enables the initiative to have a significant and direct role in shaping operational agendas in multiple Bank sector groups. The program is supported by an advisory group made up of relevant members of each of these Vice Presidencies.

impact on the effectiveness of different development interventions. Given that reform processes are often about ‘changing the rules’ or the distribution of resources, they are also inherently conflict ridden. Experience suggests that where development initiatives have built-in mechanisms for managing disputes, they can improve the effectiveness of projects and reduce the likelihood of conflict arising.⁶ Such mechanisms address the legal or justice-related elements of the development process by providing outlets for and tools to communities to resolve disputes which impact on access to resources and, by extension, standards of living. J4P therefore operates alongside or within broader development interventions to make development processes themselves more equitable and inclusive, and to provide tools for the management of conflicts associated with such processes.

There is no simple or universal technocratic fix for building the rule of law in such circumstances. In fact, the thinking underlying the J4P approach would suggest that legitimate rule of law institutions can only emerge out of “social processes of interaction, deliberation and reasoning”⁷ which are inherently unpredictable and less amenable to expert design. In as much as we can engage with such processes, however, experience suggests the following:

- Justice is a cross-cutting issue which affects a wide range of development efforts. As such it is an issue which may be best addressed through sectoral programming, rather than solely through justice sector reform efforts.
- In the absence of equitable rule-based systems for allocating resources and resolving disputes, peaceful collective action by citizens is often a crucial mechanism for leveraging increased state responsiveness to the needs of the poor.
- International voices may be crucial to opening and supporting the space for reform. These voices will be most effective when they accurately reflect and amplify the concerns of marginalized groups.
- Creating defined spaces for citizens to participate in ‘legally infused social dialogue’ may represent a useful way to channel the demand for justice into the sorts of deliberative processes in and through which the development of more equitable institutions can potentially emerge.
- Detailed in-country research is required to more adequately understand the idiosyncrasies of local context and to most appropriately stimulate public debate.
- Thus the program has, in as much as it can, developed a method of engagement; an approach that reflects a inter-related non-linear understanding of processes of reform and that places dialogue and capacity building at its centre.

While the regional program will draw on the experiences of the J4P program to date, rather than providing a template for designing interventions in the region, this experience provides an approach to thinking about and engaging with processes of social change. It is important to note,

⁶ Barron, P., R. Diprose & M. Woolcock (2006) “Local Conflict and Community Development Projects: Assessing the Impact of the Kecamatan Development Project in Indonesia,” *Working Paper 10*, Social Development, World Bank, Jakarta.

⁷ March, J.G. & J.P. Olsen (2005) “Elaborating the “New Institutionalism,” Working Paper No. 11, Centre for European Studies, University of Oslo, p12.

however that the use of the term ‘poor’ in the name J4P has been questioned, including by local partners in countries covered by the EAP-J4P Initiative. It has been argued that ‘poor’ is inappropriate or even offensive. While the name has fit the program well to date, it may be more appropriate for each country program to come up with more context specific names in concert with local communities.

1.1 Fit with Organisational Priorities

The proposed regional program, building on the knowledge base, experience and priorities of both AusAID and the Bank, aligns with and supports strategic priorities in both organisations.

The focus on context specific, pro-poor demand-oriented approaches to governance corresponds with priorities identified in AusAID’s 2006 White Paper. The White Paper states that “approaches to governance must understand the local political context and particularly in non-reform environments, support is best provided to help local people express their own demands for better services and performance.”⁸ Furthermore, the White Paper notes that “for reform to be successful and sustained, it has to be driven by local champions.”⁹ As a cross-sectoral initiative, J4P also focuses specifically on a number of key themes highlighted in the White paper, including land, gender, promoting the demand for better governance and development effectiveness.

In his *Annual Meeting Speech*, President Zoellick outlined six major strategic themes that the Bank should focus on over the next few years in order to help achieve an inclusive and sustainable globalization¹⁰:

- **Fragility and Conflict:** Address the special challenges of states coming out of conflict or seeking to avoid the breakdown of the state.
- **Knowledge:** Foster a knowledge and learning agenda across the Bank Group to support its role as a 'brain trust' of applied experience.
- **Poorest Countries:** Help overcome poverty and spur sustainable growth in the poorest countries, especially in Africa.
- **Global Public Goods:** Play a more active role with regional and global public goods on issues crossing national borders, including climate change, HIV/AIDS, malaria and aid for trade.
- **Middle-Income Countries:** Develop a competitive menu of development solutions for middle income countries, involving customized services as well as finance.

⁸ AusAID (2006) *Australian Aid: Promoting Growth and Stability*. A White Paper on the Australian Government’s Overseas Aid Program, p 16-17.

⁹ AusAID (2006) *Australian Aid: Promoting Growth and Stability*. A White Paper on the Australian Government’s Overseas Aid Program, p 16-17.

¹⁰<http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,contentMDK:21520625~pagePK:34370~piPK:42770~theSitePK:4607,00.html>

- **The Arab World:** Support those seeking to advance development and opportunities in the Arab world.

The World Bank Group has also recently adopted a *new Governance and Anti-Corruption Strategy*¹¹ (GAC) to scale up assistance **to improve governance and fight corruption in client countries**. The strategy was unanimously endorsed by the Board on March 20, 2007, followed by an Implementation Plan¹², launched by top management in December 2007. Incorporating feedback from consultations, the new GAC strategy and implementation plan place strong emphasis on strengthening local governments to enable them to be more responsive and accountable; supporting legal and judicial reform, and enhancing the capacity of “demand-side” enabling frameworks.

J4P’s work contributes significantly at least two of the President’s specific strategic themes—namely *fragility and conflict and knowledge*—as well as to the *governance and anti-corruption* agenda.

Addressing the Special Problems of Fragile States and Conflict-Ridden Countries

There is growing recognition by governments and Bank country teams that the issues of justice and conflict are related and that development initiatives in fragile environments need to pay particular attention to conflict management and the ways in which rights and responsibilities are articulated, distributed and enforced in program implementation. J4P focuses specifically on conflict management and dispute resolution in development processes and on mainstreaming justice interventions into broader development efforts. The program has already begun to show promising results, informing the design of interventions that more effectively manage and reduce conflict. Promising results in fragile and conflict affected countries has led to an increased demand from our clients both inside and outside the Bank. Nearly all the countries included in the regional program are seen as post-conflict or conflict prone (e.g. Timor-Leste) and/or fit clearly into the fragile states category (e.g. Fiji).

Traditionally, support for rule of law initiatives in post-conflict settings have primarily focused on supporting externally-engineered transitional justice mechanisms such as international tribunals and truth commissions. Arguably, these activities have often failed to sufficiently take into account local and national contexts and priorities. J4P aims to move beyond looking at traditional transitional justice mechanisms by focusing on the effects of conflict on justice and governance issues more generally, and visa versa – i.e., on the disputes and grievances people face, the ways they manage and resolve them, and the circumstances that lead from everyday disputes to violent conflict. The program may focus particularly on disputes and grievances that either contributed to conflict or resulted from it, and/or the social dynamics which could potentially lead to further outbreaks of violence.

¹¹“*Strengthening World Bank Group Engagement on Governance and Anticorruption*”, available at <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTGOVANTICORR/0,,menuPK:3036107~pagePK:149018~piPK:149093~theSitePK:3035864,00.html>

¹²<http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTGOVANTICORR/0,,contentMDK:21519459~pagePK:210058~piPK:210062~theSitePK:3035864,00.html>

Fostering a “Knowledge and Learning” Agenda across the Bank Group to Support its Role as a Brain Trust of Applied Experience

J4P is primarily a research and development program and thus has a strong knowledge generation and dissemination and peer learning focus. To date the team has developed an impressive publication series on topics ranging from collective land grievances in Cambodia to dealing with customary courts in Indonesia, and have coordinated a whole range of national and international workshops, conferences, and e-forums. Besides individual country program websites, the team has recently launched a cross-country thematic website, which is increasingly becoming an important information portal on Legal Empowerment and Development (<http://www.worldbank.org/justiceforthe poor>).

J4P seeks to create an empirically-founded knowledge base of the dynamics of local level decision-making and dispute resolution in different country contexts; such research and analysis is used to inform the design of broader sectoral or governance programs and ongoing policy dialogues. The regional program will provide the basis for using the wealth of in-depth knowledge collected at each country level for cross-country comparative and thematic work. Cross-country work will allow us to analyze the ways in which different rule systems and conflict management processes serve to create, perpetuate or ‘break’ inequality traps. It will also facilitate knowledge exchange and inform broader justice sector reform strategies and approaches.

Enhancing the Demand Side of Governance

Poor governance effects the efficient and effective administration of all areas of public life, facilitating elite capture and corruption and undermining processes that are key to ongoing development. At the same time, efforts to enhance governance and reduce anti-corruption have tended to focus on enhancing the supply side of governance, rather than on the ability of communities to claim and protect their rights and hold those institutions accountable. In many developing countries, shifts towards equitable and accountable public institutions require a significant shift in culture and political practice; reforms are unlikely to achieve any real success unless local communities, representative organizations, and key institutions of accountability are constructively and strategically engaged in their design, monitoring and implementation. Further, anti-corruption efforts have tended to focus on high level corruption and state institutions, while it is often small scale localized rent seeking that has the greatest impact on those least able to protect their rights.

J4P seeks to generate more detailed insights into the ways in which a range of ‘justice’ institutions can provide the means to increase and aggregate the voice of disadvantaged and vulnerable groups and extract greater responsiveness from local authorities and the state. In undertaking this task, the program is informed by the following working hypothesis: *“Legitimate local level justice systems can provide mechanisms of accountability and transparency at the local level that serve to control the abuse of state and non-state power, while at the same time providing accessible spaces wherein, and procedures whereby, people can claim their rights and resolve their disputes.”*

2. Overview of J4P

J4P is an attempt by the World Bank to grapple with some of the theoretical and practical challenges of promoting justice sector reform in developing countries characterised by plural legal orders. The EAP-J4P Initiative will build on the World Bank's J4P approach which has been developing over the last five years in East Asia and Africa. J4P is an approach that is shaped by local contexts and priorities, builds on local initiatives and is driven by local partners. At the same time there are some similar features to the approach that are outlined below.

2.1 Aims and Objectives

J4P's *aims* are:

1. To address the immediate justice-related needs of the poor (recognising that the development of more equitable formal legal systems may be a multi-generational endeavour).
2. To enhance the effectiveness of other development efforts by supporting them to address the justice and conflict management related aspects of their work.
3. In the long-term, to bring about incremental systemic change to justice sector institutions and systems of governance by supporting demand side pressures for reform.

To fulfil the above aims, J4P has the following *objectives*:

1. Build a solid, empirically founded knowledge base of the dynamics of local level decision making and dispute resolution processes and inequality traps.
2. Enhance the capacity at the local level to conduct policy research and undertake evidence based policy reform.
3. Support existing locally driven initiatives, and help design, implement and evaluate new pro-poor justice initiatives (piloting), and including activities as part of broader programs (mainstreaming).
4. Enhance local ownership and citizen engagement in the reform process.
5. Contribute to global dialogue on pro-poor justice issues.

2.2 J4P Approach

The J4P *approach* to achieve the above aims and objectives:

- Focuses on the **viewpoint of the user** of the justice system, particularly the poor and marginalised.

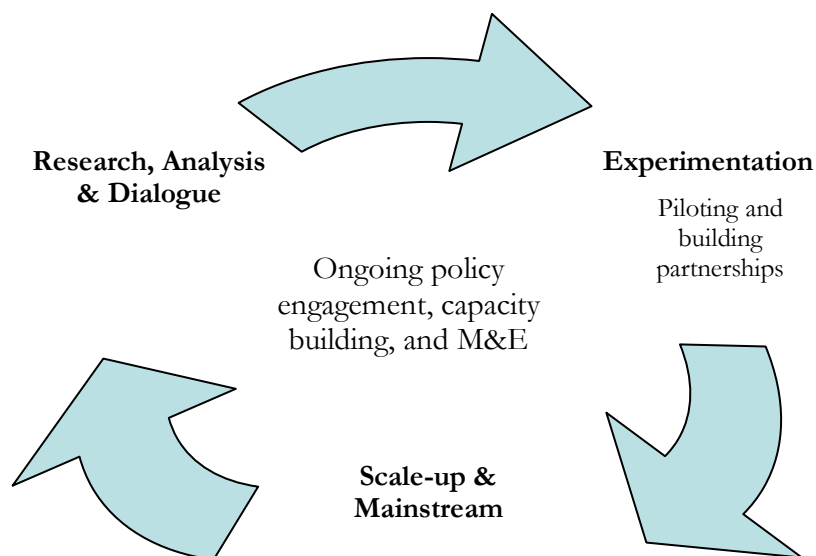
[Poor and marginalised are often distant or excluded from state based justice systems. J4P analyses and supports existing justice mechanism and local reform agendas.]

- Is **built on detailed understanding** of social and cultural realities at the local level.
[The developing countries where J4P work is conducted are characterised by deeply entrenched legal pluralism, where many (often competing) rule systems apply to the handling of social conflict. J4P recognises that these competing rule systems must be explored and taken into account when developing justice mechanisms.]
- Recognizes the **importance of demand** in the development of equitable justice systems and the process of institutional reform.
[Justice systems that arise from the equitable dialogue and contest between users will more likely respond effectively to user needs and be sustainable.]
- Sees **justice as a cross-sectoral** concern.
[Law and justice cut across all aspects of social, political and economic life. Where development initiatives have built-in mechanisms for managing disputes, they can improve the effectiveness of projects.]

The above approach is premised on a progressive engagement and long-term commitment to achieving the aims and objectives.

2.3 Program Trajectory

The J4P trajectory has three broad phases as shown on the following diagram:



The phases vary for each country program and also overlap. For example, the Indonesia program is currently in preparations for scaling up¹³ and the Cambodia program, having started later, has undertaken a range of research over the past two years and is currently focussing on

¹³ See Annex A.1 for a fuller discussion of the phases in the context of the Indonesia J4P Country program.

mainstreaming by informing the design of broader sectoral programming. At the same time, the Cambodia program is developing the next phase of its research agenda.

2.3.1 Research, Analysis & Dialogue

Adopting a ‘research, analysis and dialogue first’ approach, J4P employs integrated mixed method designs, drawing on both qualitative and quantitative data, to develop an in-depth empirically based understanding of how power is exercised through different decision-making and dispute resolution processes. During this phase, intensive field-based research identifies openings for reform and explores means by which poor people can defend their interests through formal and informal justice systems. Analytical reports are produced and research findings are used to inform and develop operational activities and provide baseline data for ongoing monitoring and evaluation.¹⁴

Research is undertaken with local research organisations, or teams of local researchers, in order to enhance local abilities to promote empirically-based reform. Findings are also used to help identify the range of stakeholders with incentives and disincentives for reform, including potential local partners and champions. Dialogue is started with these stakeholders and space is created for communities to be engaged in different visions of reform and processes of social change.

2.3.2 Experimentation

Based on the initial analytical findings, the J4P country programs support and/or develop operational models specific to each country context and priorities. The models, along with the research and analytical findings are then trialled through operational pilots to test their efficacy in assisting poor people to achieve successful resolution of problems through formal and informal legal systems. The pilots are also conducted with a view to scrutinising components for future scaling up.

2.3.3 Scale-Up & Mainstream

Following pilots, successful elements are scaled up either through expanded operations or the inclusion in national policy.

J4P also uses research and analysis to inform the design of broader sectoral or governance programs. Rather than focusing on stand-alone judicial reform projects, J4P promotes initiatives that are appended on to (and/or incorporated into) more conventional development projects. The J4P approach seeks to use the powerful incentives associated with accessing material resources

¹⁴ Research outcomes for Indonesia include: [Second Interim Report : Justice for the Poor Project: Research Paper on Community Access to Justice and Village Judicial Autonomy](#) (January 2005); [Interim Report : Justice for the Poor Program - Research Paper on Community Access to Justice and Village Judicial Autonomy](#) (July 2004); [Village Justice in Indonesia: Case Studies on Access to Justice, Village Democracy & Governance \(893kb pdf\)](#). All J4P Indonesia program publications are available at www.justiceforthe poor.or.id/?lang=en&act=showMorePublications. Research findings for Cambodia include: [Sharing Growth : Equity and Development in Cambodia](#) (June 2007); [Justice for the Poor? An Exploratory Study of Collective Grievances Over Land and Local Governance in Cambodia](#) (October 2006); [Land Disputes: Finding Justice through Collective Action, World Bank Newsletter, Cambodia Country Office](#) (September 2006); [Cambodia: Women and Work in the Garment Industry](#) (January 2006). All can be found at www.worldbank.org/justiceforthe poor.

for roads, schools, and other key development priorities as a basis for establishing new- more equitable- precedents and procedures for decision making and priority setting. In this way, J4P operations draw the link between legal empowerment and poverty reduction, for instance, by equipping farmers with tools to understand and assert their land rights; labourers their legally entitled benefits and conditions; and women their rights to inheritance and property.¹⁵

2.3.4 Ongoing Activities

Dialogue

Inherent in the J4P approach is the promotion of equitable spaces for dialogue and negotiation to take place so grievances and conflicts can be aired and managed; facilitating equitable multi-stakeholder participation and managing conflicts arising out of processes of change are fundamental aspects of the program itself. Starting before the establishment of a J4P country program, covering the period of program design and continuing through operations, dialogue with partner governments, other donors, non-government organisations and citizens generally forms the basis of engagement. The success of the ongoing program is to a large extent dependent on the ongoing involvement of all key stakeholders.

Capacity Development

A country's ability to undertake empirically based policy reform is directly affected by local understandings of the policy process and the local capacity to conduct rigorous policy-oriented research and analysis. The program pays particular attention to this ongoing need and the primary importance of local organisations in being engaged in implementing policy reform and generating support for social change. Local organisations need the capacity to research and contextualise research findings to properly own the development process. Through partnership with these organisations, J4P invests significantly in developing the skills and capacity of both the institutions and their staff through direct training and, more importantly, by facilitating horizontal peer learning between implementing partners on the ground, as well as to a global debate.

Effective Monitoring & Evaluation


Monitoring and evaluation is central to building an empirical knowledge base of the dynamics of law reform and the effects of different interventions on processes of social change. While there is now a general consensus that justice and governance reforms are crucial for stable and equitable development¹⁶, there is little documented evidence regarding whether and how different development interventions achieve their purported aims. This is particularly the case for access to justice and 'demand-driven' initiatives. This AusAID/World Bank Partnership will aim to address this gap. See M&E section below.

¹⁵ For example, the Support for Poor and Disadvantaged Areas Program – Mediation and Community Legal Empowerment (SPADA-MCLE) Component in Indonesia and the Cambodia Demand for Good Governance (DFGG) Project.

¹⁶ The importance of such reforms was underlined in the *World Development Report 2006* on Equity and Development (see 1).

Partnerships & Knowledge Sharing

Solid partnerships with government, non-government and donor organisations, in the design and implementation of both research and operational work, is key to the ongoing viability and success of the program, as is the creation of spaces for direct citizen engagement. Such collaboration and knowledge sharing is an essential step towards ensuring the legitimacy, relevance, and effective management and implementation of justice reform and legal empowerment programs. To facilitate these partnerships, the program provides spaces for local entities and reform actors to initiate and lead global, regional and country specific learning and knowledge sharing events aimed at enhancing public participation in broader policy debates, encouraging collaboration across institutions, and developing a community of practice in local level justice reform. Such events range from project specific initiatives, such as local level Multi-Stakeholder Forums established as part of a pilot program in Indonesia to international e-forums involving people from a wide range of organisations and interests. J4P also focuses on establishing strategic partnerships with key local organisations (such as the Centre for Advanced Study in Cambodia and the National Development Planning Agency in Indonesia), with other donors (such as UNDP in Indonesia) and academic institutions (such as the working relationships currently established with Leiden University in the Netherlands and Brookings World Poverty Institute, Manchester University, UK).



3. Goal & Structure of the EAP-J4P Initiative

3.1 Goal

This AusAID/World Bank regional collaboration is being undertaken in two stages. Stage One ran from August 2006 until late 2007, and comprised the scoping and preparation phase. A concept note prepared in November 2006 formed the basis for discussions with partner governments, civil society and AusAID and World Bank counterparts, both in-country and at headquarters in Canberra and Washington. Concept peer reviews by the World Bank and subsequently by AusAID were conducted during 2007. This has all culminated in the development of this proposal for the five year (Stage Two) EAP-J4P Initiative.

The EAP-J4P initiative will build on the aims and approach of J4P outlined above, with the overall goal to:

- Support local justice and governance reform efforts by providing assistance to specific country initiatives (both government and non-government) and by facilitating regional knowledge sharing and cross-country learning; and
- Improve donor understanding and approaches to supporting justice/governance reform, drawing on lessons learned from country and regional experiences.

3.2 Structure

The EAP-J4P Initiative consists of two interrelated sets of activities:

1. *Country Programs* – strengthen the two existing country programs (Indonesia and Cambodia) and develop several new country programs (Timor-Leste, Vanuatu, and possibly Fiji and Solomon Islands).
2. *Regional Program* – create three new components:
 - a. An Analytical and Advisory Program to conduct cross country comparative work on key themes, namely:
 - Land and Natural Resources
 - Development Effectiveness
 - Gender
 - Legal Pluralism
 - b. A Knowledge Sharing Program aimed at establishing a Community of Practice of J4P experts across the region.
 - c. An Innovation and Development Program to permit flexible responses to emerging priorities and findings and allow for the development of new country programs and regional themes.

The Initiative's two program areas are based upon close collaboration and consultation with partner governments, local stakeholders, AusAID and other donors (outlined in Section 6 below).

J4P acknowledges that the development of a comprehensive regional program is a long-term enterprise, which requires significant human and financial resources. To this end, J4P will remain flexible and may begin work in a few areas of strategic concern to ensure manageable and measurable results. It will engage progressively, building a solid understanding of the local context before scaling up activities at both country and regional level.

3.3 Relationships and Linkages with Existing Programs and Initiatives

While building on J4P's methods and approach, each set of activities will be developed in response to local contexts and in support of locally led and driven reform processes and agendas. The J4P program will be designed and implemented in collaboration with governments, AusAID, other donors, and local counterparts. Activities will be tailored to government priorities and to both World Bank and AusAID operations with a view to ensuring that the program supports government reform efforts and has a maximum impact on government policy. While the program aims to empower community members to be more actively engaged in the reform process, the focus is on supporting and informing government reform efforts, not undermining or duplicating efforts that are already underway.

To this end, J4P is actively consulting with country governments and both AusAID and Bank country and thematic teams at every stage of the program development to ensure that proposed activities are in line with current priorities. Each of the country programs and thematic areas outlined below reflect the priorities and interests of client governments expressed in each of the scoping missions. Similarly, J4P will continue to work closely with existing Bank and AusAID initiatives- such as the AusAID funded/Bank executed EAP Social Accountability Program, AusAID's Demand for Better Governance Initiative, the Pacific Land Program, and the Bank's country specific and regional governance work, to avoid duplication of activities and ensure coherence among the plethora of reform efforts. Further, country based and regional teams will work in close collaboration with existing local organizations and regional bodies such as the University of the South Pacific (USP) and the Pacific Island Forum.

4. Country Programs

The country programs are the foundation of J4P programming in EAP. There are two types of country programs under the EAP-J4P Initiative – existing country programs and new country programs. Extensive research, analysis and piloting have already been undertaken in J4P's existing project countries, Indonesia and Cambodia. Under the EAP-J4P Initiative, these programs will be strengthened and expanded (geographically and thematically), dissemination activities will be enhanced and a particular focus will be placed on measuring the impact of activities. In addition, new country programs will build on the experience of the existing country teams, while developing their own unique programming based on the individual country context.

Research and programming is context-specific, and relies on an in-depth understanding of the operating environment. The countries' unique histories and development challenges, as well as the complexity of local level justice and governance institutions in the region, belie any attempt to create a standardised, turnkey "solution" to local level justice problems. Most importantly, rather than introducing new solutions and models of reform, the regional program seeks to support innovative local initiatives and local champions of reform to have a stronger voice in the international arena.

A more detailed description of the proposed activities for the existing and new country programs follows. It is important to note that in each case in-depth program preparation needs to be undertaken in order to fully map out the scope of each program and develop more detailed work plans. Further, at both country and regional levels there are interesting and important initiatives that are already underway that the team will no doubt want to support and collaborate with once the program is off the ground and a fuller contextual analysis can be undertaken. In particular, each country team will need to work closely with existing Government, AusAID and Bank projects in order to build on work that has already been undertaken. While the program places a strong emphasis on initial diagnostic research and analysis, this focus needs to be balanced with a desire to support activities that can have immediate results- although it is also important to note that the capacity development required to undertake rigorous research at the local level will, in itself, yield immediate and substantive results, given the limited research and evidence based policy reform capabilities in most countries. For now the team has developed proposals based in many cases on indicative activities and foci. Fuller country proposals can be found in Annexes A.1 to A.5.

4.1 Strengthening Existing J4P County Programs

Both the Indonesia and Cambodia country programs have already forged strong relationships with partner governments and civil society, and helped design government, World Bank and other donor funded sectoral projects. For the next five years of programming, the focus will be on mainstreaming effective governance and conflict resolution principles, increasing participation and the voice of local communities, expanding program reach on the basis of identified 'good practice' and documenting the development impacts of improved local level justice and governance.

The existing country programs will also be strengthened through linkages with the Initiative's new regional components and with AusAID's experience in the area. By working with the Analytical and Advisory Programs, they will develop a strong theory of change, sharpen their focus on key points of conflict (such as land and natural resources, and gender), improve monitoring and evaluation, and gain access to a wider range of thematic expertise. Through the Community of Practice and Knowledge Sharing component, the existing programs will build the capacity of project teams and local partners in areas where gaps have been noticed, identify regional similarities and successes that can inform programming, and share insights with a wider audience, increasing both legitimacy and effectiveness. Finally, through the Innovation and Development facility, these countries will gain access to additional funding to pursue promising areas of research and programming, and to study successful interventions outside of the current country profile.

4.1.1 Indonesia

Situational Analysis

Weak governance remains Indonesia's core poverty reduction challenge. Poor performance of the legal system has been at the heart of Indonesia's governance problems since the fall of the New Order. Complaints about the unpredictability and impartiality of the court system, in particular, have been cited by investors as one of the main obstacles to the creation of a favourable business climate. Perceptions of corruption among prosecutors and police have undermined public confidence in these institutions. The inability of formal and informal justice sector institutions to ensure accountable governance and the equitable distribution of resources is also cited as one of the primary causes of social instability and conflict at the local level, which has affected large stretches of the archipelago.

Slow progress of the national reform agenda has led to recognition that achieving results by strengthening state institutions and the supply side alone may prove illusory without a corresponding effort to meet the demand for the fulfilment of rights at the grass roots level. Supporting the creation of an equitable rules-based society requires attention to the non-state justice systems where 80-90% of disputes are resolved.

J4P Indonesia has been running since 2002. Its initial exploratory phase focused on research activities to enhance understanding of how poor communities access justice through formal and informal systems. The program has now evolved into an experimental phase, with the emphasis shifting to field operations to test interventions to enhance access to justice. This work is being piloted to inform an imminent consolidation and scale up phase, whereby analytical work will be incorporated into a National Strategy on Access to Justice and operations scaled up by mainstreaming legal empowerment work into national government community development and poverty programs.

In addition to the overall aims and objectives of the J4P approach, the J4P Indonesia Country Program under the EAP-J4P Initiative has the following specific objectives:

1. Promote *development effectiveness* and build the case for scaling up J4P through an intensive program of impact evaluation of operational work.

2. Enhance *gender equity* through programs to support women's legal empowerment and more socially inclusive non-state justice systems.

Activities

The following integrated set of activities have been identified as priorities for the J4P Indonesia Country Program under the EAP-J4P Initiative:¹⁷

Promoting Development Effectiveness

The key to promoting development effectiveness is first developing improved methods and tools for monitoring and evaluating J4P-type interventions. Data will then be used to inform the consolidation and scale-up of a number of J4P pilots, as well as national and local government access to justice strategies. Strong empirical impact data on J4P interventions will focus on evaluating impact against income outcomes, the level of violent conflict and any change in state-society relations. At the same time the capacity of local organizations to collect data for monitoring and evaluation purposes will be enhanced. Finally, this activity will contribute to the regional AusAID/World Bank partnership and facilitate donor harmonisation through the development of common monitoring and evaluation methodologies.

Women's Legal Empowerment (WLE)

Women's access to justice will be enhanced through the development of a model for demand-based justice reform through the delivery of a program in eight provinces. This will involve strengthening women's legal knowledge and access to justice at the local level through the creation of paralegal networks. These networks will be linked to district-level governments and legal institutions (courts, police, prosecutors) that are provided with support to enhance their capacity to handle cases and provide training on women's legal issues. Policy dialogue on women's legal issues, based on experience from the field and monitoring and evaluation data, will be supported with regional and national level policy-makers.

Village Judicial Autonomy

Village-based dispute resolution mechanisms, founded on constitutional principles and safeguards, will be strengthened. J4P Indonesia will work with non-state justice systems in two provinces, paying particular attention to enhancing access to justice for women under village institutions by increasing their representation, clarifying procedures and norms applied and delivering legal education to women's groups. Collaboration will take place with the Supreme Court and regional governments to secure government recognition of local level dispute resolution mechanisms and to define the respective 'jurisdictions' of informal and formal justice systems. Finally, results will be evaluated as part of Development Effectiveness component, with a view to scaling up the socially inclusive non-state justice systems from the pilot provinces to additional locations.

*[More detail on the proposed Indonesia program can be found in Annex A.1]*¹⁸

¹⁷ J4P Indonesia is a large program consisting of a number of interrelated activities, only a few of which will be supported under the EAP-J4P Regional Trust Fund. Nevertheless, the EAP-J4P Initiative will benefit from the knowledge and experience generated from the entire J4P Indonesia Country Program.

4.1.2 Cambodia

Situational Analysis

Cambodia represents an especially challenging country context for legal and judicial reform. While the government shows strong commitment on paper to reform, progress towards this goal is thwarted by systems of governance which are in many ways inimical to the development of transparent rule based practices. In these circumstances reform is likely to depend as much on engagement with messy political and social processes as it will on technical legal innovation.

J4P has been underway in Cambodia since mid-2005. In its initial stages, the project focused on a range of research activities relating to areas of strategic focus set out in the Bank's Country Assistance Strategy. This has meant a focus on issues of land, labour and local governance.

Activities

The following activities have been identified as priorities for the J4P Cambodia Country Program under the EAP-J4P Initiative:¹⁹

Justice Sector Performance Evaluation (Giving Voice to the Poor)

One of the Cambodian government's justice sector reform priorities is to develop systems to monitor the performance of their reform efforts. The J4P program will contribute to this priority by supporting the development of justice sector performance evaluation systems which give voice to the experience of users (and potential users) of the justice system, in particular those who are poor and marginalized. This activity will contribute to the broader regional focus on M&E and development effectiveness more generally.

Community Safety and Crime Prevention

The AusAID's Cambodia Criminal Justice Assistance Project (CCJAP) on community safety and crime prevention represents an innovative approach to local level justice issues. Initial discussions with the CCJAP team indicate the potential for a joint research exercise with a view to supporting the scale up of the approach within Cambodia and regional knowledge sharing.

Support Policy Oriented Research on Justice Sector Issues

The capacity for research on governance related issues in Cambodia remains limited. Law making and reform efforts are often undertaken with insufficient preparatory research or public debate. The program will support capacity development in research, analysis and evidence based policy reform, and will continue to support rigorous research into potential areas of innovation and reform within the justice sector.

[More detail on the proposed Cambodia program can be found in Annex A.2]

¹⁸ Full information on the history of operations of the J4P program in Indonesia can be found at www.justiceforthe poor.or.id/

¹⁹ J4P Cambodia consists of a number of interrelated activities, only some of which will be supported under the EAP-J4P Regional Trust Fund. Nevertheless, the EAP-J4P Initiative will benefit from the knowledge and experience generated from the entire J4P Cambodia Country Program.

4.2 New Country Programs

Timor-Leste, Solomon Islands and Vanuatu were selected for inclusion in the EAP-J4P Initiative following joint AusAID/World Bank consultations in late 2006.²⁰ The following factors were taken into account when selecting the three countries, namely: (i) demand from the countries themselves and support from both AusAID and World Bank country teams and regional management; (ii) operational relevance; (iii) reasonable level of political stability; (iv) local capacity (actual or potential) to participate in the design and implementation of the Initiative, and (v) likelihood of generating lessons that can be applied elsewhere. The three countries selected expressed significant local demand and have relevant programmatic space for J4P to meaningfully contribute. The possibility of adding further countries at a latter stage is foreshadowed through the inclusion of the Innovation and Development Program and the creation of a Regional Community of Practice, which can include interested representatives from countries throughout the region.

Scoping missions to each of the countries selected were undertaken in the first half of 2007. The joint AusAID/WB missions were used to gain a preliminary understanding of local contexts for reform, to consult with key government, donor and civil society stakeholders about potential activities, and to help narrow down areas of mutual interest in relation to justice sector reform. This will be followed by a detailed mapping and analysis of existing stakeholder activities during the preparation phase of each country-based program to ensure that J4P is well integrated with and/or linked to existing country priorities and development strategies, and that planned initiatives build on innovative activities already underway in the region. As outlined above, program design will seek to strike a balance between the need to develop a solid research base for the program and the need to deliver some immediate tangible benefits to the poor. Thus, in each case, initial exploratory research will aim to identify a number of practical initiatives that could be implemented in the early stage of the program. Possible interventions might focus on supporting more classic access to justice efforts- such as existing community legal education campaigns or legal assistance programs-, or activities aimed at promoting the inclusion of effective, equitable dispute resolution in existing reform processes; in each case initial (possibly pilot) activities will aim to bring immediate, realistic and contextually appropriate outcomes to the poor. Each country team will work closely with existing Government and non-state actors in order to build on work that has already been undertaken. Such ongoing activities will be refined and evaluated as the program develops.

Since the scoping missions a number of other countries have shown ongoing interest in being part of the regional program- including Fiji, PNG, Laos, and the Philippines. At the same, given current budget priorities in Solomon Islands, the initiation of a Solomon Islands country program in the next year is unlikely. Given this change in start-up countries, the team is undertaking a joint scoping mission to Fiji in February 2008 in order to assess the feasibility of commencing a country program there in the near term. As the program develops the team will also continue to explore options in other countries that have shown an interest in being involved and/or interested countries that emerge out of the regional knowledge sharing initiatives. For now this proposal

²⁰ A potential list of countries for new country-based programs was identified through preliminary consultations with AusAID and Bank country desks/teams. These countries included the Philippines, Timor-Leste, Papua New Guinea, Solomon Islands, Fiji and Vanuatu.

only outlines our current plans for Vanuatu and Timor Leste, however a detailed program proposal for Solomon Islands can be found in Annex A5, and the draft TOR for the Fiji Mission can be found in Annex A6.

4.2.1 Timor-Leste

Rationale and Situational Analysis

As one of the world's newest and poorest nations, with its physical and administrative infrastructure largely destroyed in 1999, Timor-Leste presents one of the most difficult environments in which to develop a justice reform program. Analysis of the crisis of May 2006, suggest that it arose as a consequence of underlying socio-economic inequities and weak government accountability. Significant efforts have been made to construct the formal legal system, but building from such a low base means that it will be generations before the formal system can provide the type of services envisaged in a conventional 'rule of law' state. There is thus a need to support (in parallel) existing local mechanisms to provide justice services to the poor and marginalised, while also creating spaces for citizens to engage in the formal reform processes to ensure that reforms are responsive to local needs.

The J4P approach recognises that 'injustice' is often felt most acutely by the poor and marginalised in terms of economic opportunity. Those, who have limited access to resources are also those who often find it difficult to claim or protect their rights. In many instances, marginalised groups, such as women and youth are discriminated against and/or disempowered by both formal state and non-state justice systems. J4P provides useful approaches for engaging with some of these issues in Timor Leste.

Activities

Indicative areas of engagement for the J4P Timor-Leste Country Program are:

Interaction and Relationship between Different Justice and Governance Systems

There is strong preference among communities to use local level justice mechanisms for resolving conflicts. Elected authorities, including suco chiefs and councils play an active role in resolving a broad range of disputes. A J4P Timor-Leste Country Program will identify patterns of interaction between elected local authorities, traditional structures of power, and formal institutions, develop models of integration and facilitate multi-stakeholder forums where actors from all realms can discuss common strategies.

Management of Land Disputes

Disputes over land are the most common and intractable form of legal complaint in Timor Leste, in both urban and rural areas. J4P will build an empirically-based understanding of the trajectories of land disputes, support capacity building for local authorities and facilitate citizen's engagement and participation in the broader national policy dialogue.

Public Legal Education and Legal Aid Services

A chronic lack of information at the local level about economic rights and legal processes is compounded by laws published in Portuguese that are rarely translated into local languages. A

J4P Timor-Leste Country Program could support legal literacy programs on economic rights, engage law students in community-oriented legal awareness and develop more community-orientated models of legal aid delivery.

Youth and Community Safety

Youth constitute a significant proportion of the Timorese population and are a key protagonist in the current violence. J4P will conduct research on the interplay between youth, violence and conflict in Timor Leste. It will also explore ways of engaging with gender based violence and community safety, and support crime prevention and reconciliation efforts for youth.

[More detail on the proposed Timor-Leste program can be found in Annex A.3]

4.2.2 Vanuatu

Rational and Situational Analysis

Vanuatu is governed by many legal orders, including a multitude of traditional and customary structures and a weak formal system, stemming from a dual (French and Anglo) colonial tradition. Such legal pluralism, combined with chronic political instability, weak government capacity and geographical challenges to the delivery of services, makes reform of the justice sector challenging. In such challenging context J4P approaches provide different possible modes of engagement.

Formal justice sector institutions mandated to provide legal services to the citizens, such as the Public Solicitor's Office, have very limited resources and are largely restricted to the capital, Port Vila. Outside the capital, traditional and informal institutions, including chiefs, churches and other organised social networks continue to perform basic governance and dispute resolution functions. The interaction of these mechanisms with the formal system is not clearly delineated and can be the source of tension. For example, customary lands tribunals have been established by an Act of parliament to deal with disputes in relation to land. On the one hand, such tribunals were apparently established to institutionalise the role of the chiefs in the land resolution process. On the other, some chiefs contest their credibility. Others argue that they are performing functions of state without the support and backing required. Furthermore, increasing urbanisation is resulting in increased dislocation, economic hardship and the emergence of more modern disputes. In this context, disputes become harder to resolve as migrants bring together conflicting customs and traditional practices on how to deal with grievances.

Activities

Indicative areas of engagement for the J4P Vanuatu Country Program include:

Building Local Policy Oriented Research Capacity

The capacity for research on governance related issues in Vanuatu is limited and law making and reform efforts are often undertaken with insufficient preparatory research or public debate. J4P will develop and expand upon a pool of researchers, and potential researchers, to conduct empirically-based work and foster of a local community of practice involving researchers and

policy makers. The program will not only focus on rigorous training but will emphasize horizontal peer learning.

Land and Livelihood Issues

Land is an asset that possesses great cultural value and is also the main source of subsistence and livelihood for most rural communities in Vanuatu. Land is also subject to the most common and persistent type of disputes. J4P will build an empirically-based understanding of the trajectories of land disputes (including identifying success stories), and facilitate citizen's engagement and participation in the broader national policy dialogue.

Local Governance and Administration

Community participation in policy debate is limited and the capacity of civil society organisations to promote accountability is constrained. J4P will research claims against local authorities (including chiefs, churches, provincial government and political leaders) to understand the trajectories disputes follow and identify factors that contribute to more equitable resolution of grievances. J4P will collaborate with the AusAID's Kastom Governance Program to facilitate the involvement of more marginalised groups in decisions about Kastom governance reform.

Labour Disputes

Most labour disputes in Vanuatu are claims against the government or government owned companies, yet the tourism boom has also led to increased disputes between workers and foreign investors over wages and conditions. A J4P Vanuatu Country Program will research labour dispute resolution (particularly focused on identifying success stories), support programs aimed at increasing rights awareness and facilitate more equitable negotiations.

Gender-based Violence

Gender-based violence is an acute problem in Vanuatu. Gender equality coached in Western terms often faces resistance from traditional authorities, which have tended to be male dominated in structure. At the same time, women often play key roles in the community and 'traditional' practices. A J4P program would therefore seek to address gender sensitivities in a culturally sensitive manner to ensure buy-in from kastom and church authorities, and to work within existing socio-cultural systems, supporting existing mechanisms aimed at protecting the rights of women. Further, the program would support multi-stakeholder dialogues on women's issues and facilitate legal awareness and legal assistance programs for vulnerable women.

Youth

Approximately half of Vanuatu's population is under the age of 18. Urbanisation is causing intergenerational tensions and high rates of youth unemployment are contributing to social problems, including increased property crimes and sexual abuse. J4P will focus on collecting case studies on youth and identifying innovative community-based crime prevention and conflict resolution mechanisms, and support creative education programs and community dialogues on youth related issues.

[More detail on the proposed Vanuatu program can be found in Annex A.5]

5. Regional Program

While local staff may be experts in the ‘on the ground’ dynamics of particular local justice issues, they often lack the time and the means to tap into broader debate on thematic issues. The Regional Program makes the most of economies of scale in ideas, learning and training. It will also help to develop a united vision and avoid the duplication of research. The Regional Program will provide a coherent voice to the initiative in the region, whilst continuing to privilege country context, and will allow the country programs to tap into and synthesise the expertise of development professionals, both within and outside AusAID and the World Bank, for the benefit of the people in the region. The program will solicit advice and technical assistance from a wide range of experts with relevant regional and programmatic experience, including the World Bank’s research-focused departments (eg. DEC & PREM), the World Bank’s Living Standards Measurement Survey (LSMS) team, AusAID’s research and evaluation departments, regional academic institutions in the EAP, and key academics and practitioners working on the different areas of focus.

The Regional Program links with both the Bank and AusAID’s wider policy agendas (with its emphasis on development effectiveness) by including increased evaluation, analysis and selectivity in programming. The Regional Program will raise the profile of both AusAID and World Bank work in the region. Reporting to AusAID will be conducted in line with the overall reporting framework for the regional trust fund.

The Regional Program has three main objectives: 1) to develop cross-country analytical work; 2) to establish a community of practice and promote regional knowledge sharing; and 3) to provide a mechanism for further innovation and development of the program. The full Regional Proposal can be found in Annex B. Given the limited budget at this time, not all activities will be possible in the shorter term, however, this proposal aims to outline indicative areas of engagement and interest. More detailed and realistic work programs will be developed in the preparation phase of the project.

5.1 Analytical & Advisory work

Rationale

The cross country thematic work aims to provide local partners and Country Programs with access to global experts who can provide both programmatic advice and global comparative knowledge. In addition, the wealth of in-depth knowledge that is collected at each country level can contribute to the broader thematic knowledge. J4P practice can serve to shape the understanding of global experts in this area, thereby facilitating a two way flow of information.

Aims

The aims of the analytical and advisory program are to:

1. Increase the effectiveness of the country programs, by distilling lessons learned from research and operational work and disseminating it to partner governments, civil society and regional stakeholders.
2. Improve donor understandings and approaches to supporting pro-poor justice reform efforts drawing on country and regional experiences (beyond pure supply-side projects).

Themes

The regional program will aim to focus on a number of different themes and strategic relevance to development in EAP. Areas of focus will be guided through consultation with national government partners, civil society and the key experts in different thematic areas. Areas that are currently being developed in consultation with country partners and AusAID counterparts include:

Land and Natural Resources

The management of land and natural resources—including the ways in which rights to land and natural resources are defined, and can be acquired and exchanged—has far-reaching social, cultural, economic as well as legal implications for societies in the EAP. This theme will focus on four areas: formalisation, dispute resolution, plural land orders, and state land management.

Development Effectiveness

Ensuring development effectiveness is a priority for AusAID and the World Bank's regional, as well as local and global development policy and programming agendas. Operationally, this necessitates instituting a process of research, design, and evaluation capable of replicating operational successes, identifying shortcomings and correcting failures.

Gender Equality

Gender equality is a key development issue in the region for both normative and pragmatic reasons. As AusAID notes in a recent report, “gender equality is a critical component of efforts to eradicate poverty, enhance economic growth and democratic governance, and achieve sustainable development.”²¹

Legal Pluralism and Non-State Justice

Legal pluralism, where more than one set of socio-legal norms or rules govern society, is the reality in much of EAP. In many countries non-state justice systems, or informal socio-political processes, resolve the majority of disputes, and dictate the management and distribution of resources. These processes often clash but are sometimes cooperative with state systems. It is necessary to understand the penetration of regulatory systems, not least because they affect broader reform efforts. This reality presents unique and complex challenges for legal reform as well as development efforts more generally and it is thus crucial to understand how they operate as well as how they can be approached.

²¹ AusAID (2007) *Gender equality in Australia's aid program – why and how*, March, p6.

Activities

The following indicative activities are foreshadowed:

1. The provision of technical support to country programs, as well as training and capacity building to local partners.
2. The development of methodologies and instruments for conducting cross-country research and evaluation on various themes.
3. The publication of analytical reports, toolkits, and policy papers to influence national and regional reform agendas and government and donor programming.

[More detail on the proposed Analytical and Advisory Program can be found in Annex B]

5.2 Community of Practice & Knowledge Sharing

Rationale

As an emerging development agenda, the ongoing articulation and refinement of J4P's approach remains critical. Sharing ideas and lessons learned across regional programs and engaging regional expertise from partner governments, non-governmental experts, World Bank and AusAID, will contribute significantly to advancing work in this area. The Community of Practice and Knowledge Sharing component will leverage the wealth of experience that the Cambodia and Indonesia J4P teams already have, with AusAID's in-depth contextual knowledge of the region and the Bank's global expertise. This will increase the effectiveness of both the new and existing country programs and influence the global policy agenda on justice reform. It will support coalitions among different actors interested in pro-poor justice reform, including other donors, reform minded government officials, legal activists, community leaders, academics, advocacy NGOs and CBOs, student groups and media.

Aims

The aims of creating the regional Community of Practice and Knowledge Sharing component are:

1. To increase cross learning between countries.
2. To enhance dissemination through collaborative partnerships with government bodies, research institutions and practitioners.

Indicative Activities

The following indicative activities are foreshadowed:

1. Facilitate locally driven cross-country learning through list-serves, regional and country specific workshops and conferences, and cross-country visits and staff placements (from Bank teams and collaborating partners) to draw comparative lessons about the efficacy and impact of pro-poor justice interventions.

2. Disseminate findings and outcomes via the J4P website, published articles and other publications.
3. Support and engage local media and build upon country-specific discussion forums to stimulate public debate and participation in policy reform and generate constituencies for change.

[More detail on the proposed Community of Practice and Knowledge Sharing component can be found in Annex B.2]

5.3 Innovation & Development

Rationale

Inherent in the J4P approach is responsiveness to evolving local context and processes. The EAP-J4P Initiative operates in an environment characterized by uncertainty, including uncertainty about the precise nature of barriers to access and the most effective methods of addressing these barriers. It is envisaged that the program will develop and change over time, reflecting both the overall J4P approach as well as regional conditions. Allowing for the ongoing adaptation and development of the program will allow other countries to more actively participate in the program and ensure the continuing relevance and impact of ongoing work.

Aims

The aims of the Innovation and Development Program are to:

1. Allow scoping of future potential participant countries and regional components.
2. Provide partners and country and regional teams with the flexibility to pursue promising new channels of research and programming.

Activities

The following indicative activities are foreshadowed:

1. Fund emerging streams of research and programming within existing country programs that are innovative, responsive, directly beneficial to on-going EAP-J4P research and programming, and implementable under a limited timeframe and budget.
2. Support scoping and learning missions to countries currently outside the Initiative.

[More detail on the proposed Innovation and Development Facility can be found in Annex B.3]

6. Implementation and Collaboration

The initiative will bring to bear the combined expertise of the World Bank and AusAID in an effort to substantially improve local level justice and governance in the EAP region; the collaboration represents a strategic alignment of organizations with shared goals and unique comparative advantages. Both organizations bring recognized experience and expertise in law and justice reform. This is complemented by AusAID's knowledge of and strong presence in the region, and their relationship with key stakeholders within the national and sub-national governments. At the same time, the Bank brings a broad range of experiences from different regions and sectors, enables access to leading intellectuals and practitioners, and provides a platform for the collaborative work to gain international attention.

The Bank plays a widely-recognized role in helping to set the development agenda through its data, research, and operational findings. The World Development Report 2006 (WDR 2006), which examined issues of equity and development, has brought increased attention and financial contributions to local level justice and governance efforts. *Justice for the Poor* is a key product in the empowerment effort, and the proposed expansion of the EAP program will bring wider attention to AusAID's justice reform activities in the region. Dissemination of findings and results through Bank networks and publications will also facilitate a wider knowledge exchange. Further, through its convening power with governments and other donors, the World Bank has the ability to ensure that research and program findings are scaled up into government processes.

The proposed EAP-J4P collaboration will build upon these advantages to create a program that will serve as a regional model for effective local-level justice and governance reform.

To be successful, this collaboration must receive adequate financial, programmatic, intellectual, technical, and administrative support. While the Bank is looking to finance much of the proposed program through an AusAID financed, Bank executed trust fund, the Bank will still provide technical, intellectual, programmatic and financial contributions to the EAP-J4P initiative- see below for a more detailed discussion of the Bank's technical and financial contributions to the program. Similarly the existing J4P program, financed predominantly from donor trust funds, has benefited extensively from the Bank's resources, both human and financial, and has been able to leverage these resources to gain wider adoption of J4P findings.

The World Bank *Justice for the Poor* team is committed to effective and consistent collaboration on all aspects of program planning, design, implementation, dissemination and evaluation. A good working relationship between AusAID and the World Bank has been established during the first phase of the program with staff undertaking joint scoping missions and consultative workshops, and AusAID staff reviewing and commenting on working drafts of the different country and regional proposals. It is envisaged that a close working relationship will continue to be fostered during the life of the program.

It is also envisaged that this spirit of collaboration will be broadened out to government counterparts and other local stakeholders. It is clearly essential for country programs to be embedded in local priorities and practices and, as much as possible, for initiatives to be directed and run by local counterparts.

6.1 Management

The Initiative will be funded and managed through a World Bank executed Trust Fund. This structure allows for effective collaboration while maintaining primary accountabilities through the World Bank's management and strategic planning processes- bank executed trust funds require specific management structures and processes that are designed to facilitate coordination and integration of multiple project components and ensure appropriate levels of financial and administrative oversight and staff accountability.

Multi-stakeholder working groups

In order to ensure effective collaboration and consultation with governments, donors and other stakeholders, the program will establish multi-stakeholder working groups at both the country and regional levels. The working groups will be convened by the country or regional team leaders, and may include relevant government and non-government partners, AusAID counterparts, members of the World Bank's country team, and Bank or other experts in the area. The working groups will be responsible for preparing annual activity plans to be approved by government, and will have ongoing input into the design, implementation and monitoring of different parts of the program. These work plans will be aligned around both AusAID and World Bank country assistance strategies and sectoral priorities. Local team leaders will be tasked with managing day-to-day operation of the country programs.

It is envisaged that AusAID counterparts will be actively involved in country and regional working groups. AusAID's presence in these groups will hopefully ease integration of J4P programs into the AusAID country team portfolios, facilitate the mainstreaming of different ideas or interventions into broader country programs, and will ensure that thematic work directly benefits AusAID's programs in the region.

While the regional Knowledge Sharing and Capacity Building program will focus primarily on facilitating learning at the local level and supporting local capacity building needs, it will act as a collection point for justice sector innovations across the region, and will support the development of government and donor knowledge about justice sector interventions more broadly. Given AusAID's recent focus on increasing internal research and policy capacity, the World Bank will work closely with both local partners and AusAID on the planning and execution of knowledge-sharing activities, learning events, and conferences. These activities will enable a wider range of AusAID staff to undertake capacity building activities, will help to improve the analytical capacity of AusAID team members – a central theme of the recent *White Paper* – and will inform AusAID interventions more widely. It is also envisaged that AusAID staff will be involved in developing new areas of collaborative engagement as part of the initiative's innovation and development.

Country Programs

Country Programs will be led by field based team leaders and will gain technical and managerial backstopping from the program secretariat and substantive input and support from the local multi-stakeholder working group. Country Programs will operate with substantial levels of autonomy, while formally reporting to both World Bank country management and the program secretariat. Country programs will also rely on World Bank country offices for additional

administrative and logistical support. Where no country office exists, co-location or working through local organisations will be considered.

Program Secretariat

The Program Secretariat, will be tasked with overseeing overall program direction and strategy and regional program coordination (including thematic coordination and management). The EAP-J4P Task Team Leader (TTL) will direct the secretariat. The Secretariat will also be responsible for overall resource management, trust fund reporting and procurement, budgeting, and at the same time will provide substantive advisory support and facilitate links with key experts etc. HQ staff will undertake frequent supervision missions to the region, in addition to regular communication through videoconferences, list-serves, e-forums, cross placements and regional workshops. Country and regional teams will also inform overall program direction through cross-learning, strategy development, innovation and program development, and reporting from a country perspective.

Regional program team leaders may be based both in the field and in Washington. It is likely that one person will be responsible for coordinating more than one regional program. They will both inform and be informed by the country programs, and will maintain Working Groups to design and direct regional interventions.

Regional Steering Committee

A Regional Steering committee will be established to provide the program with access to senior expertise and attention. The committee will be made up of managerial staff from both the Bank and AusAID. The primary responsibility of the Steering Committee will be to review annual work plans and provide substantive and strategic input. The Committee will also ensure that the program is up-to-date with any key thematic developments and that it maintains links with other relevant AusAID and/or Bank activities. Such a mechanism is usually part of the managerial structure of a Bank Executed trust fund, and is arguably a benefit of undertaking such work in the Bank. The involvement of senior experts will ensure that development of new approaches is backed by strong technical and administrative teams.

6.3 Monitoring, Evaluation & Reporting

As evidenced by the inclusion of an independent Development Effectiveness component in the EAP-J4P Regional Programs, monitoring and evaluation are key priorities for J4P. A well defined monitoring and evaluation program plays a critical role in refining and improving program direction and prioritizing data collection that is rapid, reliable and relevant. The EAP-J4P program will prioritize development of a stratified monitoring and evaluation program, which will operate at both the country and regional program levels, during the first stages of the Initiative. Stakeholders will play a key role in developing monitoring and evaluation systems, from design and implementation to analysis and dissemination, and every effort will be made to bolster and complement existing country systems, while not overburdening local systems. While a detailed plan will be developed during the initial phase of the implementation, the overall objectives and focus on the M&E activities- including the objectives of the M&E work, the

guiding principles and approach, the institutional arrangements, and a results framework- can be found in outline form in Annex C- *EAP-J4P Program Monitoring & Evaluation Framework*.

The J4P-EAP M&E framework will be overseen by an overall M&E coordinator based in HQ, supported by Bank M&E experts and M&E consultants in HQ and country offices. The M&E team will work closely with the Development Impact Evaluation Initiative in the Bank tapping into existing expertise and resources such as: a roster of recommended peer reviewers; a roster of external consultants with expertise in impact evaluation; an interactive database of impact evaluations of Bank supported projects, covering methods and results; and learning resources (including technical guidance materials, sector specific evaluation methods notes, training material, and other relevant resources) and evaluation clinics.

In addition to formal evaluation activities, the program include regular informal monitoring and evaluation, through activities such as country and regional team staff meetings, strategic planning sessions, and Community of Practice and Knowledge Sharing events.

Overall Program Oversight & Reporting

Trust Fund Reporting Framework

Overall trust fund management, supervision and administration responsibility will rest with a designated task team leader (TTL) who will monitor project implementation, oversee disbursement of funds to country and regional programs, and ensure alignment with trust fund objectives. The TTL will be supported by the program secretariat and the team leaders of both country and regional programs. In particular, the coordinator of the Development Effectiveness Regional Program (with its focus on effective monitoring and evaluation) will be responsible for overseeing all monitoring and evaluation activities, and will work with country and regional programs on more specific M&E frameworks.

While the different country programs will develop their own indepth M&E system, the overall program will be monitored through the use of an electronic Bank standard reporting system for trust fund activities (which will also be made available to AusAID), which includes:

- *Progress Reports:* Prepared by country and regional program coordinators (task team leaders of child trust funds²²) twice a year and includes questions and ratings on the achievement of grant objectives, implementation of the grant, expected follow-up activity, issues for management attention, etc.
- *Completion Report:* Prepared by country and regional program coordinators (task team leaders of child trust funds) upon completion of grant activity and includes information on progress and additional assessment of lessons learned and outcomes.
- *Implementation Completion Memoranda (ICM):* Prepared by the overall trust fund manager with child level data rolled up to this main level report. In addition, a full ICM document with more questions on achievement and objectives is attached.

²² Child trust funds would allow for certain components of the program to be managed directly by country and regional program coordinators while still being linked to the overall TF management and accountability framework.

Supervision Missions

In addition to regular trust fund reporting, periodic supervision missions from HQ to country offices will take place at least twice a year to assess program progress; provide guidance to country teams; identify and address problems promptly as they arise during implementation; refine the program design as the project evolves or circumstances change; and identify the key risks to project sustainability and recommend appropriate risk management strategies. AusAID counterparts will be invited to take part on regular supervision missions and can more actively monitor program progress in this way.

Field Reporting

Where applicable J4P-EAP field staff will formally report to the regional program coordinator and TTL on a monthly basis. These reports might vary significantly depending on the type of activities being undertaken (e.g. field research, pilots, capacity development activities, operations), but will generally include information on activities completed during the last month and plans for the following month, problems encountered and proposed solutions, financial information and any other issues. AusAID counterparts can request adhoc updates as required.

Additional Consultation and Reporting Mechanisms

In addition to these standard reporting mechanisms, a joint review of the program's progress will be conducted annually. These reviews will be discussed at annual consultations where representatives of AusAID, the TTL and other key members of the J4P team will evaluate the results of activities financed by the trust fund, assess whether the objectives of the fund are being met and review the coming annual work plan and budget.

A more thorough independent review of the progress of the EAP-J4P Initiative will be carried out within three years of initiation of activities. The task manager will consult AusAID in approving the terms of reference for the review.

The J4P public website, www.worldbank.org/justiceforthe poor, will maintain information on the administrative procedures and substantive activities of the EAP-J4P Initiative.

6.4 Sustainability

The EAP-J4P Initiative has been designed with a number of features that promote sustainability including:

- A commitment to progressive and long term engagement, particularly in the new country programs.
- An inherently flexible mode of operating which allows the program to adapt to changing priorities.
- A focus on understanding and supporting local institutions and existing initiatives ensures that J4P is embedded in the environment where it operates.
- A commitment to capacity building and empowerment of reform-minded formal and informal actors to carry out reform beyond program completion.

- An emphasis on changing values and ideas (rather than bricks and mortar) which are more easily sustained once programming finishes.
- An explicit principle of working with and through government systems to develop ownership and trigger policy change.
- A participatory approach to monitoring and evaluation would provide a basis for sustained reform movement.

6.5 Risk

Risks	Risk Mitigation Measures	Risk Rating*
Instability and risk of conflict escalation do not allow for program implementation	<p>Work with other donors, governments, international organizations, local partners, and NGOs to keep abreast of changes in the security situation</p> <p>Coordinate with the UN resident security adviser in accordance with World Bank procedures</p> <p>Maintain flexibility in program design to allow for adaptation mandated by the security situation</p>	S
The multi-dimensional and complex design of EAP-J4P undermines program coherence	<p>Current J4P county and HQ coordinators actively involved in program design and supervision</p> <p>The program management structure provides clear roles and directions for the initiative</p> <p>The Community of Practice and Knowledge Sharing component will contribute to cross-fertilization and country exchange and ensure a coherent and effective program</p>	M
Program activities may cause significant shift in power dynamics and trigger resistance to reform from traditional holders of power both at the local and the national level.	<p>Ensure that reform is engineered from within and the program enjoys the legitimacy of relevant actors</p> <p>Strengthen the capacity of reformist actors both within the government and the community by helping them to constitute coalitions that press for change</p>	S
Fragile state-civil society relationships may jeopardize the attainment of development objectives	<p>Engage highly participatory and inclusive processes in designing and implementing J4P activities</p> <p>Adopt a two-pronged approach aimed at linking the supply and demand side actors and mechanisms.</p> <p>Facilitate coalitions of state and non-state actors and</p>	M

	institutions to contribute to the development of a shared vision of reform	
Risk of widespread dissatisfaction if no results are achieved in the short and medium terms (given the program's initial emphasis on research and analysis)	<p>Support innovative local initiatives or pilot programs to bring forward tangible and realistic benefits to the poor in the early stage of research and analysis</p> <p>Capacity building activities integrated in the research design will ensure immediate tangible results on the research front</p> <p>Ongoing monitoring and evaluation will measure processes of change to demonstrate program impact</p>	S
Insufficient local capacity may prevent or reverse advances in program implementation	<p>Provide ongoing capacity building by supporting peer-to-peer learning processes</p> <p>Adopt phased implementation to allow for program adaptation to local realities</p>	M
Potential for discord between research outputs and the prevailing status quo	Research activities will seek to adequately reflect local dynamics and transition processes in its design and implementation	M
Weak coordination and harmonization among World Bank, AusAID, government, stakeholders and beneficiaries	<p>J4P will consult with all stakeholders throughout the research, program design, implementation, evaluation and dissemination phases of the program</p> <p>The Collaboration, Consultation and Reporting mechanism of the program will ensure that AusAID's continuous involvement in program design and supervision.</p>	M
International community and project country governments do not maintain sustained commitment to reform	<p>Work with a joint World Bank-AusAID high level Steering Committee to ensure EAP-J4P's fit with existing priorities</p> <p>Country and regional teams prioritize regular dissemination and information sharing to ensure that the program remains visible and relevant</p>	M

* Risk Rating – H (High Risk), S (Substantial Risk), M (Modest Risk), N (Negligible or Low Risk).

6.6 Indicative Budget and Disbursement Schedule

The proposal is a request for a 5-year funding commitment from AusAID, based on an indicative budget from AusAID of approx US \$13 million. The current budget envelop, however, does not include other potential country programs, such as Fiji. Further, given that different thematic aspects of the program may develop over time and that country priorities may also change, the trust fund will be established in such a way as to allow for expansion and further contributions

Following negotiations with AusAID regarding the overall EAP-J4P Initiative, Country and Regional work programs will be prepared with detailed cost breakdowns in accordance with the following indicative budget and disbursement schedule:

J4P Indicative Budget (USD)*, by AusAID Section						
AusAID Section	2007-8	2008-9	2009-10	2010-11	2011-12	Total
Country Program						
Cambodia	250,000	500,000	500,000	500,000	250,000**	2,000,000
East Timor	250,000	500,000	750,000	750,000	750,000	3,000,000
Indonesia	250,000	450,000	450,000	450,000	450,000	2,050,000
Solomon Is	0					
Vanuatu	250,000	500,000	750,000	750,000	750,000	3,000,000
					Sub-total	10,050,000
Scoping						
Fiji	scoping					
Lao	scoping					
Regional Program						
Legal Pluralism	500,000	500,000	500,000	500,000	500,000	2,500,000
Land		50,000	80,000	100,000	120,000	350,000
Gender						
					Sub-total	2,850,000
					Total	12,900,000***
<p>Hard estimates in green, soft/hard estimates in amber, soft estimates in red</p> <p>* USD figure amounts correspond with exchange rate as at 7/11/07, USD1 = AUD0.94</p> <p>** Possible withdrawal of AusAID's support for the justice sector in Cambodia in early 2012</p> <p>*** Rows without budgets remain areas of possible future funding</p> <p>**** At this stage it is unclear where the additional 7% for administrative costs will come from</p>						

Note: Investment income earned by the Bank on unspent donor funds will be credited to donor balance account.

Other Financial Inputs

In addition to the Bank's technical contributions, the program will tap into substantial financial or resource contributions from a range of sources including trust fund monies from other donors, bank budget and staff time, and physical and technical overheads- such as office space, IT, communications etc. At the same time, the J4P team has included charges for things such as staff time in the proposed budget. Under Bank executed trust funds is it normal to charge up to 30% of the total budget to staff costs. This allows the team to ensure that it can draw on bank expertise which would not otherwise be available to it, given the internal cost charging structure within the Bank. The amount will by no means cover the staff time and costs of running the program, however it ensures that there will be adequate staff involvement at all levels rather than relying on consultants to run various aspects of the program; active staff involvement ensures that the program is adequately embedded into mainstream Bank work. Support for Bank staff involvement also allows for quality and consistency in project outputs and assured understanding of goals.

The World Bank will also contribute senior staff time to this program through the EAP-J4P management processes. The Bank will provide supervision for the program and will support the overall program steering committee. The Legal Vice Presidency will house the program secretariat, and will provide administrative and technical support where necessary.

World Bank country offices have also provided substantial in-kind cross-support to the J4P team, and this relationship is expected to continue in the new country programs. Types of support provided by the country offices frequently include use of office space and equipment, administrative and human resources support, and technical advice and review. Country teams have played an important role in the preparation of this proposal, have helped identify key themes and priorities and their involvement will be essential during program preparation and start-up.

Because of program successes and the World Bank's global reach and reputation, the existing *Justice for the Poor* programs have been able to leverage support from a wide range of donors. For example, the Indonesia program will receive approximately three-quarters of its funding from other donors under the current proposed budget. Likewise, the overall AusAID EAP Cambodia request represents just over half of total J4P costs in this country. It is envisaged that once new country programs are up and running that teams will be able to access different funds available within the Bank resource structure. J4P will continue to seek funds from other donors and the Bank budget to support the program in the coming years.

Audit Arrangements

A Single Audit encompasses the Bank's standard Quarterly Unaudited Statement of Receipts, Disbursements and Fund Balances, along with an annual management assertion and an attestation from the Bank's external auditors concerning the adequacy of internal control over cash-based financial reporting for trust funds as a whole.

Annex A: Country Programs

Annex A.1 – Indonesia²³

1. SITUATIONAL ANALYSIS

A functioning justice sector is widely understood to be crucial to poverty reduction in Indonesia. The recent World Bank Country Assistance Strategy (CAS) Progress Report reaffirms weak governance as the core of Indonesia's development challenge.²⁴ Since the end of the New Order era, Indonesia has undertaken significant institutional and legal reforms aimed at creating a justice sector capable of delivering accountable government and a more equitable distribution of power and resources. The establishment of judicial independence through the so-called "one roof law", introduction of the judicial review of legislation through the Constitutional Court and the establishment of multiple specialist courts and oversight Commissions for the judiciary, prosecutors and police, represents change on a massive scale.

Despite the scale of reform and significant donor investment, institutional changes have not brought justice closer to the people. As the CAS Progress Report observes, "progress has been much less evident in the critical area of legal and judicial reform, where the adoption of an impressive blueprint for reform of the court system has not been followed through with effective implementation." Public suspicion of the formal legal system remains the norm, leading to a preference for informal justice delivery systems, which themselves are often discriminatory and inconsistent with Constitutional human rights safeguards.²⁵ As a whole, the justice sector remains incapable of resolving or preventing serious problems which impact upon local governance and economic development, including violent conflict; infringement of the rights of villagers over land and natural resources (destruction of livelihood, environmental damage, illegal logging, inequitable land acquisition); corruption and collusion in business dealings; and the embezzlement of development funds intended for poor communities.

Justice sector reform initiatives have also traditionally focused on formal state institutions, however, justice is not the exclusive purview of the state. Village level institutions, responsible for the resolution of perhaps as many as 90% of legal problems throughout Indonesia, have been undermined by thirty years of highly centralised governance. Many now suffer from both capacity and legitimacy gaps that represent a major impediment to the creation of a rule of law culture and the social stability

²³ J4P Indonesia is a large program consisting of a number of interrelated activities, only a few of which will be supported under the EAP-J4P Regional Trust Fund. Nevertheless, the EAP-J4P Initiative will benefit from the knowledge and experience generated from the entire J4P Indonesia Country Program.

²⁴ IBRD/IDA/IFC/MIGA (2006) *Country Assistance Strategy Progress Report for Republic of Indonesia*; 5 September 2006, World Bank, Jakarta

²⁵ See World Bank (2007, forthcoming) *Forging the Middle Ground: Engaging Non-State Justice in Indonesia*, World Bank, Jakarta.

necessary for poverty reduction.²⁶ The justice needs of marginalized groups, particularly religious and ethnic minorities and women are often overlooked through village level dispute resolution systems. They require additional support and attention.

Slow progress on the national reform agenda has led to a recognition that strengthening access to justice through work with the supply side alone may prove illusory without a corresponding effort to assist the demand side at the grass roots for the fulfilment and protection of rights.

The urgent need for attention to the demand side takes two distinct forms:

- Recognition that wide-ranging institutional reform of the justice sector is a long-term project requiring years if not generations to effect. In the meantime those affected by an imperfect justice system require immediate assistance to enforce their rights and secure their livelihoods.
- The provision of justice services to the poor, vulnerable and marginalized that can help to build constituencies of demand for legal reform among these groups and contribute to the process of systemic change from below.

Against the strategic context described above, Justice for the Poor was established in 2002. Consistent with the World Bank CAS and pursuant to a Memorandum of Understanding signed with the Indonesian National Development Planning Agency (Bappenas).

Phase I – Research, Analysis and Dialogue: The initial phase of J4P Indonesia (2002-2005) was exploratory in nature. During this phase, intensive field-based research identified openings for reform and explored means by which poor people could defend their interests through formal and informal justice systems. A number of analytical reports were produced during this period.²⁷

Phase II – Experimentation: The program has now evolved from Research to Operations into an experimental stage (2005-present). Research and analytical findings are now being trialled through operational pilots. The pilots will test the efficacy of activities to recreate and scale up the range of factors identified as necessary for poor people to achieve successful resolution of problems through formal and informal legal systems.

Based on the initial analytical findings, the J4P Indonesia team has developed an operational model that combines grass roots community-based legal aid with strengthening of local government and justice sector institutions. The main operational strategy is the formation of networks of paralegals at village and sub-district level to provide a first point of contact for villages seeking legal assistance. The paralegals are

²⁶ “One can reasonably conclude that perhaps 90 % or more of the law-oriented problems involving the poor are handled outside the courts in much of the developing world.” Stephen Golub (2003) “Beyond Rule of Law Orthodoxy: The Legal Empowerment Alternative,” *Working Paper No. 14*, Carnegie Endowment for International Peace, Washington DC.

²⁷ These include World Bank (2004) *Village Justice in Indonesia* World Bank, Jakarta; World Bank (2005) *Menciptakan Peluang Keadilan*, World Bank, Jakarta and World Bank (2006) *Keadilan Tak Bisa Menunggu*, World Bank, Jakarta.

linked to legal aid lawyers and civil society networks at district level and above, ultimately feeding into district, provincial and national-level government policy makers. Community leaders are also trained in mediation and fair and effective dispute resolution techniques to build the capacity of village level institutions.

Justice for the Poor operations focus squarely on equipping communities to resolve disputes which relate directly to the assertion of economic rights. Hence, the pilots help farmers resolve land disputes and claim rights to irrigation; labourers to secure legally-entitled benefits and conditions; women to assert their inheritance, marriage and property rights; communities to tackle corruption in development projects, etc. In this way, the program draws the inextricable link between legal empowerment and poverty reduction. Variations of the J4P approach are being implemented through four major programs:

- *Support for Poor and Disadvantaged Areas Project (SPADA)*: The Mediation and Community Legal Empowerment (MCLE) component of the Indonesian Government SPADA project creates a structure from province to village level providing legal aid, legal education and mediation services to poor communities in post-tsunami and post-conflict areas in Aceh and Maluku provinces.
- *Women's Legal Empowerment (WLE)*: This pilot is being implemented in three provinces (West Java, Central Java and West Nusa Tenggara) by a local women's NGO (PEKKA) working with the National Commission on Violence Against Women. The program empowers women at the grassroots through paralegal formation and legal education on issues fundamental to livelihoods – wage discrimination, marriage, inheritance, divorce and domestic violence. It then links the grassroots groups to government and the legal system through the creation of a Multi-Stakeholder Forum (MSF) of judges, police, prosecutors, government officials and NGOs at the district level. The MSF travels to the community level to conduct legal education and hear public complaints;
- *Revitalization of Legal Aid*: This pilot works to revitalize and strengthen community legal aid posts and promote mediation services at village level in three provinces (Lampung, West Java and West Nusa Tenggara), with a particular focus on legal issues faced by labourers and farming communities.
- *Village Judicial Autonomy*: As many as 90% of all disputes are resolved through non-state justice systems operating at the local level. While more accessible and socially accepted than the courts, inequities often exist. Working in two provinces (West Sumatra and NTB), the Village Judicial Autonomy pilots will aim to develop an equitable model of non-state justice which serves the needs of the poor and marginalized and better defines the interface between state and non-state justice, with a particular focus on the needs and interests of women.

Phase III - Scale-Up and Mainstream: With an ongoing research and analytical agenda²⁸ and operational pilots on the ground, the key challenge for J4P is to scale this work up to deliver genuine national level impacts. Outcomes from the current phase of J4P will inform the next phase of consolidation and scaling-up (2006-onwards). Scale up will occur through parallel policy and operational tracks, including:

1. Assisting the Government of Indonesia (GOI) to develop a National Strategy for Access to Justice, which will be incorporated in national law through the 2010-2014 Medium-Term Development Plan;
2. Working with the GOI to mainstream access to justice activities through national poverty programs. Inserting access to justice work in programs like the Support for Poor and Disadvantaged Areas project (SPADA) and the upcoming National Community Empowerment Program (PNPM) will scale up micro-level pilots into national programs.

A strong focus on promotion of gender equity underpins J4P's strategic direction. This will be a major element of this proposed program of activities as part of the AusAID-World Bank partnership.

Ensuring the successful transition of the program into the third phase of consolidation and scaling-up will require a number of different elements. Fundamentally, significant analytical work is necessary to generate empirical data on whether J4P operational activities are delivering the anticipated impacts against three key variables: (i) income, livelihoods and poverty reduction; (ii) reduction of violent conflict; and (iii) public trust in and access to local institutions and the formal legal sector for dispute resolution.

It is these factors against which the ultimate success of the J4P Indonesia program will be measured. Generating this impact data will underpin the ongoing development of J4P Indonesia. The evaluation tools will also be applicable to the other countries in the regional J4P program and indeed to legal empowerment initiatives on a global level.

2. PROGRAM OBJECTIVES

The goal of the Indonesia J4P program as a whole is to enhance the ability of poor, vulnerable and marginalized Indonesians to access justice. In this regard, access to justice is defined as:

*Access by people, in particular from poor and disadvantaged groups to fair, effective and accountable mechanisms for the protection of rights, control of abuse of power and resolution of conflicts. This access includes the ability of people to seek and obtain a remedy through formal and informal justice systems, and the ability to seek and exercise influence on law-making and law-implementing processes and institutions.*²⁹

²⁸ Recently released outputs include Rinaldi, T., M. Purnomo & D. Damayanti (2007) *Memerangi Korupsi di Indonesia yang Terdesentralisasi*, World Bank, Jakarta. Upcoming outputs include World Bank (2007) *Forging the Middle Ground: Engaging Non-State Justice in Indonesia*, and World Bank (2007) *Women's Access to Justice*.

²⁹ Partly based on Bedner (2004), "Towards Meaningful Rule of Law Research: An Elementary Approach," MS Unpublished, VVI, Leiden; and UNDP (n.d.), "Access to Justice Practitioner Guide."

In addition to the overall J4P aims and objectives, as part of the EAP-J4P initiative, the J4P Indonesia country program addresses two more specific objectives:

1. Promote development effectiveness and build the case for scale up of Justice for the Poor through an intensive initiative to develop evaluation tools and measure the impact of J4P activities against development outcomes, conflict and security and improved state-society relations.
2. Enhance gender equity through programs to support women's legal empowerment and more socially inclusive non-state justice systems.

The above objectives will be achieved through the delivery of three components which combine the impact evaluation work as the main focus, with additional components to address gender equity and justice through expansion of an existing pilot and the launch of a new program on non-state justice systems.

Component 1: Promoting Development Effectiveness

Rationale

Ensuring development effectiveness is a process that aims to reward success, identify shortcomings, and correct failure. Generally, the operational approach to achieving this is to link research, monitoring and evaluation mechanisms to design and resource allocation decision-making processes. This therefore requires appropriate and rigorous monitoring and evaluation systems.

The Justice for the Poor Indonesia program, having completed the initial exploration phase and begun the implementation of pilot operations, is moving into a consolidation and scale-up phase. In order to scale-up, and make claims on scarce development resources, it is crucial that the program produce evidence of the pilots' outcomes and impacts. There is a deficit of knowledge about how to rigorously monitor and evaluate J4P-type programs, and significant technical challenges prevent the adoption of standard methods. Indeed, a significant weakness of previous justice reform initiatives has been their propensity to focus on programmatic outputs—such as the number of judges trained or court houses refurbished—as opposed to justice outcomes, impacts, as well as processes of change.

There is a general lack of capacity amongst legal organisations, including the Indonesia program's implementing partners, to collect and analyze monitoring and evaluation data. Increasing the capacity of these organizations will improve their organizational management, assist with policy advocacy efforts, and their ability to respond to the legal needs of the poor. There exists significant expertise within the World Bank on how to develop monitoring and evaluation methodologies and to implement monitoring and evaluation systems. The Justice for the Poor Indonesia program is well placed to develop and pilot monitoring and evaluation tools that will be relevant to the other Justice for the Poor country teams as their operational activities come online.

Activities

This component will generate independent quantitative and qualitative data to allow for the more effective monitoring and impact evaluation of all J4P operational activities. It will develop the methodology and tools for evaluation; and use the tools to gather

systematic evidence of impact, supporting the scale-up agenda both within Indonesia and throughout the regional initiative as a whole. Main activities include:

1. *Methodology and instrument development:* Collaborate with World Bank experts from across the organisation, including evaluation experts from the PREM (Poverty Reduction and Economic Management) unit and the Development Research Group (DEC), to develop and pilot quantitative and qualitative methods and instruments for conducting research and evaluation of justice sector issues and interventions. Methods for the following research themes will be a particular focus:
 - a. Economic and livelihood impacts
 - b. Conflict and violence
 - c. State-society relations
 - d. Development effectiveness
2. *Monitoring and documentation:* Activities will include monitoring missions, the documentation of beneficiaries' experiences in written, photographic and video form, and the collection of MIS data. These activities will contribute to successful pilot implementation, documentation of experiences, and the collection of data relevant to the framework's evaluation components.
3. *Pilot evaluation:* Conduct rigorous evaluations of the J4P Indonesia program's four ongoing pilot programs: the Women's Legal Empowerment, Revitalization of Legal Aid, and Village Judicial Autonomy programs, as well as the Mediation and Legal Empowerment component of the World Bank's Support for Poor and Disadvantaged Areas (SPADA) program. The evaluation of these pilot programs will systematically inform their scale-up through the National Community Empowerment Program (PNPM) and the SPADA project.
4. *Complementary evaluation studies:* Complementary evaluation studies will be determined and conducted in response to, and in order to inform, the Bappenas-lead development of the government's National Access to Justice Strategy. Potential topics and issues include: the economic effects of marriage, birth and divorce registration; the outcomes and benefits of *pro bono* legal aid models; the impacts of human rights media campaigns, and court performance monitoring and evaluation systems.

Component Two: Women's Legal Empowerment (WLE)

Rationale

Based on a series of assessments and field research, it is clear that women are marginalised in terms of access to justice. Women have lower understanding of their rights, are less likely to use the formal justice sector and have less access to justice through village institutions, which often reflect and perpetuate their marginalisation from local power structures. Consequently their legal needs are often not taken seriously or are indeed ignored. As many of these needs link to economic livelihood, a lack of access to justice can send women into an inescapable cycle of poverty.

Some of the main legal issues affecting women include: (i) non-legal marriage; (ii) non-legal divorce; (iii) lack of legal identity; (iv) inequitable division of property during inheritance and divorce; (v) domestic violence; and (vi) wage discrimination. As a

result of these problems, women are increasingly marginalized and pushed into poverty. To attempt to overcome these problems, women need to be armed with increased knowledge of their legal rights and allowed access to resources to enforce them through more responsive legal institutions.

Activities

This component will support the expansion of J4P's current WLE pilot from three provinces to eight. It will also assist the scale up agenda by supporting ongoing work to mainstream WLE through the National Community Empowerment Program (PNPM). WLE is implemented by local women's empowerment NGO, PEKKA (The Female Headed Households Program). In addition, J4P will aim to collaborate with and complement related initiatives supported by AusAID. For example, the team will work closely with the Indonesia Australia Legal Development Facility (IALDF), in particular the work carried out through the religious courts, which focuses on women's issues of divorce, marriage and birth registration.

Main activities include:

1. Creating a network of women paralegals at the kecamatan/desa level to deliver legal information and access to legal aid services.
2. Establishing in each project location a "Judicial Sector Multi-Stakeholder Forum" (MSF) consisting of representatives of the local Police, Prosecutors Office, State Court, Religious Court, local government and NGOs to generate a more responsive legal apparatus.
3. Documenting violation of women's rights cases as the basis for policy dialogues at the kabupaten and national level to push for greater access to justice for women at the policy level.

Pilot sites will be included as targets of evaluation under the Promoting Development Effectiveness component.

Component Three: Village Judicial Autonomy

Rationale

This component will support Justice for the Poor's Village Judicial Autonomy program in West Sumatra and West Nusa Tenggara provinces. The program draws on over two years of qualitative and quantitative field research conducted in cooperation with the Supreme Court in five provinces across Indonesia on the functioning of non-state justice systems, with a particular focus on women and minority groups. The study, to be released later in 2007, broadly concludes that:

The cost, complexity and physical distance of formal justice mean that the courts are not the primary forum for dispute resolution. Local alternatives - through the village head, community leaders or through traditional customary law - are where the majority of disputes are settled. The primary goal of informal dispute resolution is to preserve harmony between the parties and their families, often taking preference over the protection of individual rights. The goal of harmony interpreted through the lens of local traditions and cultural norms can at times result in discrimination against ethnic minorities - who may

be new to or not fully accepted into local traditions – and women, who are rarely represented in local level institutions. Weaker parties have less financial resources, information and social networks so tend to be marginalized in disputes. The lack of a comprehensive system of accountable procedures, checks and balances and enforcement mechanisms increases the susceptibility of the informal system to manipulation by powerful parties.

The unclear distinction between informal and formal dispute resolution systems adds to the uncertainty and may be exploited by powerful parties to further their own interests. Generally, informal dispute resolution procedures do not deal effectively with inter-ethnic disputes and disputes with powerful external parties.

Through an extensive consultation process with local government and community and non-government stakeholders in each location, J4P has developed a pilot program in two provinces to build on existing village dispute resolution systems and develop a socially inclusive model for non-state justice at the village level, which will focus on enhancing access to justice for women and minority groups.

Activities

Based in two provinces (covering six districts), the program aims to establish (in identified pilot districts and villages) a model local level dispute resolution mechanism. Activities will include:

1. Developing agreed rules of substance and procedure governing dispute resolution in the villages which are consistent with constitutional safeguards.
2. Drafting an agreed structure and mechanism for dispute resolution, including a clear and defined role and function for women.
3. Agreeing with local stakeholders and courts a definition of jurisdiction *vis a vis* the formal legal system.
4. Securing acknowledgement of this system through a regional regulation.
5. Training for village mediators in local and national law and in mediation skills.
6. Improving the administration and documentation skills of village dispute resolution actors.

The program will be subject to intensive monitoring and evaluation under Component One. If results are positive, they will be utilized as a means for pushing for scale up of the approach into additional districts and provinces to strengthen more inclusive village dispute resolution and define the crucial interface between non-state and state justice.

4. PROGRAM RESULTS, OUTCOMES AND OUTPUTS

The program components, objectives, outcomes and outputs are described in tabular form in the results matrix below:

Component	Promoting Development Effectiveness	Women's Legal Empowerment	Village Judicial Autonomy
Objective	Promote development effectiveness (of both Justice for the Poor interventions, as well as the programs and social processes they support)	Enhance women's access to justice through the development of a model for demand-based legal and judicial reform	Strengthen community-based dispute resolution based on constitutional principles and safeguards
Outcome	<p>Improved methods and instruments for monitoring and evaluating Justice for the Poor-type interventions</p> <p>Successful consolidation and scale-up of the pilots</p> <p>Increased capacity of local legal organisations to collect data for monitoring and evaluation purposes</p> <p>Increased donor harmonisation through the development of common monitoring and evaluation methodologies.</p>	<p>Enhanced access to justice for women, as measured through increased legal awareness and more responsive legal institutions</p> <p>Women's livelihoods are improved through engagement with the program</p> <p>Women's legal empowerment activities are included in the PNPM program</p>	<p>A model for engagement with non-state justice systems is in place in the pilot villages. The model, or elements of it, are adopted by local governments</p> <p>Quality of non-state justice enhanced in target locations, as measured through community perceptions and direct observation</p>
Outputs	<p>Methodology and Instruments:</p> <ul style="list-style-type: none"> ▪ Methodology paper ▪ Legal awareness 	<p>Increased legal awareness in target areas</p> <p>Increased public</p>	<p>Agreed standards for procedure established in the target villages</p> <p>Training for</p>

	<p>survey instrument</p> <ul style="list-style-type: none"> ▪ Dispute processing survey instrument ▪ State-society survey instrument ▪ Economic impact methodology <p>Monitoring and documentation:</p> <ul style="list-style-type: none"> ▪ Joint monitoring missions ▪ Print, film and photography documentation of pilot activities and user experiences <p>Pilot evaluation:</p> <ul style="list-style-type: none"> ▪ M&E strategy (for each pilot) ▪ Data reports ▪ Analytical reports ▪ Dissemination workshops <p>Complementary evaluation studies:</p> <ul style="list-style-type: none"> ▪ Study reports ▪ Dissemination workshops 	<p>satisfaction with the performance of legal institutions</p> <p>Formation of female paralegals in the target areas</p> <p>Formation of functioning Multi-Stakeholder Forums in target districts</p>	<p>mediators at village level</p> <p>Codification of traditional customary law in line with constitutional standards in target villages</p> <p>Clarification of the jurisdiction of state and non-state justice through local court or regional government regulations in both provinces</p>
--	--	---	--

5. IMPLEMENTATION

5.1 Management

The program will be managed by the Indonesia J4P Country Coordinator based in the Jakarta office of the World Bank. The Indonesia country program will operate with substantial levels of autonomy. The team leader will report to the EAP-J4P Initiative Task Team Leader in Washington, DC and coordinate with the World Bank's Indonesia country team through the Lead Social Development Specialist and the Country Director.

Regular coordination meetings will be held with the AusAID post in Jakarta. A country based working group of relevant government, donor, NGO and academic representatives will be established to provide advice on program design, development of thematic foci and strategic priorities. Pursuant to the 2006 MOU with the National

Development Planning Agency (Bappenas), the program is also under the general direction of the Directorate for Law and Human Rights.

5.2 Duration and Phasing

It is envisaged that this proposal will cover a period of 5 years. It is proposed to structure implementation into two phases. Phase I will cover a period of three years in which the three current components will be delivered. Phase II activities will be designed on the basis of results achieved during Phase I and in accordance with evolving GOI and core country priorities.

5.3 Indicative Budget and Disbursement Schedule

Year 1	Year 2	Year 3	Years 4	Year 5	Total
250,000	450,000	450,000	450,000	450,000	2,050,000

In accordance with the above indicative framework and areas of engagement, specific annual activity plans and budgets will be prepared by the J4P country team in consultation with government and non-government partners, the AusAID post, the World Bank country team and the Initiative's Expert Panel. Furthermore, in addition to partnering in substantive program activities, a working group of local partners (including the AusAID post) may be established to participate in ongoing program design, implementation and monitoring.

5.4 Monitoring, Evaluation and Reporting

A country program monitoring and evaluation plan will be developed in the first stage of the program in consultation with government and other local partners, World Bank Country Management and AusAID post. The plan will be developed in accordance with the guidelines set out in Annex C of this proposal.

Reports will be provided to AusAID in accordance with the overall reporting framework for the EAP-J4P Trust Fund and a joint annual review of activities will inform the development of annual work plans.

Annex A.2 – Cambodia

1. SITUATIONAL ANALYSIS

Cambodia has seen strong economic growth in recent years but the development agenda remains daunting. Poverty rates remain high, with more than 30% percent of the population living below the poverty line and 15-20% in extreme poverty. Poverty is especially high in the rural areas which are home to more than 80 percent of the population. Similarly, progress towards reducing human or non-monetary dimensions of poverty as identified in Cambodia's Millennium Development Goals (CMDGs) has been limited.

One reason why poverty alleviation has been so difficult in Cambodia relates to issues of governance. Recovering from a period of more than 20 years of civil war and social upheaval Cambodian society is organized around systems of patronage, which in times of conflict, and insecurity offer villagers the best hopes of survival (Nee & Healy 2003). The patronage system, which closely mirrors the structures of the state, continues to provide the dominant power structure in the lives of most Cambodians. To its credit, this form of organization has proven effective in maintaining peace, providing stability and setting the stage for economic growth over the past 10 years. However, as might be expected from a system of power without effective checks and balances, it is producing increasing levels of inequality and corruption.

The rule of law is the cornerstone of accountable and responsive governance in a liberal democracy. Acknowledging this the Royal Government of Cambodia (RGC) has prioritized legal and judicial reform since the promulgation of the current constitution in 1993. This commitment is reflected in the RGC's 2004 *Rectangular Strategy for Growth, Employment, Equity and Efficiency in Cambodia* 2004 which states that the development of the rule of law is a crucial element of the RGC's efforts to promote good governance. Similarly, the national Legal and Judicial Reform Strategy adopted in June 2003 stresses the importance of the legal and judicial sector in upholding the rule of law by "ensuring effective access to justice for all."

In pursuit of legal and judicial reform the RGC has focused on the development of new legislation and various capacity building initiatives. Of particular note, an official training school for judges, a bar association and an inter-ministerial Council for Legal and Judicial Reform have been established. Additionally, programs have been implemented which aim to build the capacity of judges and improve court procedures in targeted model courts. At the same time, civil society organizations have run projects to support the rule of law through the provision of legal aid, paralegal services, and a host of legal and human rights training schemes. Increasingly, donors and government agencies are coordinating their justice sector reform efforts around the Legal and Judicial Reform Strategy.

The challenges in establishing a formal legal system are considerable, and increasing accessibility has been slow. Courts of first instance situated in provincial capitals are extremely remote from the approximately 80% of Cambodians who live outside these centres (NIS 1999). Legal training only recommenced recently: no students graduated

from Cambodian law schools between 1975 and 1997. The structural weaknesses of the formal legal system are compounded by the fact that only a handful of legal professionals survived the Khmer Rouge era in Cambodia. As such the country suffers from an acute shortage of legal professionals.

More fundamentally, however, Cambodia's prevailing political arrangements are in many ways hostile to the rule of law. There are two fundamental reasons for this. Firstly governance is best described as neo-patrimonial rather than liberal democratic; and secondly the legal system is deeply plural. Each of these factors means that incremental reform of the justice system is difficult.

Cambodians harbour no illusions about the quality of service available from formal institutions of justice which are at risk of being both marginalised and captured. Survey research conducted by the Center for Advanced Study in 2003 indicates little or no faith in the courts as institutions of justice. Judges and prosecutors are frequently cited as the public officials who people are least likely to trust. These findings support other research reports and expert opinions which stress continued weaknesses of the Cambodian judicial system including endemic corruption, executive capture, lengthy delays, difficulties with the enforcement of judgments and a shortage of legal aid, all of which present major barriers to access to justice for the average Cambodian. In these circumstances it is unsurprising that the demand for justice is met largely without reference to courts or lawyers. Instead Cambodians turn to local – neo-patrimonial – sources of authority, when they have a dispute that needs resolution. Thus we see governors, police, and local authorities (village and commune chiefs) as the main providers of 'justice' services all with scant reference to the new legislative structures being created at the national level.

The situation described above suggests that reform is likely to depend as much on engagement with messy political and social processes as it will on technical legal innovation. The J4P program does not pretend to have a simple answer to the question "how do we build the rule of law in such circumstances" – in fact part of the theory which underlies the J4P program suggests that the rule of law can only emerge in out of "social processes of interaction, deliberation and reasoning"³⁰ which are inherently unpredictable and as such difficult to engineer. In as much as we can engage with such processes, however, Cambodia and global experience suggest the following:

- International voices may be crucial to opening the space for reform. As such donor attention needs to be coordinated and donors should be held accountable for delivering results which are meaningful to the poor and marginalized.
- Justice is a cross-cutting issue which affects a wide range of development efforts. As such it is an issue which may be best addressed through sectoral programming, rather than through general justice sector reform efforts.

³⁰ March, J.G. & J.P. Olsen (2005) "Elaborating the "New Institutionalism," Working Paper No. 11, Centre for European Studies, University of Oslo, p12.

- In the absence of equitable rule-based systems for allocating resources and resolving disputes, peaceful collective action by citizens will be a crucial mechanism for leveraging increased state responsiveness to the needs of the poor.
- Creating defined spaces for citizens to participate in ‘legally infused social dialogue’ may represent a useful way to channel the demand for justice into the sorts of deliberative processes on which the development of more equitable legal institutions depends.
- Detailed research will be required to identify areas of political opportunity and stimulate public debate.

The J4P Cambodia program complements RGC, World Bank and other donor programming on justice sector reform. The program is born out of the “three pronged approach” set out in the Bank’s country assistance strategy (2005 – 2009). This entails: (1) Addressing LJR issues under each of the other four substantive areas of the Bank’s country program (private sector development, land and natural resources, public financial management, and decentralization) if such issues become significant constraints for attaining those objectives; (2) Understanding better the needs of the poor for justice and how they are currently being served and aiming to strengthen those systems; (3) taking a wait and see approach to system-wide reform of state institutions.

In relation to RGC policy, each element of the program is aligned with the strategic objectives and priority actions set out under the 2003 Legal and Judicial Reform Strategy. The relevant references to the legal and judicial reform strategy are made with respect to individual components of the program set out in Section 3 below.

The J4P program is also designed to complement other donor programming in relation to justice sector reform. J4P research will be conducted around innovative pilots supported by other donors or NGOs. Candidates for this sort of collaboration include the AusAID community justice and crime prevention pilots and the UNDP access to justice pilots.

2. PROGRAM OBJECTIVES

The Cambodia J4P program will:

1. Support research, evaluation and project design efforts to increase the extent to which RGC, World Bank, and other donor programming on issues related to justice are responsive to the needs and interests of the poor and marginalized.
2. Contribute lessons learned to the EAP-J4P Regional Program.

3. INDICATIVE AREAS OF ENGAGEMENT

Component 1: Justice Sector Performance Evaluation (Giving Voice to the Poor)

Rationale

To date donor and government legal and judicial reform projects have been output focused. Targets have focused around the drafting of laws and conduct of capacity building. There is a realization among government and donors that a more outcome

focused approach would be beneficial. This is incorporated in the government's legal and judicial reform strategy which includes as a priority project the development of a "Monitoring system of the justice sector to measure its overall performance, including the administration of justice, as a guiding line for overall reform."

A focus on performance evaluation fits in with AusAID's white paper focus on aid effectiveness. It also complements AusAID's strategic framework for the provision of assistance via their Cambodia Criminal Justice Assistance Project (CCJAP), which foresees assistance for the development of a "common indicator system for measuring reform."

A focus on performance evaluation fits in with the J4P focus on research and evaluation as part of an empirically based approach to justice sector reform. The Bank brings global expertise on research methods and justice sector M&E which would assist in this work.

Activities

1. Collaborate with RGC and donor efforts to develop practical approaches to measuring performance in relation to justice sector reform- specifically feeding J4P perspectives into ongoing efforts to develop and implement a sector wide performance evaluation strategy.
2. Collaborate with World Bank survey specialists – eg: Living Standards Measurement Survey (LSMS) team – to advise on the development of best practice survey instruments to measure the change in relation to justice sector indicators at the population level.
3. Use justice related work of the proposed Demand for Good Governance Project (on labour arbitration, legal awareness, and ombudsman's services) as a platform for the development of innovative M&E approaches, and feed into the overall regional development effectiveness work.
4. Support rigorous research based evaluation strategies in relation to other promising justice sector initiatives

Component 2: Community Safety and Crime Prevention

Rationale

AusAID has been funding an innovative local level crime prevention pilot through CCJAP. The project works through district level committees including police and other local authorities to engage at risk youth and provide them with vocational training and legal awareness programs. CCJAP is planning to scale up the initiative but acknowledges a need for research as part of this process. J4P could bring research and analysis tools to the initiative. Scaling up is contemplated through the government's decentralization and deconcentration (D&D) program. If this is the case there is an added logic to cooperation given the World Bank's funding of D&D through the Rural Infrastructure and Local Governance Project (RILGP). Similar programs are funded by AusAID across the region so there is a need for regional learning in this field. The 2007 WDR focused on the issue of "youth." The World Bank is interested in developing justice sector programming which targets youth and this is seen as an interesting

example. There are also possibilities for the program to learn from local dispute resolution initiatives which are currently being piloted by UNDP and a number of local NGOs. This area intersects with the CCJAP program which is currently being scaled up from a pilot, and is considered one of AusAID's most mature programs of this type in the region.

Activities

1. Research and analyse the CCJAP program
2. Produce documentation for practitioners of lessons learnt from CCJAP
3. Scale up CCJAP approach and contribute to regional learning.

Component 3: Support Policy Oriented Research on Justice Sector Issues

Rationale

The capacity for research on governance related issues in Cambodia remains limited. Law making and reform efforts are often undertaken with insufficient preparatory research or public debate. Even where good research exists it is often not taken into account by policy makers. This component will build on previous J4P work in Cambodia by continuing to support capacity development in research, analysis and evidence based policy reform, by supporting and supervising rigorous research into key justice sector issues. In particular, the research and analysis component will focus on promising initiatives and potential areas of innovation and reform.

Activities

1. Support capacity development for policy oriented social research including fostering of local community of practice involving researchers and policy makers.
2. Support and supervise rigorous research and development initiatives, particularly focused on promising initiatives and potential areas of innovation and reform
3. Provide small grants to local research institutions for related studies.
4. Continuation of a successful collaboration with the Royal University of Phnom Penh's Department of Media Studies, where J4P funding has been used to support student radio and television productions on justice related issues.
5. Capacity building for peak government think tank (Supreme National Economic Council) and other relevant agencies on social research and policy making.

4. IMPLEMENTATION

4.1 Management

The Cambodia program will be managed by a justice sector specialist based in the Cambodia country office of the World Bank. The Cambodia Country Program will operate with substantial levels of autonomy and the justice sector specialist will report to the EAP-J4P initiative Task Team leader in Washington DC and coordinate with the World Bank's Cambodia country team through the country manager. The local team

will seek guidance and advice from a local multi-stakeholder working group and coordination meetings will be held with AusAID post in Phnom Penh on a regular basis.

4.2 Indicative Budget and Disbursement Schedule

Year 1	Year 2	Year 3	Years 4	Year 5	Total
250,000	500,000	500,000	500,000	250,000	US\$2m

In accordance with the above indicative framework and areas of engagement, specific annual activity plans and budgets will be prepared by the J4P country team in consultation with government and non-government partners, the AusAID post, the World Bank country team and academic experts. Furthermore, in addition to partnering in substantive program activities, a working group of local partners (including the AusAID post) may be established to participate in ongoing program design, implementation and monitoring.

4.3 Monitoring, Evaluation and Reporting

A country program monitoring and evaluation plan will be developed in the first stage of the program in consultation with government and other local partners, World Bank Country Management and AusAID post. The plan will be developed in accordance with the guidelines set out in Annex C of this proposal.

Reports will be provided to AusAID in accordance with the overall reporting framework for the EAP-J4P Trust Fund and a joint annual review of activities will inform the development of annual work plans.

Annex A.3 – Timor-Leste

1. SITUATIONAL ANALYSIS

In the aftermath of the ‘Popular Consultation’ in 1999 and the resulting vote for independence in Timor-Leste, the country was left in ashes, with its physical and administrative infrastructure completely destroyed and with no functioning state apparatus. Taking over from the United Nations Transitional Administration (UNTAET) in 2002, the Government of Timor-Leste (GoTL) has made modest progress in state-building and establishing public services over a short time frame. Yet, institutional capacity is thin and progress remains fragile. Timor-Leste is among the world’s poorest nations and it lags behind the region in achieving the Millennium Development Goals, with more than 20 percent of its population living on less than a dollar a day. Population growth is among the highest in the world, resulting in declining income per-capita and increasing unemployment rates, especially for youth.

Five years after independence, the justice sector remains arguably the weakest branch of the country’s governance structure³¹, severely undermining political stability and the peaceful resolution of conflicts. The crisis of 2006 and its ongoing manifestation of violence and political turmoil have highlighted the shortcomings of the justice system in restoring order and sustaining peace. What began as a political and institutional crisis has descended into persistent conflict at the community level, particularly in Dili. A central element of restoring stability is the establishment of a functioning justice sector.

While the Government of Timor-Leste has made significant advances in a short period to develop a new legislative framework, a range of legislation, codes and regulations from Indonesian, Portuguese, and UN administrations still apply, creating legal uncertainty and confusion. The availability of laws and information about the legal process in languages that are accessible to both legal professionals and the general public is limited.³² Part of the problem stems from the fact that most laws are being drafted in Portuguese, without always being translated into Tetum; with only 7% of the population fluent in Portuguese, language presents a fundamental impediment to access to justice for ordinary Timorese.

Despite significant progress in training court personnel and developing case management systems with the support of international donors, capacities remain constrained and inadequate in delivering a functioning and accessible justice system. With only 11 Timorese judges, 9 prosecutors and 7 public defenders to serve 4 District Courts (covering a total of 14 districts) and one High Court in Dili, the justice sector remains highly dependent on international actors. District courts function sporadically and reportedly have a backlog of over 1000 cases. Many of the cases related to the recent crisis are politically charged, meaning the judiciary is not only being swamped, but also being dragged into political battles which are threatening its independence and eroding public trust.

³¹ World Bank (2006) *Timor-Leste Country Assistance Strategy 2006-2008: Creating the Conditions for Sustainable Growth and Poverty Reduction*, World Bank, Timor-Leste.

³² Most legal professionals received their formal training in Indonesia.

The regulatory, institutional and human resource deficiencies described above glaringly underline the scope of the challenge that Timor-Leste faces in responding to the high demands of justice. In the absence of accessible formal mechanisms, most Timorese currently seek justice outside the court. Communities are reportedly more comfortable and familiar with non-state justice mechanisms, which enjoy respect and legitimacy among the local population.³³ In addition, the recently democratically elected local authorities (suco chiefs and suco councils) have been legally mandated to resolve a broad range of disputes³⁴, but little is known about the effectiveness and legality of this process and their interaction and relation to existing customary mechanisms. Civil society organizations provide indispensable services through legal assistance, judicial monitoring, legal education and mediation, however there is still massive unmet demand at the community level, particularly in remote areas.³⁵

Development of strong and accountable governance requires accessible and equitable justice institutions. While gradual progress is being achieved in setting up the building blocks for legal and institutional frameworks, establishing a functioning system to meet the public demands for justice will be a long and tedious process. Most analysis related to the recent crisis suggests that the outbreak of violence in May 2006 is a consequence of serious underlying socio-economic problems and inequities, lack of public awareness of economic rights, and insufficient government accountability. In particular, the resolution of land and property right conflicts is crucial to ensuring livelihood security and preventing violent conflict. Clearly, ongoing work to establish the architecture of the state justice institutions must continue, but parallel efforts in filling the gaps at the local level are also necessary. Making the system more responsive to local realities and building bridges between state and non-state justice regimes requires considerable investment of resources and political will.

A plethora of donors and international and local NGOs are supporting justice sector initiatives and J4P will aim to buttress and complement existing efforts by linking community-based activities to donor programs in the formal arena. To this end, *Justice for the Poor* will complement government priorities as outlined in its National Development Plan, Stability and Sector Investment Programs, which highlight weakness in governance as an emerging issue and suggest an increased focus on the justice sector and gender equality.

Justice for the Poor will also support the World Bank Country Assistance Strategy (CAS) in its third pillar of strengthening governance through support for local institutions to deliver peaceful resolution of disputes. Increasing citizens' awareness of

³³ Research findings suggest that about 81% of respondents recognize community leaders – not the police – as responsible for maintaining law and order; two-thirds of them identify the village chief as the person who resolves disputes in their communities, and about 90% of respondents regard local level justice systems as fair. See Asia Foundation (2004) “Law and Justice in Timor-Leste: A Survey of Citizen Awareness and Attitudes regarding Law and Justice in Timor-Leste,” Asia Foundation.

³⁴ Decree Law 5/2004 on Community Authorities.

³⁵ The Public Defenders Office has very limited capacities with 80% of the legal aid provided by local NGOs and legal aid institutes. See Advocate Sans Frontiers (2006) “Access to Legal Aid in Timor-Leste,” November.

their rights and building the capacity of civil society to demand better governance is also emphasized as a key priority of the CAS. The Strategy further highlights that in the justice sector, it will work to improve “*access, quality, efficiency, and gender awareness*”, including “formalizing mediation mechanisms where appropriate.”³⁶

Further, the program will collaborate closely with AusAID’s program in Timor-Leste in supporting activities focused on improving access to justice for vulnerable people, enhancing gender equality, human rights protection, anti-corruption, transparency and accountability efforts.

2. PROGRAM OBJECTIVES

In addition to the overall J4P aims and objectives, a Timor-Leste Program will:

1. Develop a strong analytical program to underpin the operational work and generate inputs for policy reform at the national level.
2. Work with sub-national and village institutions to promote peaceful and equitable resolution of disputes and enhance linkages and coherence between the multiple rule systems.
3. Increase community legal awareness of economic rights and enhance citizens’ participation in reform processes.
4. Support more equitable mechanisms for managing and resolving land disputes and enhance participation of marginalised groups in decisions over land.
5. Support community safety and crime prevention efforts focused on youth.

3. INDICATIVE AREAS OF ENGAGEMENT

On the basis of preliminary research findings and ongoing consultations with relevant stakeholders, J4P will determine the key priorities for intervention and the corresponding activities. The program would begin with one or two components of strategic concern to ensure manageable and measurable results. The local team will engage progressively, building a sound analytical and operational basis and understanding of the local context before scaling up activities. While the initial emphasis will be on research, the program will seek to simultaneously identify and support small-scale practical initiatives aimed at addressing the immediate justice-related needs of the poor (e.g. existing legal literacy and/or assistance campaigns, community dialogues, mechanisms to ensure effective community participation, right protection and dispute resolution in reform processes).

Interaction and Relationship between Different Justice and Governance Systems

Rationale

There is strong preference among communities to use local level justice mechanisms for resolving conflicts - going to court is considered only as a last resort. Initial

³⁶ World Bank (2006) *Timor-Leste Country Assistance Strategy 2006-2008: Creating the Conditions for Sustainable Growth and Poverty Reduction*, World Bank, Timor-Leste.

consultations suggest that elected authorities (suco chiefs and suco councils) are now playing an active role in resolving a broad range of disputes, primarily through mediation.³⁷ Working with sub-national authorities to enhance local governance and facilitate the peaceful and equitable resolution of disputes will help empower communities and reduce the backlog of cases going to court. Linking those mechanisms to existing traditional structures and formal authorities would contribute to building a positive relationship between the multiple levels of authority at the local level.

To date, international donor efforts have primarily focused on building the capacity of state institutions, while NGOs and community-based organizations have focused on supporting access to justice initiatives at the local level. There seems to be a disconnect between those efforts, and J4P could play a unique role in bringing the formal sector closer to the people and enhancing citizens' participation in the policy debate.

There is little knowledge about the court system at the local level and formal institutions enjoy little legitimacy among communities. The legacy of the corrupt and repressive Indonesian regime has created widespread mistrust in formal justice mechanisms. At the same time, in the years following independence, people have turned back to their traditional means of dispute resolution. The subsequent void in authority and governance has led to instability and social unrest; however the current state of post-conflict development and institution-building present an opportune moment for bridging formal institutions with local concepts and practices that can assist legitimization of the state at the grassroots level. Bringing the two systems closer to each other would enhance the effectiveness of the justice sector and open vertical pathways for the poor to claim their rights.

Activities

Analytical Work

1. Build an empirically-based understanding of the role, strengths and weaknesses of suco chiefs and suco councils in dispute resolution and decision-making processes, and identify patterns of interaction between elected local authorities, traditional structures of power, and formal institutions.
2. Develop possible models of integration between the different systems.

Operational & Policy-based Work

1. Map out reform-minded formal actors and help build coalitions of reformers that can sensitize the justice sector to the needs of the poor and integrate community perspectives into policy dialogue.
2. Facilitate multi-stakeholder forums, where actors from all realms can meet and discuss common strategies.

³⁷ According to Decree Law 5/2004 on Community Authorities, suco chiefs and village chiefs shall “provide for the creation of grassroots structures for the settlement and resolution of minor disputes”

3. Engage formal legal actors in public legal education sessions and community forums to help build crucial public trust in the formal sector.

Management of Land Disputes

Rationale

The demand for justice in both urban and rural areas tends to center on disputes over land and property. Consistent with most research on this issue, land was emphasized by all interlocutors as the most common and intractable form of legal complaint - a major potential conflict trigger and hindrance to livelihood security.³⁸ This is not uncommon in legally pluralistic developing nations, but the peculiar circumstances of Timor Leste do represent a particular challenge. Some complicating factors include:

- Significant levels of displacement during Indonesian occupation and immediately after independence.
- The destruction of land records in the midst of the 1999 crisis.
- The lack of skills and experience in land administration post-independence.
- The overlap of multiple legal regimes (Portuguese, Indonesian, UN administration and Timorese)
- Even in cases where legal certainty may exist, pure legalistic outcomes might lead to inequitable outcomes.
- Ongoing displacement of the population along East-West divides.

GoTL has recently shown a renewed commitment to addressing the land situation in Timor-Leste and has taken steps towards the development of land legal frameworks. This presents an opportunity for J4P-generated knowledge to contribute to the policy dialogue on land issues and inform ongoing donor initiatives in this area. In addition, the Timor-Leste program can benefit from the Cambodia J4P program's comparative experience and the analytical work on land under the regional program.

Activities

Analytical Work

1. Build a solid, empirically-based understanding of the trajectories of land disputes with a view to preventing conflict and informing policy development at the national level.
2. Identify and document success stories of land conflict resolution and map out potential agents of change.

Operational & Policy-based Work

Based on research findings:

³⁸ As the Asia Foundation survey says, "Land disputes are the most common legal issue faced by citizens". Asia Foundation (2004). See also UN Human Rights Unit/ASF (2005) at page 11, *supra* n.2.

1. Support capacity building activities for local authorities focused on land dispute resolution using local NGO partners and community-based facilitators.
2. Scope out and test innovative pilots of land dispute resolution.
3. Contribute to the policy dialogue on land management and inform the design of land operations.
4. Facilitate periodic dialogue between local actors from across the country to encourage peer-to-peer learning and exchange of experiences on land dispute resolution.
5. Facilitate multi-stakeholder dialogues on land issues to give voice to the marginalized members of the community, in particular women and youth.

Community Legal Education and Legal Aid Services

Rationale

There is chronic lack of information, particularly at the local level about economic rights and legal processes. Most laws are published only in Portuguese and rarely translated into local languages, which make them difficult to comprehend, even for lawyers, most of whom were educated in Indonesia. Legal aid organizations play an important role in assisting communities to navigate through the multiple levels of justice authorities. Despite the number of international and local actors in this area, there is massive unmet demand at the community level and significant space for strengthening and expanding existing programs, particularly in remote areas.³⁹ There have been numerous one-off sporadic trainings on rights education without consistent follow-up on how to translate the acquired knowledge into practice. Most of them have been designed and implemented without detailed knowledge of local structures and concepts.

Activities

Analytical Work

1. Identify existing local principles of fairness and cultural values, which can serve as the basis for community dialogue on sensitive issues, such as gender disparity and domestic violence.
2. Conduct research and analysis on possible models for the delivery of paralegal services in Timor-Leste.
3. Assess the real impact of current legal education and legal aid programs.

Operational & Policy-based Work

1. Support legal literacy programs and community dialogues on livelihood issues, linking them to the everyday needs of the poor.

³⁹ Leading organizations include Judicial Sector Monitoring Program, Fokupers, Perkumpulan Hak, the Peace and Democracy Foundation, the Asia Foundation, Advocats sans Frontiers and Fundacao ECM Baucau.

2. Support the establishment of a local level community oriented legal assistance program using community based facilitators, paralegal and/or law students.
3. Facilitate cooperation between Timorese legal aid NGOs and their Indonesian counterparts through the regional knowledge-sharing components of the J4P program.

Youth and Community Safety

Rationale

Youth constitute a significant proportion of the Timorese population with 53% below the age of 17. Youth are also key protagonists in the current violence. News reports of warring gangs and gang violence are commonplace. In particular, clashes between martial arts groups of mostly young men are blamed for the violence, sometimes resulting in deaths and always increasing fears and insecurity of the general population.

The Government is currently working on a National Youth Policy, supported by the World Bank. The Bank provides targeted assistance to youth through a post-conflict fund “Building Leadership Capacity through Economic Development (LED)” Project. J4P can complement those efforts by focusing on the legal empowerment aspect of the capacity building process and by supporting AusAID’s law and justice program, which pays particular attention to access to justice for youth.

The latest World Development Report also highlighted the need for targeted approaches to youth in justice sector programming.⁴⁰

Activities

Analytical Work

1. Research crime prevention and dispute resolution mechanisms involving youth.

Operational & Policy-based Work

1. Support local initiatives focused on conflict resolution, crime prevention and reconciliation efforts.
2. Facilitate community dialogues on issues concerning young people and provide education on crime prevention, utilizing community youth leaders.
3. Collaborate with local artist groups to create educational dramas on sensitive issues to reach youth audiences.

4. IMPLEMENTATION

4.1 Management

The Timor-Leste program will be coordinated by an international team leader, based in the country office of the World Bank. Program activities will be implemented in partnership with a local NGO working on community justice issues and supported by a team of local consultants. The Country Program will operate with substantial levels of

⁴⁰ World Development Report 2007. *Development and the Next Generation*. The World Bank.

autonomy, while reporting to both World Bank country management and the Project Secretariat led by the EAP-J4P Initiative Task Team Leader.

Regular coordination meetings will be held with the AusAID post in Timor-Leste. A country based multi-stakeholder working group of relevant government, donor, NGO and academic representatives will be established to provide advice on program design, development of thematic foci and strategic priorities.

4.2 Duration & Phasing

It is envisioned that the J4P Program in Timor-Leste will have a minimum of a 5-year life span. It is suggested to structure the implementation of the program in two phases:

Phase 1 will cover a two-year period, during which certain core activities will be initiated and detailed program planning undertaken. Phase 1 will include a 6-month preparation stage, consisting of two stages:

Stage 1: Program Design & Preparation

1. Consultations with Timor-Leste country team and sector management to determine program priorities and explore potential synergies with other analytical/operational work in country.
2. Desk review of the history and current state of formal and informal dispute resolution and local power structures. The preliminary literature review will serve as a solid basis for developing context-specific research hypotheses, questions and data collection instruments and will help design the analytical and operational work that will follow.
3. Program design mission and in-country consultations with relevant stakeholders on the scope of the proposed activities.
4. Selection and recruitment of J4P country program team and partner organization.

Stage 2: Implementation of core activities

1. Mixed-method field research to establish empirical base for the proposed activities.
2. Design and piloting of operational activities.
3. Policy Dialogue.
4. Ongoing monitoring & evaluation of community-based justice initiatives.

Phase 2 activities will be developed on the basis of results achieved during Phase 1 and in accordance with core country priorities.

Both Phase 1 and 2 will include intensive consultations with Government and development partners in Timor-Leste with the aim of securing government and community buy-in to the program and ensuring multi-donor engagement.

4.3 Indicative Budget and Disbursement Schedule

Year 1	Year 2	Year 3	Years 4	Year 5	Total
250,000	500,000	750,000	750,000	750,000	US\$3m

In accordance with the above indicative framework and areas of engagement, specific annual activity plans and budgets will be prepared by the J4P Country teams in consultation with government and non-government partners, the AusAID post, the World Bank country team and academic experts.

4.4 Monitoring, Evaluation and Reporting

A country program monitoring and evaluation plan will be developed in the first stage of the program in consultation with government and other local partners, World Bank Country Management and AusAID post. The plan will be developed in accordance with the guidelines set out in Annex C of this proposal.

Reports will be provided to AusAID in accordance with the overall reporting framework for the EAP-J4P Trust Fund and a joint annual review of activities will inform the development of annual work plans.

Annex A.4 – Vanuatu⁴¹

1. SITUATIONAL ANALYSIS

The current system of governance in Vanuatu is characterised by political instability, limited capacity, interlinked systems of patronage and fragmentation, based in part on a history of dual colonial systems attempting to govern a myriad of complex systems of traditional governance.⁴² Since independence in 1980 the country has experienced more than 16 changes in government. A proliferation of government institutions beyond the availability of human resources further compounds the state's limited capacity.⁴³ Geographical constraints present additional challenges, making service delivery prohibitively costly.

The formal justice system in Vanuatu is based predominantly on the pre-independence regime, with most courts concentrated in the two most developed urban centres – Port Vila and Luganville. The Public Solicitor's Office, charged with providing free legal assistance to indigent citizens, has only one Public Solicitor, assisted by 5-6 staff, located in the capital Port Vila. While a regional office was recently established, the needs of the population beyond these two locations remain largely unmet. The provision of legal aid outside the state system is very limited and is mostly covered by the services offered through the University of South Pacific (USP) Community Legal Centre in Port Vila. The Centre is currently handling more than 300 cases, the majority of which pertain to land, labour and gender based violence. In addition to the limited geographic reach of the courts and legal assistance, a lack of rights awareness, delays and high costs discourage people from using formal judicial services.⁴⁴

Traditional and informal institutions, including chiefs, churches and social networks, continue to perform basic governance functions for most people. Vanuatu's approximately 215,000 inhabitants are dispersed among 80 islands and share a diverse linguistic and cultural heritage- living under both Christian and *kastom*⁴⁵ belief systems, and speaking well over 100 local dialects. Despite colonial and religious interventions, *Kastom* continues to carry considerable respect and authority across Vanuatu society and despite its diversity is seen as a unifying factor establishing national identity. Clan and family relationships play a significant role in alleviating hardships of community members through access to communally owned resources and the *Kastom* based social responsibility to provide support to the needy.

⁴¹ Many ni-Vanuatu were quick to point out during the joint AusAID/World Bank scoping mission that Vanuatu is a wealthy country, abundant in natural resources, where most of the rural population enjoy subsistence affluence. Persistent poverty as witnessed in many other places of the world is unheard of and a number of respondents questioned the use of the term 'poor' and suggested that the team consider a different name for the J4P program in Vanuatu to ensure accurate reflection of the environment.

⁴² During the period of 1906-1980 Vanuatu was under the administration of the Anglo-French Condominium, dominated by rivalry between the two parties.

⁴³ For example, there are not enough law graduates in the country to fill Ministerial staffing plans.

⁴⁴ *Id.*

⁴⁵ *Kastom* is the mixture of social structures, values and practices perceived as traditional in Vanuatu.

Recent economic growth⁴⁶ has been driven mainly by foreign investment in the areas of tourism, financial services and land development. With most businesses expatriate controlled, and little ‘trickle down’ effect, most ni-Vanuatu have not benefited from the recent growth. An urgent policy imperative exists to maximise benefits of ongoing growth to the poor and marginalised, thus minimising risks of social corrosion.⁴⁷ Lack of access to basic services, limited economic opportunities in rural areas, land shortages and inter-island marriage are increasingly driving urbanisation. Urban migrants bring together a range of *kastoms*, often resulting in tension among different ethnic groups and placing further strain on governance institutions.

Faced with unprecedented challenges and social risks, state institutions often turn to traditional authorities to exercise conflict resolution functions, which in many respects are deemed by the public to be superior to those of the state. The National Council of Chiefs (Malvatumauri) enjoys high legitimacy both among local communities and state authorities, and has successfully intervened to resolve conflicts between different indigenous groups.⁴⁸ However, with urbanisation, communities now face a range of social challenges virtually unknown by *kastom*, to which there is often limited capacity to respond. Furthermore, there is often confusion and dispute about which system applies in many situations.⁴⁹ In some areas, chiefs deal predominantly with minor cases and are generally open for more serious criminal cases to be dealt with by the court, whereas in other areas chiefs see their duties being largely undermined by the ability of the state to overrule their decisions. In other parts of the country the state has limited reach so it is presumed that chiefs are required to deal with the whole range of problems facing any given community. The existence of competing legal orders presents an opportunity for engaging more actively with the existing traditional rules and structures and helping develop innovative tools and methods to manage conflict.

Government and donor reform priorities provide entry points for J4P. The Ministry of Justice has recently been established allowing research and analysis to be more easily fed into the policy debate. Initial consultations with the Minister of Justice, Hon. Isabelle Donald and the Director General for Justice, Mr. Jean Sese indicate support for a J4P program and highlight the need for empirically-based knowledge of local level dispute resolution and decision-making processes. In addition, the recommendations of the 2006 National Land Summit, including steps to develop a National Land Policy, provide an opening for J4P to provide new thinking on land reform, in particular with respect to resolution of land disputes and prevention of conflict.

AusAID is the key donor in Vanuatu, providing assistance in a wide range of areas including land reform, community governance and development, youth employment,

⁴⁶ Reaching 6.8% in 2005 after nearly a decade of stagnation.

⁴⁷ Cox, M. (2007) “The Unfinished State: Drivers of Change in Vanuatu”, Review Draft, 26 February.

⁴⁸ For example, local chiefs play a key role in managing the conflict surrounding the recent incident on March 7th, which was sparked by accusations that a sorcerer had used witchcraft to kill a rival - escalated rapidly and spread through a squatter settlement in the outskirts of Port Vila, leaving three men dead and others seriously hurt. Villagers from the islands of Ambrym and Tanna fought with machetes and knives. Local police reported the ethnic violence was the worst the Melanesian nation had ever seen (source BBC).

⁴⁹ For example, an offender being sentenced by the court, while still required to pay a fine under *kastom*.

women and leadership and law and justice. Recent efforts to reach out to rural areas have increased the focus on community governance which may benefit from the analytical foundations of J4P. In particular, there are potential links with AusAID's *Kastom Governance*⁵⁰, *Land Administration*, Governance for Growth, Legal Sector Strengthening, and Vanuatu Police Force Capacity Building programs, which J4P will seek to complement. Analytical findings from J4P work can inform the World Bank's future strategies for Vanuatu as it broadens its country portfolio and opens opportunities for mainstreaming justice components into broader sectoral reform.

2. PROGRAM OBJECTIVES

A J4P Vanuatu Country program will aim to:

1. Build a solid, empirically-based understanding of the trajectories of local level disputes with a view to preventing conflict and informing policy development at the national level.
2. Increase public awareness of economic rights to enable marginalised members of the community to navigate through the multiplicity of legal orders and demand greater responsiveness from the state to the needs of the local communities (eg. land, inheritance, livelihoods and labour).
3. Explore ways of linking traditional dispute resolution mechanisms to formal justice systems and encourage dialogue between state and non-state actors.
4. Strengthen the research and advocacy capacity of existing NGOs and grassroots networks and associations to promote evidence-based policy making.

3. INDICATIVE AREAS OF ENGAGEMENT

A J4P Vanuatu program will commence by hiring a Country Coordinator based in Port Vila. The Country Coordinator's first task will be to develop a work program for J4P based on the overall J4P approach, outlined above in the main proposal, and thus begin with an intensive phase of research, analysis and dialogue. Given that building a solid understanding of the local context is a long-term enterprise, efforts will be made to identify and immediately support a number of small-scale activities, which could deliver realistic and tangible benefits to the poor in the short run (e.g. legal information campaigns, multi-stakeholder forums on land issues, capacity building of local facilitators, mechanisms to ensure effective community participation, right protection and dispute resolution in reform processes etc).

The work program will be based around the following indicative areas of engagement:

Component 1: Build Local Policy Oriented Research Capacity

Rationale

The capacity for research on governance related issues in Vanuatu is limited. Law making and reform efforts are often undertaken with insufficient preparatory research or public debate. Even where good research exists it is often not taken into account by policy makers. J4P will work in close collaboration with AusAID's Governance for Growth (GFG) program, which is planning to establish a Research Fund, aimed at increasing the amount of high quality research in Vanuatu in the area of economic governance as a direct feed into the policy process. In addition, given the scarcity of human resources available to conduct research and government's demand for evidence-based policy-making, the program will explore the possibility of housing the research in existing state institutions to ensure that research and information-gathering activities have maximum impact on government policy.

Activities

1. Conduct in-depth training with a range of policy researchers and potential researchers, including university students, to develop and expand upon a pool of experts to conduct empirically-based work.
2. Support capacity building for policy oriented social research including fostering of a local community of practice involving researchers and policy makers.

Component 2: Land and Livelihoods

Rationale

Land is an asset that possesses great cultural value and is also the main subsistence and livelihood source for most rural communities in Vanuatu. Land is also subject to the most common and persistent type of disputes.

Tourism development in Vanuatu is increasingly becoming a source of social tension-in an environment where nearly all businesses are owned by foreign investors, with few benefits flowing to local people. Conflicts over land are becoming more and more common, and include conflicts over lease conditions and disputes over the underlying title. A myriad of inheritance practices and land ownership customs often trigger both intra-community and inter-community disputes. In such circumstances, the right to grant a lease in exchange for cash may be hotly disputed among community members. Further, translation of customary ownership rights into western concepts of individual ownership tends to reinforce women's disempowerment and lack of access to land and resources.

In 2001, customary tribunals assumed jurisdiction over land disputes under the Customary Land Tribunals Act. Land tribunals must determine the rights of the parties in accordance with custom.⁵¹ While the Act sets out a clear framework for the composition and functions of those tribunals, the extent of their operation is limited,

⁵¹ Customary Land Tribunals Act 2001.

perceptions of their legitimacy vary, public awareness is low and lack of confidence is common. The credibility of the tribunals is often contested by chiefs, who feel that their authority is being undermined through the imposition of new community structures over traditional layers of authority.

Land is a particularly contentious issue in and around urban areas, where rapid rural-urban migration is leading to urban poverty. The lack of land and limited opportunities to participate in the cash economy constrain improvements in standards of living. Formal businesses are largely expatriate controlled whilst most informal businesses are run by ni-Vanuatu, leading to growing disparities between expatriates and urban elite on the one hand, and the majority population on the other.

To address some of those challenges, the Prime Minister launched the Kastom Economy Initiative in November 2006 to increase awareness about the importance of the traditional economy in modern-day Vanuatu. The initiative may develop into a comprehensive rural development agenda with which J4P can cooperate. Other innovative practices, such as the creation of community gardens and community plantations, may also provide models for establishing more equitable governance structures to manage land and may be especially useful for securing the rights of women to access and use contested land.

In relation to land conflicts, the Minister of Lands has been given discretion to approve leases where land rights are contested. The intervention of government in decisions over land lead to allegations of corruption,⁵² and has triggered the holding of the 2006 National Land Summit on the initiative of the National Council of Chiefs, which provided an opportunity for a range of stakeholders to discuss the most pressing land issues and solicit a broad-based agreement on a set of recommendations that would feed into the development of a National Land Policy and land administration system, supported by AusAID. Following the recommendations of the 2006 National Land Summit a temporary moratorium on the validation of new leases was enforced.⁵³ The Summit has provided a political opening for new thinking on land reform issues that may benefit from the types of insights a J4P approach could bring. J4P would explore ways of collaborating with AusAID's Land Program and other donor and local initiatives to rule out duplication of activities and ensure complementarities of reform.

Activities

1. Build a solid, empirically-based understanding of the trajectories of land disputes with a view to informing the promotion of more effective and equitable dispute resolution processes, and to inform ongoing policy reform at the national level.

⁵² Cox, M. (2007) "The Unfinished State: Drivers of Change in Vanuatu", Review Draft, 26 February.

⁵³ Other resolutions of the Land Summit were: strengthening group customary ownership and participation of all members of the group in the decision-making process about their land; remove Minister's authority to approve leases over disputed land and impose temporary moratorium over lease granting; ensure public access to the sea; ensuring government's unbiased role as intermediary in negotiations between the parties; and increasing public awareness of land rights and laws.

2. Explore the gender dimensions of women's access to land and management of resources and increase women's awareness of economic rights.
3. Undertake research on innovative approaches to both the management of land and the resolution of conflicts over land, in order to identify "factors of success".
4. Establish processes and mechanisms to facilitate citizen engagement in processes of land reform [Work in partnership with the Department of Lands and the National Council of Chiefs to improve the flow of information between communities and the national level]
5. Develop proposals for operational and policy work based on initial research.

Component 3: Local Governance and Administration

Rationale

Community participation in policy debate is limited and the capacity of civil society organisations to promote accountability is constrained. Formal institutions charged with holding authorities accountable have become politicised and ineffective. Decentralisation has been characterised by poor administrative performance and instability. Provincial Councils are dominated by chiefs and the participation of marginalised groups is often purely symbolic. Chiefs are not subject to any formal accountability mechanisms, and sometimes abuse their authority for personal gain. There are a number of cases where chiefs have disposed of land for personal profit against the collective interest of their own community.⁵⁴ The proliferation of new institutions at the local level creates new lines of authority, causing confusion among community members.

The churches also play a key role in community governance and service delivery, such as primary schools, aid posts, local water facilities, health clinics. One attempt by the state to increase its reach to rural communities was the Rural Economic Development Initiative (REDI) initiated in 1990, which has arguably largely failed in responding to community needs due to inadequate capacity of Provincial Councils, insufficient resourcing, poor monitoring and evaluation and failure to integrate existing community structures into the process.⁵⁵

Women have limited participation in the political and policy debate at both the national and local level. Only two of the 52 sitting MPs are women, one of whom is a government Minister. In some parts of the country, women play a much more active role in decision-making processes, such as on the island of Epi, where women may be appointed as chiefs within their communities. It is also common for women to take a leadership role in the provision of services as part of church and local committees. It is further reported that why women are not given explicit authority in decision-making, on some islands their voice is considered quite influential in consensus-building processes at the village level.

⁵⁴ Cox, M. (2007) "The Unfinished State: Drivers of Change in Vanuatu", Review Draft, 26 February.

⁵⁵ Soni N., H. Alatoa & B. Harries (2007) *REDI Stocktake*, Draft Report, April 2007.

Activities

1. Research claims against local authorities (including chiefs, churches, provincial government, political leaders) to understand the trajectories disputes follow, the outcomes of these processes, and the factors influencing results.
2. Explore women's role in local level decision making processes and identify success stories where women were able to overcome power imbalances.
3. Encourage multi-stakeholder dialogues that bring community and local authorities together to debate issues of local governance and build effective partnerships for better service delivery.
4. Utilize existing grassroots and informal networks (including church, women's, youth and chiefs' networks) and provide training to local facilitators to channel information from bottom to the top and vice versa.
5. Support the establishment of community radio programs to disseminate information about the political process and broadcast success stories where people have managed to overcome classical markers of power.
6. Collaborate with the Kastom Governance Program to promote more open and participatory structures at the local level, and for greater representation of different community interests.

Component 4: Labour Disputes*Rationale*

Most labour disputes in Vanuatu are claims against the government or government owned companies. The tourism boom has also lead to increased disputes between workers and foreign investors over wages and conditions. Much of the government's attention has been on creating favourable conditions for foreign investment, rather than crafting policies for workers protection. Rapid urbanisation has lead to high unemployment rates, especially for young people and those that do find employment often receive less than the legal minimum wage.

Labour arbitration panels have been created, but implementation has been challenging⁵⁶ and the opportunities for alternative dispute resolution are limited. There are limited legal aid services to help workers assert their rights and the Workers' Union has been pressing for the development of alternative systems, but there has been little political will. Despite institutional weaknesses, some positive outcomes have been achieved in asserting workers' rights in both arbitration and court cases, on which J4P can build and consolidate. Further, there may be openings in relation to the new bill that will go before the Parliament in August/September 2007 proposing the establishment of permanent labour arbitration and a specialised labour court.

⁵⁶ In the last few years, only five arbitration decisions have been rendered. Interview with Ephraim K Kalsakau, General Secretary of the Workers' Union.

Activities

1. Conduct research into labour dispute resolution, focused on identifying success stories.
2. Examine the gender dynamics of women's labour rights and access to justice.
3. Support rights awareness campaigns and work with the University of South Pacific legal aid clinics to develop paralegal program to assist people in claiming their rights.

Component 5: Gender-based Violence*Rationale:*

Gender-based violence is an acute problem in Vanuatu. The combination of chiefs and churches at the local level contribute to the maintenance of strong patriarchal and socially conservative attitudes within the community. Strong opposition to divorce and family breakdown often lead to a refusal to acknowledge the high incidence of domestic violence in the community. Gender equality coached in Western terms often faces resistance from traditional authorities, which have tended to be male dominated. There is a need for addressing gender sensitivities in a culturally sensitive manner to ensure the support by kastom and church authorities. The National Council of Women (an umbrella organization of women's NGOs) has well established networks all the way down to the community level, trained in delivering community rights education, which can be strengthened by J4P. In addition, the Indonesia J4P Program on Women's Legal Empowerment has begun to show some interesting results on which J4P in Vanuatu can build on. The gender focus of J4P is also in line with AusAID's overarching principle of gender equality for growth, governance and stability.

Indicative Activities:

- Conduct research on current responses to gender-based violence to identify pathways of justice, bottlenecks and examples of positive change.
- Identify internal cultural values of equity and fairness that could serve as a basis for community dialogues on gender disparity.
- Map out reform-minded chiefs to lead a dialogue with traditional authorities on gender issues and promote attitude change.
- Work with local women networks and theatre groups to raise awareness about gender based violence issues.
- Facilitate the establishment of multi-stakeholder forums (including state and non-state actors) for deliberation of problems faced by women.
- Create a network of women paralegals to deliver legal information and legal assistance to vulnerable women.

Component 6: Youth*Rationale*

Approximately half of Vanuatu's population is under the age of 18. Urbanisation is causing intergenerational tensions and high rates of youth unemployment are contributing to social problems, including increased property crimes and sexual abuse.

Most sexual related crimes reported to the Public Prosecutor's office involve young offenders.⁵⁷

Activities

1. Collect case studies on conflicts involving young people and identify innovative community responses to prevent crime and the escalation of violence.
2. Organize community dialogue on issues concerning youth and provide education on the prevention of domestic violence and sexual crimes, utilising existing youth networks and associations.
3. Support the production of educational community dramas and movies to reach youth. Collaborate with Wan Smol Bag, a local organisation that disseminates educational films on youth related issues.

4. Implementation

4.1 Management

The program will be managed by the Vanuatu J4P Country Coordinator based Port Vila, who will work closely with AusAID post to develop J4P as a joint initiative with local authorities. The Country Program will operate with substantial levels of autonomy, while reporting to both the World Bank Pacific management team and the Project EAP-J4P Initiative Task Team Leader at World Bank Headquarters in Washington, DC. Program activities will be implemented in partnership with local NGOs working on community justice issues and supported by a team of local consultants. Regular coordination meetings will be held with the AusAID post and a country based working group of relevant government, donor, NGO and academic representatives will be established to provide advice on program design, development of thematic foci and strategic priorities.

4.2 Duration and Phasing

The J4P Program in Vanuatu will have a minimum 5 year life span. Implementation will be in two phases:

Phase 1 will cover a two-year period, during which certain core activities will be initiated and detailed program planning undertaken. Phase 1 will include a 6-month preparation stage, consisting of two stages:

Stage 1: Program Design & Preparation

- Consultations with the Country Team and sector management to determine program priorities and explore potential synergies with other analytical/operational work in country.
- Desk review of the history and current state of formal and informal dispute resolution and local power structures. The preliminary literature review will serve as a solid basis for developing context-specific research

⁵⁷ Interview with the AusAID Advisor to the Public Prosecutor's Office.

hypotheses, questions and data collection instruments and will help the design the analytical and operational work that will follow.

- Program design mission and in-country consultations with relevant stakeholders on the scope of the proposed activities.
- Selection and recruitment of J4P Country program partner organisations.

Stage 2: Implementation of core activities

- Qualitative field research to establish empirical base for the proposed activities.
- Design and piloting of operational activities.
- Ongoing monitoring & evaluation of J4P initiatives.

Phase 2 activities will be developed on the basis of results achieved during Phase 1 and in accordance with core country priorities.

4.3 Indicative Budget and Disbursement Schedule

Year 1	Year 2	Year 3	Years 4	Year 5	Total
250,000	750,000	750,000	750,000	750,000	US\$3m

In accordance with the above indicative framework and areas of engagement, specific annual activity plans and budgets will be prepared by the J4P country team in consultation with government and non-government partners, the AusAID post, the World Bank country team and academic experts. Furthermore, in addition to partnering in substantive program activities, a working group of local partners (including the AusAID post) will be established to participate in ongoing program design, implementation and monitoring.

4.4 Monitoring, Evaluation and Reporting

A country program monitoring and evaluation plan will be developed in the first stage of the program in consultation with government and other local partners, World Bank Country Management and AusAID post. The plan will be develop in accordance with the guidelines set out in Annex C of this proposal.

Reports will be provided to AusAID in accordance with the overall reporting framework for the EAP-J4P Trust Fund and a joint annual review of activities will inform the development of annual work plans.

Annex A.5 – Solomon Islands

1. SITUATIONAL ANALYSIS

Like many other Pacific Island states, Solomon Islands faces the challenge of governing and resolving conflict in the face of plural legal orders. Legal pluralism in Solomon Islands does not simply encompass the contrast between state law and customary law (*kastom*), but includes (1) the interaction between diverse indigenous regimes; (2) the fact that state law itself is the product of outside influence; and (3) the direct impact on *kastom* of forces emanating from outside the state, such as human rights norms and contractual dealings with international companies. These interactions play out through complex processes of accommodation, competition and hybridization.

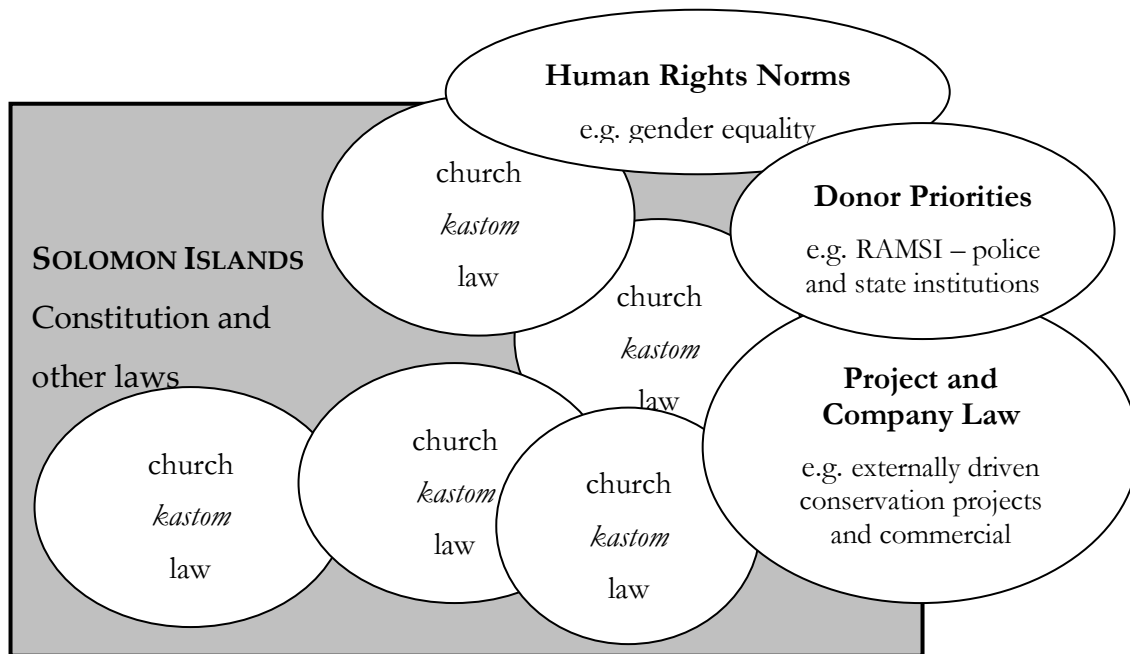
Far from being merely a matter of ethnographic curiosity legal pluralism in Solomon Islands is a major development issue. For example ‘the tensions’ of 1998 to 2003 can be read as a result of unreconciled legal pluralism; arising because institutions of law and governance were not able to process conflicting claims being made by social groups with quite different understandings of what is fair and just. In the post-conflict environment tribal chiefs demand better recognition of their customary authority; state institutions struggle to resolve competing claims to land and natural resources and the criminal courts seek ways to administer justice in a society where local norms often run contrary to ‘the law in the books.’

RAMSI has done much to restore law and order in Solomon Islands by reinforcing and strengthening the central institutions of the state, however a broader set of questions about how Solomon Islands will continue to be governed remains unanswered. These questions are made particularly complex by a number of factors including (1) the ethnic diversity of the population; (2) the geographic spread and inaccessibility of much of the archipelago; (3) the weakness of the state, and (4) rapid processes of economic and social change to which country is subject as it is increasingly penetrated by outside influences as diverse as human rights law, development projects, extractive industries, tourism and intoxicating home brew (*kwaso*).

The figure below attempts to capture the state of legal pluralism in Solomon Islands. If the sovereign state of Solomon Islands is depicted by the rectangular box, within this there are many (overlapping) customary legal orders (represented by the circles). These local orders coincide with different linguistic and kinship groups each with laws emerging from oral traditions transmitted in a fluid process over time. Within any of these local orders there are plural legal norms, reflecting the interplay of individual local *kastom* and the influence of ‘outside’ forces, such as the church or the state (through law). These groups are also directly impacted by legal norms coming from outside the sovereign state, for instance via donor (‘project law’) and commercial (‘company law’) projects in individual localities. More broadly, both state law and *kastom* are affected by historical processes of engagement with the international sphere. These include the importation of common law in the late 19th Century, and modern human rights law with the drafting of the constitution in 1978. Changing values and the

weakening of the social structures which underwrote the authority of *kastom* are also part of the equation.

The application of formal law and *kastom* at the village ‘coal face’ is usually met with adaptation and hybridised implementation, not just overlap as the figure below suggests. An example of hybridised implementation is a transgression of customary law being enforced by a police officer, when in fact there are no grounds to act under state law. Conversely chiefs may fuse *kastom* and law when assuming power to enforce state laws. Hybridisation is at one level a practical solution to the problems of the administration of law in a plural system, but where economic or political power is at stake the existence of multiple competing norms becomes a potential source of conflict.



This is particularly the case where parties (particularly elites) use the existence of competing legal systems to ‘forum shop’—that is, select the legal framework which is most likely to legitimize their claims.

The classic modern response to these sorts of issues is to build ‘the rule of law’; that is a formal regulatory system (either unitary or federal) in which there is a clear hierarchy of law. While the formal legal system may recognize customary law, customary law will only be valid to the extent that it is recognised by the state. Such a system exists in theory under the Solomon Islands Constitution of 1978.⁵⁸ In practice, however, *kastom(s)* have their own legitimacy separate from state law and as such represent a

⁵⁸ Section 76 of the Constitution (when read with Schedule 3) provides the basis for the recognition of customary law as “part of the law of the Solomon Islands” so long as it is not “inconsistent with [the] Constitution or an Act or Parliament.”

competing rather than a sub-ordinate legal order; Solomon Islands displays a situation in which “several legal orders coexist irrespective of their mutual recognition.”⁵⁹

While the construction of a regulatory system in which clearly articulated state law plays the defining role may be a desirable goal in a modern state, it is one which is difficult to achieve when in the face of conflicting and/or competing legal orders, and the competing sovereignties they imply. If, however, this is the goal - and both current policy and the constitutional framework of Solomon Islands suggest that it is - two further questions arise. Firstly how does a society make a peaceful and generally equitable transition from conflictual to ordered and/or complementary legal pluralism; and secondly – accepting that this is likely to be a long term process – what to do in the meantime. These appear to be central questions for a J4P program in Solomon Islands.

The J4P program does not pretend to have simple answers to the question of how to build the rule of law in such circumstances. In fact the theory which underlies the program would suggest that the rule of law can only emerge out of social processes of interaction, deliberation and reasoning which are inherently unpredictable and as such difficult to engineer.⁶⁰ Nevertheless an initial exploration of the law and governance environment in Solomon Islands suggests that the J4P approach - with its focus on locally specific routes to legal empowerment - may be a useful complement to the work which others are doing on justice sector issues.

2. PROGRAM OBJECTIVES

In addition to the overall J4P aims and objectives, a J4P Solomon Islands Program will:

1. Support improved research and locally informed policy debate on justice sector reform issues, particularly where these require an engagement with issues of legal pluralism.
2. Develop strategies to support Solomon Islands citizens – particularly marginalized groups – to engage the various legal frameworks which govern their lives in a more empowered way.

3. INDICATIVE AREAS OF ENGAGEMENT

A J4P Solomon Islands program will commence by hiring a Country Coordinator based in Honiara. The Country Coordinator’s first task will be to develop a work program for J4P Solomon Islands in close consultation with local stakeholders. Engagement will be based on the overall J4P approach, outlined above in the main proposal, and thus begin with an intensive phase of research, analysis and dialogue. Given that building a solid understanding of the local context is a long-term enterprise, efforts will be made to identify and immediately support a number of small-scale activities, which could deliver realistic and tangible benefits to the poor in the short run (e.g. legal information campaigns, multi-stakeholder forums on land issues; capacity building of local

⁵⁹ Von Benda-Beckmann, Franz (2006) “The Multiple Edges of Law: Dealing with Legal Pluralism in Development Practice,” *The World Bank Legal Review: Law Equity and Development*, Vol. 2, World Bank, p59.

⁶⁰ March, J.G. & J.P. Olsen (2005) “Elaborating the “New Institutionalism,” Working Paper No. 11, Centre for European Studies, University of Oslo.

facilitators, mechanisms to ensure effective community participation, right protection and dispute resolution in reform processes etc).

The work program will be based around the following indicative areas of engagement:

Component 1: Building Local Policy Oriented Research Capacity

Rationale

As a program starting from scratch in what is clearly a complex country environment a J4P program in Solomon Islands should commence with exploratory research. Research is a crucial part of building an empirical basis for ongoing reform; building local research capacity therefore provides the platform for locally driven, empirically based policy reform. Recognizing that changes and reforms are likely to occur during the exploratory stage of the program, research activities will seek to adequately reflect local dynamics and transition processes in its design and implementation.

Undertaken – where possible – in collaboration with government institutions or local research institutions, J4P research is designed to contribute to the development of both research capacity and policy dialogue at the national level. This seems particularly important given the track record in Solomons of “well meaning outsiders” ending up causing bitter disputes.⁶¹ Thus for example, McDougall – describing a World Wildlife Fund project in Western Solomons – notes that, “Instead of putting in place structures that would allow those people who knew the complexities of the situation to manage it in the way they felt best, this external organisation attempted to direct and control the process.”⁶²

The need for improved research capacity and better informed national level policy dialogue was stressed by both the Chief Justice of the Solomon Islands, Sir Albert Palmer and the Permanent Secretary of the Department of Justice and Legal Affairs James Remubatu during the WB/AusAID J4P mission to the Solomon Islands. To this end, the benefit of housing the research within existing state institutions will be explored during the design stage of the program with a view to ensuring that research and information-gathering activities have maximum impact on government policy.

Activities

1. Engage and train local researchers (preferably through a national institution) to undertake in-depth policy oriented socio-legal research.
2. Facilitate local researcher engagement with different stakeholders in the Justice sector and government policy reform dialogues
3. Engage in on-going dialogue with Government, donor community and local stakeholders to ensure complementarity and harmonization of reform efforts.

⁶¹ McDougall (2007) “Paths to Peace in the Western Solomons,” paper presented at the Mediating Across Difference Workshop, University of Queensland, 29-31 March.

⁶² Ibid.

Component 2: Land and Natural Resources Management

Rationale

Land and natural resources management is an area where the clash between traditional and modern ideas of ownership often leads to conflict. Thus for example, traditional owners will negotiate leases or resource extraction agreements with outside interests. This scenario can lead to various sources of conflict: (a) within the land owning group – over who is a member of the group, who has authority to deal with land and for what purpose and what the terms of the agreement should be; (b) with neighbouring land owners – who claim that the activities agreed to affect their interests; (c) with the outside interest – over the terms of the agreement and its implementation.

The desire to resolve land disputes, which have become more prevalent with the onset of resource extraction, has been an important motivation behind efforts to institutionalize traditional leadership. This has given rise to a number of innovative approaches to resolving and managing land disputes. Pilots are being conducted in the documentation of traditional forms of ownership through kinship mapping and the Chief Justice is promoting a hybrid institution for the resolution of land disputes involving customary lands (Tribal Land Disputes Resolution Panels).

Negotiations between local communities and outsiders involving land transactions, logging and mining are a widespread source of concern. Civil society groups in Honiara are mobilizing around these issues. Their experiments with advocacy and ‘legal empowerment’ activities around land and natural resources issues may be a valuable source of learning. There are reports of instances of more and less successful negotiation and dispute resolution approaches to land and natural resources but these are poorly documented but there is a general lack of research material and records on the subject of land use policy.

The bilateral country program (AusAID) is considering its next phase of support to land management in Solomon Islands. Continued work on land management is expected through a regional program. Discussions with AusAID indicate that collaboration with a J4P program would be welcome at both the regional and country levels.

Activities

1. Undertake in-depth desk review and series of consultations with key stakeholders to develop detailed research and development proposal on the interrelationship between justice and land and NRM in Solomon Islands
2. Engage local researchers to undertake case study research on innovative approaches to both the management of land and the resolution of conflicts over land, in order to identify “factors of success”.
3. Explore the gender dynamics of land and natural resource management by looking at women’s role in decision-making over access to land and resources.
4. Establish processes and mechanisms to facilitate citizen engagement in processes of land reform and state land management
5. Develop proposals for operational and policy work based on initial research.

Component 3: Access to Justice and Local Governance

Rationale

The Solomon Islands Government has “justice delivered locally” as one of the key areas of its justice and legal affairs policy. This policy is based on a realization that the national legal system is both remote from and relatively unresponsive to the needs of most Solomon Islanders most of the time.

In these circumstances the government has committed to the localization of justice services including:

- Ensuring that “the authority of chiefs and other traditional leaders is recognized especially in the administration of justice.”
- Ensuring that “the law and justice sector is *properly resourced and re-localized* as and when appropriate in accordance with the RAMSI exit strategy.”
- The provision of “human traditional justice and cultural values as part of our laws.”
- Ensuring “equitable and easy access to legal and judicial services throughout the country.”⁶³

The government acknowledges that the goals set out in its policy will not be easy to realize. In particular it understands that the process of formalizing custom is problematic because relations of power and legitimacy are transformed when state recognition supplants organic legitimacy as the basis for customary law. In such situations *kastom* may be more open to being “manipulated by individuals for self interest.”⁶⁴

The government also acknowledges the limitations of what can be achieved through locally based customary solutions. In particular it acknowledges that local solutions will be best suited to local problems: i.e. those where neither inter-ethnic tensions nor interactions with outsiders are at issues. In such cases the key is likely to be making the linkages between the local level and higher level institutions of justice.

The *Justice Delivered Locally* program is focussing primarily on the regulatory and service provision role of the state. As such there would appear to be a complementary role for a J4P program in looking at the demand side of local justice. Questions which might fall into this side of a local justice initiative include:

- what support/knowledge do villagers need to ensure that they can best use local justice systems to solve their problems?
- what support / knowledge do villagers need to ensure that they can find pathways to higher level justice services when problems can’t be addressed at the local level?

⁶³ Solomon Islands (2007) “Justice Delivered Locally,” *Scoping Framework*, May, p1.

⁶⁴ Ibid, p8.

- what can villagers do to ensure that customary law and local institutions of justice develop in ways which make them accountable and responsive to their (evolving) needs?

Activities

1. Engage local researchers to undertake case study research on the trajectories of local disputes and the ways in which local justice systems respond to disputes inter and intra communal disputes and claims against local authorities.
2. Explore the gender dimensions of local justice mechanisms and how women and marginalized groups navigate through and/or are excluded from those systems. A focus on success stories would help identify innovative local initiatives where women were able to overcome classical markers of power to claim their rights.
3. Establish processes and mechanisms to facilitate broader citizen engagement in the *Justice Delivered Locally* program
4. Develop proposals for operational and policy work based on initial research.

4. Implementation

4.1 Management

The program will be managed by the Solomon Islands J4P team leader based in Honiara. The Country Program will operate with substantial levels of autonomy, while reporting to both the World Bank's Pacific country team and the EAP-J4P Initiative Task Team Leader in Washington, DC.

Regular coordination meetings will be held with the AusAID and RAMSI Representatives on the ground. A country based working group of relevant government, donor, NGO and academic representatives will be established to provide advice on program design, development of thematic foci and strategic priorities.

4.2 Duration & Phasing

It is envisioned that a J4P Program in the Solomon Islands will have a minimum 5-year life span. It is suggested to structure the implementation of the program in two phases:

Phase 1 will cover a two-year period, during which certain core activities will be initiated and detailed program planning undertaken. Phase 1 will include a 6-month mobilization stage. This will be followed by research and design work.

Stage 1: Program Design & Preparation

1. Consultations with Solomon Islands country team, sector management and in country stakeholders (including AusAID and RAMSI) to determine program priorities and explore potential synergies with other analytical/operational work in country.
2. Desk review of the history and current state of formal and informal dispute resolution and local power structures. The preliminary literature review will serve as a solid basis for developing context-specific research hypotheses, questions and data collection instruments and will help the design of the analytical and operational work that will follow.

3. Program design mission and in-country consultations with relevant stakeholders on the scope of the proposed activities.
4. Selection and recruitment of J4P country team members and local partner organizations.

Stage 2: Implementation of core activities

5. Mixed methods field research to establish empirical base on the proposed activities.
6. Design of operational activities.

Phase 2 activities will be developed on the basis of results achieved during Phase 1 and in accordance with core country priorities.

4.3 Indicative Budget and Disbursement Schedule

Year 1	Year 2	Year 3	Years 4	Year 5	Total
250,000	750,000	750,000	750,000	750,000	US\$3m

In accordance with the above indicative framework and areas of engagement, specific annual activity plans and budgets will be prepared by the J4P country team in consultation with government and non-government partners, the AusAID post, the World Bank country team and academic experts. Furthermore, in addition to partnering in substantive program activities, a working group of local partners (including the AusAID post) may be established to participate in ongoing program design, implementation and monitoring.

4.4 Monitoring, Evaluation and Reporting

A country program monitoring and evaluation plan will be developed in the first stage of the program in consultation with government and other local partners, World Bank Country Management and AusAID post. The plan will be developed in accordance with the guidelines set out in Annex C of this proposal.

Reports will be provided to AusAID in accordance with the overall reporting framework for the EAP-J4P Trust Fund and a joint annual review of activities will inform the development of annual work plans.

Annex A.6 – Proposed Joint World Bank – AusAID Scoping Mission for the Establishment of Justice for the Poor Program (J4P) in Fiji

A Joint World Bank and AusAID Mission will visit Fiji during February 11-20, 2008 to carry out a scoping mission for the establishment of a research and development program on *Justice for the Poor* in Fiji. The mission will include Caroline Sage (J4P Team Leader), Michael Woolcock (Senior Research Analyst and Strategic Advisor), *Justice for the Poor* program; at least one representative of the J4P East Asia and the Pacific team, and representatives of AusAID (TBD).

1. OVERVIEW OF JUSTICE FOR THE POOR PROGRAM

Justice for the Poor (J4P) is a global research and development program aimed at informing, designing and supporting pro-poor approaches to justice reform. It is an approach to justice reform which:

- Sees justice from the perspective of the poor/marginalized
- Is grounded in social and cultural contexts
- Recognizes the importance of demand in building equitable justice systems
- Understands justice as a cross-sectoral issue

2. MISSION OBJECTIVE

The primary purpose of the scoping mission is to determine the feasibility of including Fiji in the proposed World Bank/AusAID *Justice for the Poor* partnership in the EAP region. The scoping mission will examine existing justice-related programs and activities in Fiji, issues of political stability and willingness, and areas of unmet need to establish whether, and in what areas, the J4P program is a strategic addition to local level justice programming in Fiji.

A secondary purpose of the mission, assuming positive findings on feasibility, is to prepare a detailed and operational proposal for Fiji-specific work on *Justice for the Poor* as part of the overall proposed AusAID-World Bank partnership. To this end, the mission will:

- Meet with World Bank and AusAID staff, government officials, donors, local NGOs and CSOs and community representatives engaged and/or interested in related activities to determine possible areas of engagement for J4P within the country portfolio and rule out duplication of activities;
- Identify related Bank and AusAID activities on to which the program could be mapped, with a view to possible ongoing cooperation;
- Assess the capacity and availability of local research and legal empowerment organizations and identify possible partners;
- Identify themes of prominent local grievances/disputes to determine the thematic focus of the program;
- Determine the feasibility of selecting Suva as a regional hub for J4P activities; and

- Garner data on possible research sites and expected costs to aid in determination of an indicative budget for the J4P Fiji program.

3. PROPOSED OUTPUTS

Upon completion of the mission, the team will prepare an Aide Memoire and a detailed, country-specific proposal on *Justice for the Poor* in Fiji. Specifically, this proposal will include information on:

- Potential areas of cooperation with government, national stakeholders and AusAID for development of the legal and judicial system;
- A brief summary of ongoing donor programs in this field, and analysis of local community based research capacity;
- A gap analysis identifying areas where Justice for the Poor could contribute to promoting a demand-side justice reform agenda;
- An analysis of linkages between proposed J4P activities and the wider World Bank, AusAID, and government development priorities; and
- An indicative timeline, budget, logframe, and M&E plan for J4P activities in Fiji.

4. FURTHER MISSION DETAILS

When and Where

The proposed mission dates are February 11 – 20, 2008. The mission will consist of a series of meetings in Suva, as well as other potential project locations, such as Lautoka and/or Ba in the west, Labasa in the north, Levuka in the east, and Rotuma. Specific locations will be determined after consultation with the AusAID.

Areas for Exploration

While identification of potential areas for engagement will be a key task of this scoping mission, the team expects to hold discussions with stakeholders on several areas that have been identified, through literature reviews and analysis of AusAID and other donor project documents, as priorities in justice-related activities. These areas include:

- **Economic justice, particularly in regards to land and natural resource management.** Land—including the ways in which rights to land are defined and/or can be acquired and exchanged—has far-reaching social, cultural, and economic implications for societies in East Asia and the Pacific. Land is important for the functioning of both market and non-market institutions. Given the central importance of land and natural resources to socio-economic well being, it is not surprising that while such resources are critical to processes of development, they are also a source of significant conflict.

The level and intensity of conflict around land and natural resources is a product of many factors, including the number of layers of applicable law (both state and non-state), the value of the land (both socially and economically), the relative equality of parties involved in a conflict, and the robustness of the institutions created to deal with land and land conflict. Even minor conflict over land can significantly reduce productivity and is likely to affect the poor

disproportionately as they tend to have a greater share of their assets tied up in land.⁶⁵ Conflicts over land can also fuel larger conflicts between different social groups, as tensions over the expiry of land leases under the Agricultural Land and Tenants Act in Fiji have recently shown.

In recognition of these and other concerns around access to land and natural resources, and the role of land as a source of livelihoods and social protection, J4P anticipates discussions with stakeholders during scoping on topics such as formalization, dispute resolution, public land management, resource planning and community decision-making, and plural land orders.

- **Youth in Conflict.** According to the recent UNDP Peace and Stability Development Analysis (PSDA), youth (under 29 years of age) constitute 60% of the population of Fiji. Youth in Fiji are also over-represented in the correctional system, due in part to persistent unemployment, urban displacement, and a lack of political and social capital. Given AusAID’s proposed focus on community justice projects impacting youth, and the priority the World Bank places on youth’s access to justice, as evidenced by the World Bank’s 2007 World Development Report, the J4P team plans to review areas of engagement related to conflict resolution, crime prevention, community youth leadership, and related topics as part of this scoping mission.
- **Gender and Law.** Gender equality is a central goal of development programs, both for its own merits and because of the strong links between gender equality and economic development. As indicated in AusAID’s report on gender equality in its aid program, equality “is a critical component of efforts to eradicate poverty, enhance economic growth and democratic governance, and achieve sustainable development.”⁶⁶ Yet, empowerment and parity indices for the EAP region indicate substantial gender gaps in educational attainment, economic and labour force participation, and particularly political empowerment and participation.

In each of its existing country programs, J4P has placed a strong emphasis on women’s experiences with and access to local and national justice institutions. Gender concerns are mainstreamed into J4P’s research methodologies, and each program attempts to develop gender-disaggregated data and examine justice issues – whether discrimination in traditional or official rule systems, inheritance disputes, labour rights, or access to marital property – through a gender-sensitive lens. Because the law, policy and social frameworks impacting gender equality go beyond formal law and institutions, the J4P program’s unique focus on ground-up approaches and informal systems may enable it to fill an important gap in research and programming in Fiji. Thus, the J4P team will

⁶⁵ Deininger, K. (2003) *Land Policies for Growth and Poverty Reduction*, IBRD/World Bank, pxli

⁶⁶ AusAID (2007) *Gender equality in Australia’s aid program – why and how*, March, p6.

pursue dialogue with women’s organizations and other gender stakeholders during the proposed scoping mission.

- **Community Reconciliation and Peacebuilding.** The recent coups and the rise in ethnically-based conflicts in Fiji have left a legacy of distrust and violence. Traditional and governmental institutions, as well as religious and community organizations, have attempted to bring about reconciliation between disputing groups, and lay the foundation for peace. J4P is interested in the diverse approaches of these institutions to reconciliation, and the ways in which they have (or have not) been successful. During the proposed scoping mission, the J4P team will hope to engage with both formal and informal reconciliation bodies to discuss their efforts.

Consultations

While the J4P team hopes to consult with AusAID’s Fiji mission to identify key stakeholders, the team expects to hold meetings with a wide swath of interest groups, including traditional power structures, donor institutions, universities, Advisory Councils, Vanua, religious institutions, NGOs, and community groups during this mission. The Bank team will also, where appropriate, consult with government leaders and different state authorities. While far from comprehensive, an example of key institutions includes:

- **National, Local, and Provincial Government:** Members of the Great Council of Chiefs; Ministry of Justice, Electoral Reform, and Anti-Corruption; Fiji Law Reform Commission; Fiji Legal Aid Commission; Fiji Human Rights Commission; Native Lands Trust Board; Ministry of Fijian Affairs, Heritage, Provincial Development, and Multi-Ethnic Affairs; Ministry of Local Government, Urban Development, and Public Utilities; Ministry of Women, Social Welfare, and Housing; Ministry of Lands and Natural Resources; Ministry of Youth, Sports, Employment Opportunities, and Productivity; Native Lands Commission; Provincial and Tikina Councils; District Administration officials; and the Fijian Affairs Board.
- **Civil Society and Educational Institutions:** Citizen’s Constitutional Forum; Strategic Leadership Group of AFLJSP; Provincial Youth Forum; Ecumenical Centre for Research, Education, and Advocacy; National Council of Women; Fiji Law Society; University of the South Pacific; Women’s Action for Change; Soqosoqo Vakamarama; FemLINK; National Youth Congress of the Fiji Islands; Fiji Young Lawyer’s Association; Fiji Women Lawyer’s Association; Women’s Rights Movement; and various informal youth associations, community groups, and members of the Indo-Fijian community.
- **Donor Bodies.** AusAID; World Bank; UNDP; NZAID; and ILO.
- **Justice-Related Programs.** Australia/Fiji Community Justice Program; Vanua: Rai-ki-liu Community Policing Model; Problem Solving Courts (including Magistrates in the initial pilot courts and the community members

selected to serve an advisory role); Family Courts; and the UNDP Pacific Centre.

Composition and Strengths of the J4P Scoping Team

Caroline Sage (TTL, *Regional Justice for the Poor* program). On the J4P side, the scoping mission will be led by Caroline Sage. In addition to taking responsibility for planning of the scoping mission and preparation of the Fiji proposal, Caroline will be responsible for overall project management and policy dialogue related to the J4P proposal. She will be the primary point of contact with AusAID throughout this mission.

Michael Woolcock (Co-Founder and Strategic Advisor, J4P program). Michael Woolcock, a development specialist with substantial experience in the Asia-Pacific region and extensive knowledge of the J4P program, will provide advisory services related to research and program design. In particular, Michael will be responsible for developing the appropriate research methods, providing input on partnership development and management (both with AusAID and with other proposed partner institutions), and ensuring that all activities suggested in the final Fiji proposal are accompanied by strong monitoring and evaluation components.

Representatives from EAP J4P (TBA). Given their regional expertise, and the desire for partnership and knowledge sharing in the J4P regional programs, this regional representatives will be responsible for contributing to program design and developing a feasible strategy for project implementation.

Annex B: Regional Program

The Regional Program has three main objectives- 1. to develop cross-country analytical work, 2. to establish community of practice and promote regional knowledge sharing, and 3. to provide a mechanism for further innovation and development of the program. Given the limited budget at this time, not all activities will be possible in the shorter term, however, this proposal aims to outline indicative areas of engagement and interest. More detailed and realistic work programs will be developed in the preparation phase of the project.

Analytical & Advisory Work

The cross country thematic work aims to provide local partners and Country Programs with access to global experts who can provide both programmatic advice and global comparative knowledge. In addition, the wealth of in-depth knowledge that is collected at each country level can contribute to the broader thematic knowledge. J4P practice can serve to shape the understanding of global experts in this area, thereby facilitating a two way flow of information.

1. Increase the effectiveness of the country programs, by distilling lessons learned from research and operational work and disseminating it to partner governments, civil society and regional stakeholders.
2. Improve donor understandings and approaches to supporting pro-poor justice reform efforts drawing on country and regional experiences (beyond pure supply-side projects).

The regional program will aim to focus on a number of different themes and strategic relevance to development in EAP. Areas of focus will be guided through consultation with national government partners, civil society and the key experts in different thematic areas.

Themes that are currently being developed in consultation with country partners and AusAID counterparts are outlined below.

LAND & NATURAL RESOURCE MANAGEMENT

Rationale

Land—including the ways in which rights to land are defined and/or can be acquired and exchanged—has far-reaching social, cultural, and economic implications for societies in East Asia and the Pacific. Land is important for the functioning of both market and non-market institutions. For most poor or marginalised people, land is the primary means of generating a livelihood, the main source of wealth and the primary means of transferring it between generations. Furthermore, land is often an important marker of communal identity, the basis of local governance and intimately linked to broader systems of belief and cultural practices. Given the central importance of land and natural resources to socio-economic well being, it is not surprising that while such

resources are critical to processes of development, they are also a source of significant conflict.

It is often argued that to achieve economic development, land needs to be placed in a legal framework; in a modern economic context rights to land and natural resources need to be rendered legible and regulated in order for them to be exchanged and transacted upon. At the same time, the process of defining, categorising, regulating and transacting upon land may be at odds with local understandings of land and thus may be strongly resisted. Further, processes of regulating land may create or reinforce inequitable access to such resources, or may be subject to elite capture. Thus, while the benefits of regulation in providing security of tenure are well documented, the creation of land markets has been observed to have had both positive and negative welfare outcomes for the poor and marginalised- depending on the circumstances and the processes of reform.

The level and intensity of conflict around land and natural resources is a product of many factors, including the number of layers of applicable law (both state and non-state), the value of the land (both socially and economically), the relative equality of parties involved in a conflict, and the robustness of the institutions created to deal with land and land conflict. Even minor conflict over land can significantly reduce productivity and is likely to affect the poor disproportionately as they tend to have a greater share of their assets tied up in land.⁶⁷ Conflicts over land can also fuel larger conflicts between different social groups, as the recent tensions in the Solomon Islands illustrate.

Whilst land is a perennial source of potential conflict, a significant body of theory exists about the role of land and natural resources in development. Furthermore, land and natural resource issues are the site of innovative approaches to the meshing of different conceptions of law and society. In addition to the substantial body of theory, extensive regional and international practice is available to inform work in the target countries.⁶⁸

Notwithstanding the extensive body of theory and practice, there remains a gap in effective policy making and space exists for the EAP-J4P Initiative to contribute to the development of this field. To this end, the EAP-J4P Land and Natural Resources Advisory Program theme will define and articulate a research agenda based on the following assumptions/hypotheses:

1. There is currently a lack of good theory on how to design land and natural resources management processes in situations of legal pluralism (ie: where conflicting norms, rule systems and concepts of justice exist with regard to land).
2. There is a disconnect between socio-legal understandings of the policy context in which decisions about land and natural resources are made and the understanding and practice of policy makers themselves.

⁶⁷ Deininger, K. (2003) *Land Policies for Growth and Poverty Reduction*, IBRD/World Bank, pxli

⁶⁸ See, for example, Deininger, K. (2003) *Land Policies for Growth and Poverty Reduction*, IBRD/World Bank.

3. Single individuals (women and men) or communities often simultaneously hold conflicting ideas about the role of land, ranging from a marker of identity to a tradable commodity. These conflicting ideas are contained in desires for both recognition of distinct ways of holding land and economic development.
4. Land reform and natural resource management are inherently political and conflict prone endeavours. Decision-making can exclude certain groups within the community, such as women, young people and other marginalised groups. Efforts to regulate these resources need to include processes and mechanisms to manage conflict and ensure equitable access to both the resources themselves and the reform process.
5. Secure tenure can improve the welfare of the poor, creating incentives for investment in poor people's sole or major asset and encouraging the best and most productive use of land⁶⁹, and should be the overarching objective of land policies. State regulation can be an important mechanism to improve security yet the state can also be a source of tenure insecurity.

Research on land and natural resources would aim to bringing together socio-legal and legal/anthropological understandings of issues related to land and natural resources management, and use this knowledge to inform J4P country programs cross-country learning.

Indicative Areas of Engagement

Formalization: Much of the land in the five countries contained in this proposal is held outside formal recognition systems. Formalisation (including 'pre-formalisation', or the steps along the way to formalisation) involves rendering social relations with respect to land legible to the state. Alternatives to conventional private land titles are increasingly used to enhance urban land security⁷⁰ and the J4P approach understands formalisation to encompass a broader range of options than just registered title.

Processes of formalisation can be fraught with danger for 'non-formal' rights holders, particularly for those seen as temporary or subsidiary rights holders in the process of translation between customary to state law. Marginalised groups and women can be caught in a two- fold process of discrimination. On the one hand, many customary systems deny women and marginalised groups the rights to control and make decisions over land. At the same time, modern legal frameworks tend to privilege individual notions of rights and ownership and thus even when attempts are made to engage with customary systems of land tenure and to recognise different usage rights, these tend to be seen as –hierarchically- secondary to the rights of the 'primary owner'.

⁶⁹ Deininger, K. (2003) *Land Policies for Growth and Poverty Reduction*, IBRD/World Bank.

⁷⁰ See, for example, Payne G. (2002) *Land rights and Innovation – Improving Tenure Security for the Urban Poor*, ITDG Publishing, London; or Durand-Lasserve A. (2003) "Land Issues and Security of Tenure," *Background Report prepared for the UN Millennium Project Task Force on Improving the Lives of Slum Dwellers*, National Centre for Scientific Research, France, both referred to in World Bank (2007) World Bank Comments "Summary and key recommendations" on draft Working Group 2 – Property Rights, "Empowering the Poor Through Property Rights," Commission on Legal Empowerment.

Formalisation can thus entrench or increase the relative position of primary rights holders at the expense of others.

Formalisation also privileges the role of the state, as the (impliedly) only legitimate body to recognise rights in land. In sites of legal pluralism, this legitimacy may not be recognised or may be challenged by alternate sources of law. Processes of Formalisation are also open to elite capture and rent extraction; state incentives for formalisation may be fuelled by the desire to collect revenue from registration fees. Formalisation of land has been a cause of friction in many countries as a result of inequitable processes of regulation and reform on the one hand and the gap between legality (state law) and legitimacy (local methods of holding land) on the other.⁷¹

The thematic program will explore a range of possible formalisation processes, with a particular focus on the gap between state law and local understandings in different country contexts, and the promotion of institutional arrangements that provide spaces for more equitable negotiations and decisions making processes for men and women.

Dispute resolution: A focus on creating space for fruitful and equitable dispute resolution is at the heart of the J4P approach. In relation to land and natural resources, this could include developing mechanisms to deal with grievances and competing claims within the formalisation process itself or it could address managing disputes and potential sources of conflict over the use and management of state land, and ensuring inclusion of women in such processes. Dispute resolution within a J4P framework is concerned with analysing grievances, including sources of conflict that may not otherwise be aired or pursued. A Justice for the Poor approach to dispute resolution is not primarily absorbed with the final adjudication of disputes on the basis of defined legal rights, but rather with establishing mechanisms or institutions which open up space to peacefully manage processes of contestation in the context of reform.

Public land management: Much of the recent focus on land management and administration, particularly in the development context, has been on private land. This focus is premised on making it easier for individuals to unlock the economic potential of land as collateral, through formal titling. The limitations of this approach for some of the poorest and most marginal members of society have been well documented. Recognising these limitations and attempting to broaden the scope of the debate, this area of focus appreciates that state land often represents the site where the most vulnerable (including the landless) seek to support themselves, without secure access and subject to competing claims from both other users and the state itself. State land is also subject to common resource pool problems and state land management entails consideration of sensitive issues such as mining, forestry, water catchment protection and environmental conservation.

Plural land orders: Legal pluralism, or the existence of contradictory and competing sets of rules and norms, is a common feature of the way land is understood in the five countries that are the subject of this proposal. This is particularly apparent in the context

⁷¹ Deininger, K. (2003) *Land Policies for Growth and Poverty Reduction*, IBRD/World Bank, pxxiii

of weak states where formal land law exists in competition with multiple customary systems. An exploration of plural legal orders for the regulation of land recognises that competing understandings and competing regulatory options exist, including for the same piece of land, and each of these understandings and options represents a claim of legitimacy. Regulatory options include (but are by no means limited to) a consideration of a range of usage rights, communal land tenure, individual title and contested sovereignty. Plural land orders also make the process of implementing different regulatory options more complicated and conflict prone. In these contexts it is particularly important that adequate attention is paid to women's rights to land, including both existing rights- such as a range of user rights or matrilineal claims etc- and rights that should be ensured on either human rights or basic equity grounds. This area of focus will clearly inform other areas of focus in this program.

Indicative Activities

The following are foreshadowed areas of initial activity:

1. Convening of regional meetings of academics and practitioners on the above themes in order to define specific research and operational agendas.
2. Provision of support to J4P country programs in order to advise on program development in relation to land and natural resources issues.

DEVELOPMENT EFFECTIVENESS

Rationale

Ensuring development effectiveness is a priority for both AusAID and the World Bank. Indeed, there is increasing demand amongst both donors and developing country governments to increase the effectiveness of aid and development. Achieving development effectiveness is a process that aims to reward success, identify shortcomings, and correct failure. Generally, the operational approach to achieving this is to link research, monitoring and evaluation mechanisms to design and resource allocation decision-making processes. This therefore requires the adoption of a research, design and evaluation learning cycle, as well as the development of appropriate methods and instruments for instituting such a process.

There is a deficit of knowledge about how to rigorously and effectively design, monitor and evaluate J4P-type programs. Indeed, a significant weakness of previous justice reform initiatives as well as development interventions generally has been their cookie-cutter approach to program design and their propensity to focus on programmatic outputs—such as the number of judges trained or court houses refurbished—as opposed to justice outcomes and impacts, as well as processes of change. Further, significant technical challenges prevent the adoption of standard monitoring, design and evaluation methods.

There exists significant expertise within the World Bank relating to development effectiveness generally, as well as research, design and evaluation methods specifically. The analytical and advisory program would be well placed to draw on this expertise and make it relevant to the justice sector as a whole, as well as to the particular country programs.

The development of rigorous research, design and evaluation methods and instruments are crucial to the J4P approach and the EAP-J4P initiative for a number of reasons:

- *Understand local context:* The methods and instruments would assist the EAP-J4P initiative and the country programs to understand local context and to design contextually-relevant interventions. Wherever possible and appropriate, integration of J4P M&E systems and locally driven M&E processes will be pursued.
- *Facilitate constant learning and reflection:* The adoption of a research, design, and evaluation learning cycle would facilitate constant learning and reflection both within and across the country programs.
- *Assist to ensure conflict-sensitive interventions:* Poorly designed projects and programs—in introducing new resources and rules into communities—can trigger existing or generate new problems and conflict. The adoption of, and reflection on, key design principles can mitigate such problems.
- *Justify and inform consolidation and scale-up:* Justifying and informing scale-up requires robust research and evaluation capable of producing evidence of impact and providing important lessons on how and when these program’s produce both positive and negative impacts.

Aims and Objectives

The overall aim of focusing on development effectiveness as part of the programs analytical and advisory work is to increase the effectiveness of demand-side justice interventions (such as those to be undertaken or supported by the country programs in this proposal) by developing the necessary process and tools for instituting a learning cycle of research, design and evaluation within and across the EAP-J4P initiative. Specific objects would therefore include:

1. Develop the necessary research, design and evaluation methods, principles and instruments for ensuring the effectiveness of justice sector interventions.
2. Support country teams and local partners to undertake rigorous research, design contextually-relevant interventions and implement appropriate monitoring and evaluation systems.
3. Facilitate cross-country comparative research through the development of common research and evaluation methods.
4. Increase understanding of how J4P-type interventions function in certain political, normative and institutional contexts.
5. Assist to identify opportunities for future research, justice sector interventions and policy-relevant evaluations.
6. Support local partners to build their own M&E systems related to justice reform.
7. Build the institutional capacity of both AusAID and the World Bank to ensure development effectiveness in the justice sector.

Indicative Activities

1. *Theory development and articulation:* Analysis of impact needs to be embedded in a theory-based approach to justice reform and social change that clearly maps the causal chain from programmatic inputs to broad societal impacts. Thus the program will develop J4P's theoretical underpinnings and support the EAP-J4P initiative generally and country programs specifically to articulate this theory in their work and practices.
2. *Methodology and instrument development:* The program will collaborate with research and evaluation specialists within the World Bank (such as the Living Standards Measurement Survey (LSMS) and Gender Empowerment groups), AusAID and local partners to develop and pilot quantitative and qualitative methods and instruments for conducting research and evaluation of justice sector issues and interventions.
3. *Technical support to country programs:* The development effectiveness program will provide technical analytical and advisory support to the J4P country programs and other donor and local stakeholder programs engaged in justice-related issues. This support will include research methods and tools, intervention design, and evaluation methods and tools.
4. *Training and capacity building:* The program will provide training and capacity building to country programs and local partners.
5. *Collate lessons learned and develop "toolkits":* The program will collate lessons learned and develop standalone research, design, and evaluation toolkits relevant to both J4P country programs as well as other actors working on access to justice issues in developing country contexts. These toolkits will seek to strike a balance between universality and specificity.

GENDER

Rationale

Gender equality is a central goal of development programs, both for its own merits and because of the strong links between gender equality and economic development. As indicated in AusAID's report on gender equality in its aid program, equality "is a critical component of efforts to eradicate poverty, enhance economic growth and democratic governance, and achieve sustainable development."⁷² Yet, empowerment and parity indices for the EAP region indicate substantial gender gaps in educational attainment, economic and labour force participation, and particularly political empowerment and participation.

While few countries in the EAP region have come close to achieving gender equality, new opportunities in the policy environment and recognition of the importance of women to peace and development have created an opening for constructive dialogue and action. In the past decade, the region has seen high female voter turnout in most national elections, positive female labour force participation and education trends in

⁷² AusAID (2007) *Gender equality in Australia's aid program – why and how*, March, p6.

Cambodia, increasingly active participation of women in civil society and social movements, a Timorese election that yielded a 23% female parliament, widespread adoption of CEDAW and laws protecting women from sexual and gender-based violence, a slow increase in the percentage of elected female village heads in Indonesia, and an increased recognition of women's invaluable role as peacebuilders (such as the role of grassroots women's organizations in bringing about a cessation of hostilities in the most recent conflict in the Solomon Islands).

The law, policy and social frameworks impacting gender equality go beyond formal law and institutions, and thus cannot be addressed solely through programs researching or working with formal structures. For example, though several countries in the EAP region have made efforts to improve women's land ownership, access to capital and customary and family law, lack of information/rights awareness, and disempowerment more broadly can still limit women's financial security. Informal systems controlling dispensation of land can also limit men's freedom of movement and economic and marital opportunities. The J4P program's unique focus on ground-up approaches and informal systems enables it to fill an important gap in research and programming. This is particularly pertinent given common concerns about discrimination against women in customary systems, and the ongoing debate about the interaction between international human rights norms and local cultural practices.

J4P's current Indonesia and Cambodia country programs have identified land/property rights and labour as key cross-sections of access to justice and development. Preliminary research in the Solomon Islands, Timor-Leste, and Vanuatu has suggested that one or both of these are chief concerns in each of the countries. Some EAP-J4P publications, such as the Cambodia program's study on *Women and Work in the Garment Industry*, have recognized the strong overlap between gender and land/property and labour rights. Having a Gender analytical and advisory unit in the EAP-J4P regional program will help to formalize this link, draw out the gender dimensions of land, labour, and other key focus areas, and allow for more systematic collection of strong gender disaggregated data, which can be used to make powerful claims to governance institutions, both formal and informal, to support gender reforms.

The current EAP-J4P countries have shown strong results in enhancing women's access to justice, and can make valuable contributions to regional learning and programming on gender. For example, the J4P/Indonesia-supported PEKKA, or Female-Headed Household Empowerment, program has documented strong levels of support and demand for better justice from women's groups receiving empowerment training. This program has also developed linkages to change agents in local government institutions, who are providing political and financial support to women's legal empowerment efforts. The EAP-J4P regional Gender unit will document and share successes such as these.

The World Bank/IFC's 2008 *Doing Business* report will focus on the intersection of gender and the business environment. EAP-J4P research on gender and the workplace can bring a wider perspective to this report, for example by highlighting the role informal rules systems can play in inhibiting women's economic opportunities. By contributing to this report, EAP J4P can enhance the visibility of its work, reach a

broader policy audience, and ensure that a wider range of legal, socio-cultural, and institutional barriers to women’s labour-force participation and business development opportunities are considered.

Objectives:

A focus on gender aims to:

1. Ensure that a gender perspective is streamlined throughout the EAP J4P program;
2. Provide EAP-J4P country and regional programs and partners with technical assistance to improve the gender impact of all programming; and
3. Coordinate EAP-J4P’s gender programming with that of other World Bank and AusAID programs in the region.

Indicative Activities

1. Engage gender experts in the design phase to create a gender plan for the design, implementation, and dissemination of results for each EAP-J4P program.
2. Provide gender rights training to all staff and beneficiaries.
3. Inform development of a regional flagship report on EAP J4P.
4. Contribute a gender perspective to thematic work on land and property rights, labour, access to justice and other key development priorities.
5. Ensure that each program prioritizes gender-sensitive interventions and the M&E system makes gender explicit and visible in the indicators and outcomes.
6. Collaborate with the World Bank’s evaluations unit and the EAP J4P Development Effectiveness team to assess program impacts.
7. Collect gender-disaggregated data to inform programming and policy debate.
8. Conduct gender analysis of gaps in ongoing programs.
9. Contribute to World Bank Country Gender Assessments and other analyses of the gender dimensions of development.
10. Support implementation of the World Bank’s Gender Action Plan in the region.
11. Pursue an active partnership with AusAID, World Bank Group institutions, government agencies (all levels), local institutions, civil society partners, and other stakeholders.

LEGAL PLURALISM & NON-STATE JUSTICE SYSTEMS

Rationale

Legal pluralism is “the coexistence of different normative orders within one socio-political space”⁷³ or a situation in which numerous, and often contradictory and

⁷³ Von Benda-Beckmann, Franz (2006) “The Multiple Edges of Law: Dealing with Legal Pluralism in Development Practice,” *The World Bank Legal Review: Law Equity and Development*, Vol. 2, World Bank, p1

competing, sets of rules and norms regulate social, economic and political relationships. A distinction can be made between ‘weak’ legal pluralism, where one dominant legal order (conventionally formal state law) recognises the existence of other normative orders and ‘wild’ pluralism in which several legal orders coexist irrespective of their mutual recognition.⁷⁴

The World Development Report 2006 highlighted the importance of justice systems in creating equitable development outcomes. Despite the growing attention to law as a means of development and an object to be transformed through development, the topic of legal pluralism has lagged behind in the development literature.⁷⁵ While it is widely accepted that the rule of law is key to sustainable development, it is less clear what to do in a situations where there are competing rules of law. The five countries the subject of this proposal are sites of intense legal pluralism. This includes (and is by no means limited to) overlapping (and hybridised) systems of formal state law, multiple competing traditional systems, neo-patrimonial administrative law, local law, donor and external commercial influences (‘project law’), religious law and international norms.

Both weak and wild types of legal pluralism are prevalent across East Asia and the Pacific. Particularly the latter becomes a ‘development issue’ as the co-existence of multiple unreconciled legal orders—and the competing sovereignties which they imply—often represent a significant divergence from, as well as an obstacle to the attainment of, the rule of law and good governance models being pursued by both donors and the developing country governments they work with. The existence of competing legal orders also has a tendency to cause conflict which can be destructive for societal harmony, growth and equitable development outcomes.

The international development community has a long and often unhappy history of engagement with such environments. This is in part because donor organizational and professional imperatives predispose them to favour interventions which encourage ‘legal monism’.⁷⁶ That is, current approaches to regulatory reform tend to favour the belief that technical short cuts can be imported, along with best practice experts from other countries, to transform pluralistic environments into ones which are uniform, state centred and hierarchical. Such approaches reflect a theoretical model that starts with a perfect ‘rule of law’ system, from which dysfunctional systems have deviated.

The J4P approach proceeds on the basis of the following hypotheses and assumptions:

- Legal systems (both formal and informal) are central to all aspects of the development process because they define the rules which regulate economic, social and political relations.

⁷⁴ Von Benda-Beckmann, Franz (2006) “The Multiple Edges of Law: Dealing with Legal Pluralism in Development Practice,” *The World Bank Legal Review: Law Equity and Development*, Vol. 2, World Bank, p59.

⁷⁵ Von Benda-Beckmann, Franz (2002) “The Multiple Edges of Law: Dealing with Legal Pluralism in Development Practice,” *The World Bank Legal Review: Law Equity and Development*, Vol. 2, World Bank.

⁷⁶ Donors are also quite happy with weak legal pluralism too, as long as everything is subordinate to The Law.

- Systems of governance characterised by legal pluralism represent a particular development challenge in that they resist classical tools of top down reform - state law and policy making.
- Plural legal systems are flexible and adaptable but under conditions of modernisation they are problematic where they allow forum shopping or create uncertainty.
- Even though strong legal pluralism is fundamentally incompatible with the idea of a modern liberal state, under conditions of excessive political and economic inequality, the abolition of a plural legal system and its rapid replacement by a unitary one risks either failing completely or favouring the powerful.
- Under these circumstances the rule of law, if pursued at all, needs to be pursued in a way which pays more attention to processes of contestation. In particular:
 - There is a need to understand more about existing normative systems, how they interact and change, as well as the incentives which lead different groups to use them.
 - Reform should legitimate (not undermine) the frameworks of law from which the poor and marginalized derive power and adhere to minimum international human rights standards.
 - Institutions need to be supported which allow space for fair contests whether or not these look like classical institutions of the rule of law.
 - People (especially the poor) need to be supported to articulate their claims effectively in the systems as they exist.

Objectives

A focus on legal pluralism aims to:

1. Support the country programs to develop country research agendas, draft country operations and coherent theories about how legal development occurs in contexts characterized by deeply entrenched legal pluralism.
2. Synthesise examples of operations which are successful in dealing with plural legal settings with program country experience and publish on the subject.

Indicative Activities:

1. Bring justice sector reform practitioners together with socio-legal theorists, political economists and customary law leaders to draft a research and operational work plan to test the above hypotheses and further an understanding of (a) why legal pluralism is important for development and (b) how to engage with it in development contexts.
2. Investigate, research and map innovative examples and attempts of engagement with multiple rule systems in reform settings, inside and outside of EAP. Conduct in-depth regional case studies of especially promising policy making in the target countries.

3. Explore particularly critical and contested areas of legal pluralism in the region, including the role of women in society; plural legal orders and the regulation of land and natural resources; and the impact of legal pluralism on development projects.

Communities of Practice & Knowledge Sharing

Rationale

The existing two country teams in EAP (Indonesia and Cambodia) have already benefited from the experiences of each other in developing their country programs. This learning can be consolidated with the inclusion of a dedicated regional program component. This will be particularly useful for the three new country programs which will be created, as they can benefit from the skills, knowledge and experience of the two established programs, as well as the contemporaneous experiences of the ones which are being established. A regional community of practice and knowledge sharing component also allows other countries in the region who have expressed an interest in the Justice for the Poor Program, such as the Philippines and Viet Nam, but are not currently included, to benefit from and contribute to its activities.

A range of academics, policy makers and other experts exists outside AusAID and the World Bank who have conducted work in the region which could relevantly inform our work. A regional community of practice will create a new level of legitimacy and support for both existing and new country programs by allowing individual country teams and the program as a whole to tap into a broader range of experts.

The component will contribute to AusAID's understanding of the dynamics of power and social change in the region and inform the conduct of AusAID's extensive portfolio of legal and judicial reform programs.

Knowledge sharing of J4P activities will help to shape the broader agenda of legal and judicial reform. Knowledge sharing and the creation of a regional community of practice serves AusAID's longer term objective, as stated in the White Paper, of building domestic and international research capacity on Asia-Pacific development as well as AusAID's priority of dissemination in the Asia-Pacific region.

Objectives

The objectives of creating the regional Community of Practice and Knowledge Sharing component are:

1. To increase cross learning between countries.
2. Internal and external capacity building (improving our ability to do the project).
3. To disseminate ideas and materials to create an enabling environment in which the project takes place
4. To enhance dissemination through collaborative partnerships with government bodies, research institutions and practitioners.
5. To sharpen policy responses to major justice sector reform challenges.

Indicative Activities

1. The Justice for the Poor website (www.worldbank.org/justiceforthe poor) will be built upon as a central knowledge repository and will be populated with reports and other materials produced by each of the individual country programs as well as other relevant materials from the World Bank generally and other sources. These materials will be available publicly and act as a means of explaining J4P to a wider audience and allow other actors to learn from our experience.
2. Build upon the Justice for the Poor E-forum (http://www.dgroups.orgz/groups/worldbank/J4P/index.cfm?op=dsp_info) an assembly of over 250 legal and development professionals inside and outside the World Bank, which take part in moderated discussions, share resources and exchange ideas and questions.
3. Create an internal listserv to allow country based staff to pose and answer questions on problems which may have already been encountered by other teams.
4. Conduct cross visits and longer-term placements of staff between country offices and allow staff from NGO partners to gain work experience in Bank country offices.
5. Hold a full regional workshop every 18 months, as well as more regular targeted training seminars on thematic issues.
6. Create and disseminate ideas, materials and products to a wide range of audiences, such as national governments, civil society organizations, researchers and citizens more broadly through the media. Fuel the community of practice with dissemination of briefing notes and practice briefs.

Innovation & Development*Rationale*

The Innovation and Development Facility is a central funding program which supports and funds innovations and new streams of work within the EAP-J4P programming agenda. The J4P approach to justice reform emphasizes in-depth understanding of local contexts and development of contextually-relevant solutions. This approach not only tolerates, but encourages, flexible responses which evolve to reflect research findings and stakeholder feedback.

As AusAID emphasized in the fragile states section of its White Paper, the socio-political environment in the EAP region is characterized by uncertainty and rapid change. Changes in government and governance, policy priorities, and security situations can bring new challenges in access to justice, as well as new opportunities for innovative programming. For example, rises in violent conflict which bring about internal displacement and refugee flows can exacerbate resource tensions and lead to increased localized conflict. The EAP region's vulnerability to natural hazards can also necessitate new program priorities, as reflected in the J4P Indonesia program's

intensified work in tsunami-affected areas to address emerging property distribution and child rights disputes.

Though recognizing the individual problems and needs of each project country, the J4P team understands that shared experiences and similarities in institutional structures, where they exist, can prove to be valuable learning tools. Nations in the EAP region which are outside the J4P's country portfolio, such as Papua New Guinea or the Philippines, may harbour programs or research findings that could inform and improve J4P approaches in current project countries.

The J4P methodology relies heavily on human capital, and staff and local partners are the program's most valuable assets. By rewarding entrepreneurship, the Innovation and Development Program will facilitate team management, building on a wide range of perspectives and experiences to support pioneering, results-driven research and programming.

Objectives

A focus on Innovation and Development will:

1. Encourage and support innovation and experimentation to ensure that J4P research and programming is timely, flexible, and responsive to beneficiary needs.
2. Provide country and regional teams with the flexibility and information to pursue promising new channels of research and programming.
3. Contribute to staff development and capacity building by encouraging results-driven entrepreneurship.

Indicative Activities:

1. Rapidly scale-up relevant research and activities in response to socio-political changes, natural disasters, or others changes in country context.
2. Provide seed funding for pursuit of emerging streams of research and programming that are potentially beneficial to EAP Regional Justice for the Poor programs.
3. Fund innovative methods of outreach and dissemination to better capture the target audience.
4. Encourage staff development and entrepreneurship through creation of small, competitive grants for relevant research and pilot activities.
5. Support scoping and learning missions to non-project countries to observe new or successful approaches, develop strategic links with programs in neighbouring countries, and enable cross-learning and program development beyond the current J4P EAP country profile.

Indicative Budget & Disbursement Schedule

Given the limited budget at this time, not all activities will be possible in the shorter term and alternative funding sources may be sought for certain activities. In accordance with the above indicative activities, specific annual activity plans and budgets will be prepared by the J4P Regional Program in consultation with the Working Group, Country Programs, AusAID and academic experts.

Current indicative budget allocations for this aspect of the program are listed below. Most regional activities will be undertaken with the support of the central budget from AusAID's research department, however specific allocations for certain themes may occur, as with the current allocation to land research.

Legal Pluralism	500,000	500,000	500,000	500,000	500,000	2,500,000
Land		50,000	80,000	100,000	120,000	350,000
Gender						
					Sub-total	2,850,000

Annex C: EAP-J4P Program Monitoring & Evaluation Framework

Overview

Despite the billions of dollars spent on development assistance each year, there is still very little known about the actual impact of projects on the poor. Beginning to build a more solid empirical basis for analyzing and assessing the impact of ongoing justice reform efforts is crucial. This is especially important for programs such as Justice for the Poor, which is developing new and innovative approaches to demand-oriented interventions for rights protections and equitable dispute resolution. In this context, rigorous evaluation is arguably a “public good” that will help inform the next generation of Justice Sector Reform projects, particularly those supported by AusAID and the World Bank.

In light of the complexity and multitude of country-based and regional components, the design of a rigorous monitoring system is critical to the success of the EAP- J4P program, and is an essential part of any effective evaluation mechanisms. The program is expected to be implemented in fragile or conflict-affected environments, which not only pose unique challenges to understanding and documenting local level dynamics, but also to monitoring and evaluating the effects of such interventions on these dynamics. In these contexts, solid M&E data would help ensure that program activities are effectively targeting the poor and marginalized, and that contributing to social stability rather than inflaming or aggravating local conflict.

While this document sets out a broad framework for the development of a J4P-EAP M&E plan, the framework will be further developed and refined during project preparation. At this stage the team has focused more on regional outcomes and indicators and on the process of developing a more comprehensive M&E strategy; a more comprehensive stratified monitoring and evaluation program, which will operate at both the country and regional program levels will be developed during the preparation of each specific program component. Preliminary indicators to measure the achievement of the overall program objectives have been identified in the Results Framework. Both country and regional components will feed into the overall M&E framework and will be guided by the principles and parameters described below. The overall M&E framework will be reviewed and revised during the annual review of the program.

In addition to generating program specific information, J4P has a substantive focus on developing diagnostic and monitoring and evaluation tools that can be used by justice and governance reform practitioners in the broader development community. For this reason, there is a strong emphasis on the development of rigorous systems, techniques and methods, and on undertaking intensive impact evaluations of specific project components. This work will feed into the development effectiveness theme outlined above.

Objectives

- To contribute to the continuous improvement of the program effectiveness during implementation.
- To assess the outcomes, impact and sustainability of the program
- To produce empirically grounded ‘lessons learned’ to inform further justice sector and governance reform efforts.

Guiding Principles and Approach

Participatory M&E

J4P-EAP will seek to promote stakeholder participation in program monitoring and evaluation to increase the relevance of M&E information to end users and key policy-makers and help build local capacity for results-oriented program management and empirically-based decision-making. Where possible and appropriate, the team will seek to work through and strengthen existing partner M&E systems with a view to developing a harmonized approach to M&E with other donor and government frameworks in alignment with stakeholder needs. At the same time, the program will be cognizant of not overburdening existing systems or imposing different priorities on local counterparts; where necessary, more specific comprehensive program evaluation activities may be undertaken that do not directly link to the range of local systems operating.

Country-specific M&E systems will be developed jointly with the local partner organizations during the program preparation and early inception stage. This would include an initial analysis of M&E stakeholders to identify key users of the M&E system and their information need related to the program. Establishing a team of key stakeholders to help inform and guide the M&E process will help generate a sense of ownership among different groups, thus increasing the acceptance and use of findings. At the sub-national level, communities will be actively engaged in monitoring and evaluating program activities, thus becoming the “question-makers” and end users of the information, rather than just respondents and subjects of surveys and interviews.

Ongoing M&E workshops and training events will be incorporated into the ongoing program as part of the development effectiveness and capacity development foci. These activities will allow teams to fine-tune different aspects of the M&E system and to further develop the local capacity to design and manage such systems. The M&E activity plans will be reviewed periodically by the multi-stakeholder working groups at the country level to encourage use of the M&E information for policy reform and advocacy work by decision-makers.

M&E results will be disseminated broadly accommodating the diverse information needs of different groups, including policy-makers, program managers, program beneficiaries, the general public, the media and academia. Many target groups may not have access to information technology and/or more formal systems of communication, thus the use of alternative dissemination methods- such as community dialogues, pamphlets, posters, etc.- will be encouraged. Active participation of civil society groups

and representatives of community networks in the M&E process will be crucial in ensuring that marginalized populations are reached and integrated in this process.

A public website on J4P-EAP will be maintained to ensure that key statistics, important studies and progress reports are accessible to the public at large in an electronic form.

Mixed-method Research

The J4P-EAP program will use both quantitative and qualitative methods in order to address the range of processes and interventions planned under the project. Using mixed methods- or triangulating data- will allow team to get a range of different type of evaluation questions and ensure that results can be integrated, cross-checked, and verified. The inherent flaws in different approaches to empirical research mean that more diversified data sources can enhance the robustness of our findings. Quantitative approaches to program evaluation produce results that are easy to summarize, compare and analyze through the use of structured data collection instruments that fit diverse experiences into predetermined response-categories (e.g. the Living Standards Measurement (LSMS)-type surveys). Such approaches also allow us to generalize across large groups and capture more macro-dynamics in a given society. Some important characteristics and behaviors, however, cannot be meaningfully reduced to numbers or adequately captured without a reference to the relevant context in which the program is being implemented. It is also difficult to capture and understand processes of change and the embedded nature of socio-economic and political behavior through the use of more traditional quantitative methods. This is where an in-depth and detailed data gathered through qualitative methods becomes helpful.

As part of an overall evaluation strategy, qualitative methods can make an important contribution to understanding processes of social and political change, and the dynamics (as opposed to demographics) of these processes. Such methods also provide insight into context idiosyncrasies which may affect the functioning and impact of a project in different villages; low levels of trust, fractious social relations, and weak governance can undermine even the most carefully designed and faithfully implemented program, while the opposite characteristics can mean that even humble projects, casually implemented, do quite well. In complex program such as J4P, the problem is compounded because “the project” itself is typically a package comprising numerous components, many of which are held together by front-line facilitators with considerable discretion to interpret and adapt project rules as their professional judgment sees fit. As such, “the project” as experienced by different villagers in different settings can be quite heterogeneous, which in turn may make it difficult to get an aggregate picture of some aspects of the projects impact. Finally, from an operational standpoint, knowing which *elements* of a project are helping or hurting impact is also important: For example, are happy outcomes primarily a product of effective legal education or good local facilitation?

A judicious mix of qualitative and quantitative methods ensures a more rigorous and comprehensive monitoring and evaluation program. While the exact data sources for each country may differ according to the sources available, the activity being evaluated, and the context within which the research is undertaken, the aim is to gather a mixture of rigorously collected data that will bring both depth and breadth to the analysis.

Developing and Refining M&E tools

The development of more effective diagnostic, monitoring and evaluation tools will be a key part of the programs focus on development effectiveness as well as the ongoing M&E work.

The team will work with a range of researchers and evaluation experts to improve on the type of data available for analyzing and assessing this type of work. For example, the team will partner with the Living Standards Measurement team in DEC to design more effective survey instruments for both diagnostic and evaluation work; this collaboration will lead to the development of a toolkit to help others working on justice and governance research. The team will also work with the different groups in the Bank working on Impact evaluation in order ensure a rigorous standard of design and analysis.

Particular emphasis is, of course, placed on rigorous in-depth qualitative research, given that the program is heavily focused on local dynamics and processes. The team will continue to work with experienced qualitative researchers and will continue to partner with a range of researchers both inside and outside the Bank. It is particularly hoped that the regional focus of the initiative will allow the program to draw on the experience and expertise of regional scholars and practitioners, and facilitate linkages across different networks of scholars and practitioners.

Impact Evaluation

As part of the overall M&E framework, the regional initiative will place particular emphasis on designing rigorous impact evaluations to assess the specific outcomes attributable to particular interventions at the country. It will do so by asking the counterfactual question, i.e. what would have happened if the intervention had not taken place? To determine the counterfactual, it is necessary to net out the effect of the interventions from other factors—a somewhat complex task. This is generally accomplished through the use of comparison or control groups (those who do not participate in a program or receive benefits), which are subsequently compared with the treatment group (individuals who do receive the intervention). Control groups are (ideally) selected randomly from the same population as the program participants, whereas a comparison group is more simply a group that does not receive the program under investigation. Both the comparison and control groups should resemble the treatment group in every way possible, the only difference between groups being program participation. Determining the counterfactual is at the core of impact evaluation design. This can be accomplished using several methodologies which fall into two broad categories, experimental designs (randomized), and quasi-experimental designs (nonrandomized).

Qualitative and participatory methods are also key to assessing impact. First, as part of an impact evaluation strategy, qualitative research can help unpack local understandings of fixed categories and concepts. Most surveys draw their power and validity from the number of people questioned in relation to a given topic and the assumption that these respondents will interpret the concepts and categories inherent in these questions in the same way. This is rarely a safe assumption; qualitative methods can allow researchers to explore the ways in which people understand such concepts, and how these

understandings might shape the data collected. Second, qualitative research can allow researchers to identify and document ‘unobservables’, which can help address concerns of unobserved heterogeneity bias in people’s participation in the project, which remains an issue even if treatment villages are randomly assigned.

Third, qualitative methods allow the team to explore the characteristics of outliers or ‘exceptions to the rule’. While these may often be merely idiosyncratic experiences, they may also be the result of a unique alignment of factors that may be extremely useful for ongoing work or policy reforms. Finally, qualitative data allows the team to cross check, compare and verify results, as outlined above.

Impact evaluations serve as powerful tool for dynamic learning on what a successful project entails and what an effective development intervention is from the perspective of the end user. Such evaluations can provide necessary benchmarks for program design and monitoring by addressing broadly the following questions:

- Does the intervention achieve the intended goal?
- Should a pilot intervention be scaled up? Should a large scale program be continued?
- Can the changes in outcomes be explained by the intervention, or are they the result of some other factors occurring simultaneously?
- Do intervention impacts vary across different groups of intended beneficiaries (e.g. males, females, ethnic groups), regions, and over time?
- Are there any unintended effects of the intervention, either positive or negative?
- How effective is the intervention in comparison with alternative interventions?
- Is the intervention worth the resources it costs?

Impact evaluations fit into the chain of monitoring and evaluation process in several ways. First, they help to assess the casual link between an intervention and an outcome of interest. Second, impact evaluations can provide baseline evidence for the effectiveness of an intervention, which can be compared with other similar interventions. Through this process, impact evaluations assist in establishing credible cost-effectiveness comparisons. Third, impact evaluations can serve to build the knowledge base of what works in development. With and increasing demand for evidence of aid effectiveness, rigorous evaluations offer a method through which development successes can be highlighted.

Institutional Arrangements

The J4P-EAP M&E framework will be overseen by an overall M&E coordinator based in HQ, supported by Bank M&E experts and M&E consultants in HQ and country offices. The M&E team will work closely with the Development Impact Evaluation Initiative in the Bank tapping into existing expertise and resources such as: a roster of recommended peer reviewers; a roster of external consultants with expertise in impact evaluation; an interactive database of impact evaluations of Bank supported projects, covering methods and results; and learning resources (including technical guidance

materials, sector specific evaluation methods notes, training material, and other relevant resources) and evaluation clinics.

Results Framework

The results-framework provides a broad overview of the expected outcomes and outputs of the overall regional program. It should be noted that because of the multiple levels of engagement – both country and regional – it is practically impossible to develop a comprehensive framework with detailed activities at this stage. Specific results frameworks will be developed for each country and regional program components at the design stage, which would feed into the overall Trust Fund results framework.

Program Development Objectives	Program Outcome Indicators <small>* All indicators will be gender disaggregated where appropriate.</small>	Means of Verification	Critical Assumptions
<p>1. The immediate justice-related needs of the poor are addressed (recognizing that the development of a more equitable formal legal systems might be a multi-generational effort).</p> <p>2. Justice mechanisms are systematically integrated into existing and planned development interventions in order to reduce potential for conflict and enhance development effectiveness.</p>	<p>Improved awareness/understanding of the poor about options for resolving disputes</p> <p>Increased percentage of people able to resolve disputes in an equitable manner</p> <p>Number of successful pilots whose recommendations have been tested and can be mainstreamed/replicated in other development efforts.</p> <p>Number of projects with components addressing the conflict management related aspects of their work.</p>	<p>Impact evaluation reports; satisfaction and perception surveys; justice sector statistics; civil society and media reports</p> <p>Project designs; project progress and completion reports; project evaluations; documents; sector strategies and action plans;</p>	<p>Sustained government and development partners commitment to pro-poor justice reform efforts</p> <p>Political stability does not deteriorate to a level which makes program implementation no longer feasible</p>

Intermediate Outcomes	Intermediate Outcome Indicators	Means of Verification	
Outcome 1: Empirical knowledge base of the dynamics of local level decision-making and dispute resolution processes created	Development NGOs contracted to carry out research Qualitative and quantitative database established	Series of policy research papers (both country specific and thematic); cross-country flagship report on J4P	In-depth local knowledge and evidence improves the effectiveness of development interventions
Outcome 2: Enhanced capacity at the local level to conduct policy research and undertake evidence based policy reform	Number of local researchers trained in quality research Number of quality research outputs produced Increased number of demand-driven research projects undertaken by local organizations	Training reports; pre- and post-training questionnaires; training evaluations; capacity assessment reports; number of studies undertaken locally	Local partners receptive to collaboration and capacity building activities
Outcome 3: Pro-poor justice pilots are designed, tested and evaluated	Number of pilots designed and tested with clearly specified indicators of success M&E frameworks designed and tested	Program design documents; progress and completion reports; supervision missions; annual M&E plans and evaluation reports; operational guidance notes on mainstreaming justice components into	Bank Management and development partners are supportive of integrating J4P findings and approaches into broader reform initiatives. Policy opportunities in member countries are conducive to

		sectoral programs; number of J4P members part of project teams	supporting the reform program.
Outcome 4: Increased understanding and ability of targeted populations to articulate demands to policy makers	Increased awareness of the reform process Collective action groups articulate demands	Participative monitoring reports; multi-stakeholder forum and consultation reports	Increased participation of local constituencies in policy dialogue will lead to more equitable reform processes.
Outcome 5: Global dialogue on pro-poor justice issues is enhanced	Promotion of accessible, accountable and equitable justice systems is integrated into long-term poverty reduction strategies and development interventions Number of international conferences, regional knowledge sharing events and country level discussion forums on justice issues	Global reports and strategies; annual reports of development institutions; conference proceedings;	Increased dialogue and coordination among relevant stakeholders contribute to increased awareness of the importance of pro-poor justice initiatives.