

Country Name	Legal and Judicial Development Project (Phase 2)
Kingdom of Cambodia	

I. Project Outline

Background	<p>In Cambodia, legal and judicial reform for establishing the rule of law had been one of the most important issues of the nation since the end of the civil war in 1991. However, the underdevelopment of the legal structure such as basic laws coupled with the insufficient capacity and technical level of government officials and judicial personnel had made it difficult for them to develop laws and judicial system on their own. Under such circumstances, the Legal and Judicial Development Project (1999-2003) (“the Phase 1 project”), a JICA technical cooperation project, was implemented with the aims of drafting the Civil Code (CC) and the Code of Civil Procedure (CCP) and developing the law enforcement procedures and judicial organizations. The Phase 1 project was completed with the handover of the draft Codes to the Ministry of Justice (MOJ).</p>												
Objectives of the Project	<p>As the Phase 2 of the Legal and Judicial Development Project, this project aimed to promote legislation of the CC and the CCP mainly by developing capacity of related personnel and drafting related provisions, laws and/or bylaws and instructional materials, thereby realizing reliable and useful application of laws and regulations on civil affairs in Cambodia.</p> <ol style="list-style-type: none"> Overall Goal: Laws and regulations with respect to civil affairs and their applications are reliable and useful for Cambodian People. Project Purpose: Conditions for promoting legislation of the Civil Code and the Code of Civil Procedure are prepared. 												
Activities of the Project	<ol style="list-style-type: none"> Project site: Phnom Penh Main activities: Preparation of documents related to the Codes such as annotations for article; provision of advices by Japanese experts and Japanese Working Groups for Supporting the Draft of CC and CCP (“the Working Groups”) to the members of the Committee for CC and CCP (“the Committee”) in MOJ and other legal and judicial experts in Cambodia; holding of workshops/training sessions/seminars by the Japanese experts and the Working Groups; drafting of provisions, laws and/or bylaws and instructional materials regarding application and/or enforcement of the Codes by the Working Groups, etc. Inputs (to carry out above activities) *As of Terminal Evaluation in October 2006 <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Japanese Side</td> <td style="width: 50%;">Cambodian Side</td> </tr> <tr> <td>1) Experts: 6 persons</td> <td>1) Staff allocated: 12 Committee members; 2 counterpart personnel of the Project for Improvement of Training on Civil Matters at the Royal School for Judges and Prosecutors (RSJP); 2 supporting staff from MOJ</td> </tr> <tr> <td>2) Trainees received: 14 persons</td> <td>2) Office and meeting space</td> </tr> <tr> <td>3) Equipment: office equipment, etc.</td> <td>3) Electricity for the project office</td> </tr> <tr> <td>4) Support funding for local activities</td> <td></td> </tr> </table> 			Japanese Side	Cambodian Side	1) Experts: 6 persons	1) Staff allocated: 12 Committee members; 2 counterpart personnel of the Project for Improvement of Training on Civil Matters at the Royal School for Judges and Prosecutors (RSJP); 2 supporting staff from MOJ	2) Trainees received: 14 persons	2) Office and meeting space	3) Equipment: office equipment, etc.	3) Electricity for the project office	4) Support funding for local activities	
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Project Period	April 2004 to April 2008 (Extension period) April 2007 to April 2008	Project Cost	(ex-ante) 250 million yen, (actual) 213 million yen										
Implementing Agency	Ministry of Justice (MOJ)												
Cooperation Agency in Japan	Ministry of Justice, Supreme Court of Japan, Japan Federation of Bar Associations												

II. Result of the Evaluation

< Special Perspectives Considered in the Ex-Post Evaluation >

- Verification of achievement of Project Purpose: The indicators of Project Purpose only specify the type of measure (Indicator 1: level of understanding; Indicator 2: deliberation results of draft laws) but the expected changes are not clear. In this evaluation, it is judged as “achieved” if improvements/progress in the specified respects are confirmed compared to situations before the project. It should be however noted that such a judgment may be overrated.
- Contribution of other phases: The effectiveness of this project is partly based on the achievement of the preceding phase of “Legal and Judicial Development Project” (Phase 1 in 1999-2003), and the observed statuses of continuation of project effects and achievement of Overall Goal include both outcomes/impacts of this project (Phase 2) and the succeeding phases (Phase 3 in 2008-2012 and Phase 4 in 2012-2017). It is difficult to separate outcomes/impacts of this project from those of other phases.

1 Relevance

<Consistency with Development Policy of Cambodia at the time of ex-ante evaluation and the project completion>

The project was consistent with the Cambodia’s development policy such as the “Second Socio-Economic Development Plan” (2001-2005), which holds the establishment of a proper legal and judicial systems and nurturing of the legal profession for promoting the rule of law and good governance as one of the most important development issues, as well as the “Rectangular Strategy” (2004) and the “National Strategic Development Plan” (2006-2010), which give a high priority on legislation of the Basic Codes including the CC and the CCP.

<Consistency with Development Needs of Cambodia at the time of ex-ante evaluation and the project completion>

As mentioned in “Background” above, legislation on civil affairs was needed at the time of the ex-ante evaluation. Also, promotion of legislation and proper enforcement of the Codes was requiring explanation of the draft Codes to- and coordination with relevant agencies, and the Cambodian side needed to acquire high level of understanding of the draft Codes and related provisions. Such requirements still existed at the time of project completion, since The CC was promulgated in December 2007 and expected to be enforced in 2011, and the CCP was promulgated in July 2006 and enforced in July 2007.

<Consistency with Japan’s ODA Policy for Cambodia at the time of ex-ante evaluation>

The area of the project was consistent with “strengthening of good governance” aimed in the Country Assistance Program for Cambodia (2002).

<Evaluation Results>

In the light of the above, the relevance of this project is high.

2 Effectiveness/Impact

<Status of Achievement for Project Purpose at the time of project completion>

Project Purpose was achieved by the project completion. Although the exact degree of change cannot be determined, the Committee members (through deliberation of draft Codes, training/seminars, meetings, etc. under the project) and other legal and judicial personnel (through training by MOJ) increased their level of understanding on the Codes according to the terminal evaluation and MOJ (Indicator 1). With the interaction with Council of Ministers, Inter-Ministerial Meetings, National Assembly and Senate, the legislation processed steadily. Consequently, the CCP was promulgated in July 2006 and enforced in July 2007, and the CC was promulgated in December 2007 (Indicator 2).

<Continuation Status of Project Effects at the time of ex-post evaluation>

The project effects have continued. After project completion, MOJ kept drafting/deliberating related laws and regulations on civil affairs under succeeding phases of the technical cooperation. While most laws and regulations have been jointly drafted with Japanese experts, some regulations were drafted by MOJ alone (also see “Technical Aspect” in 4. Sustainability below). From this, it is inferred that the members of the drafting groups (restructured from the Sub-Committee under Phase 3) have steadily gained their understanding of the Codes. Also, through continuing provision of dissemination workshops/training by its own training of trainers (TOT) team formed under Phase 3, MOJ considers that legal and judicial personnel have further improved their understanding of the CC and the CCP.

<Status of Achievement for Overall Goal at the time of ex-post evaluation>

Overall Goal has been achieved. The number of civil adjudications processed with application of the CCP rose from 2012 to 2014, and then slightly decreased in 2015, showing an overall increasing trend. No explanation was given by MOJ on the increase and decrease of the number, but it can be considered that the increase of complaints filed with courts means the better implementation of the CC and the CCP. It may be assumed that legal system relevant civil matters function appropriately (Indicator 1). As mentioned above, the CCP was promulgated in July 2006 and enforced in July 2007. The CC was promulgated in December 2007 and enforced in December 2011 (Indicator 2). According to MOJ, people began to file their complaints directly with courts instead of with MOJ, showing their awareness of/trust on the civil legal system. Also, people’s criticisms on courts have decreased (Indicator 3).

<Other Positive and Negative Impacts>

No negative impact on environment and other aspects has been observed. According to MOJ, the CC has a positive impact on the period for economic land concession by investment companies which is reduced from ninety-nine (99) years to fifty (50) years. Regarding a positive impact on gender, the CC has been drafted to ensure the equality of men and women. For example, Article 2 of the CC speculates, “this code gives concrete embodiment to the concepts of the dignity of the individual, the equality of the sexes and the guarantee of property rights provided in constitution.”

<Evaluation Results>

The Project Purpose of preparing the conditions for promoting legislation of the CC and the CCP was achieved by the project completion, and it has continued up to the time of the ex-post evaluation. The Overall Goal of making the legal system on civil matters reliable and useful was also achieved at the time of ex-post evaluation. Therefore, the effectiveness/impact of this project is high.

Achievement of project purpose and overall goal

Aim	Indicators	Results
(Project Purpose) Conditions for promoting legislation of the Civil Code and the Code of Civil Procedure are prepared.	(Indicator 1) Level of understanding by people in legal and judicial sector on the contents of each law.	<p><u>Status of achievement: Achieved (Continued)</u> (Project Completion)</p> <ul style="list-style-type: none"> The Committee members went through series of activities that facilitated the legislation process: discussions on the contents of the draft Codes and the draft laws related to the Codes in the training in Japan and the seminars in Cambodia; participation in the terminology-selecting meetings; explanation and responses in the deliberation process; and the coordination with other laws related to the Codes supported by other development partners. MOJ considers that the level of understanding among judicial personnel other than the Committee members increased, as all civil personnel were trained by the Department of Personnel Training of MOJ on the contents of CCP and CC. <p>(Ex-post Evaluation)</p> <ul style="list-style-type: none"> MOJ has drafted/deliberated related laws and regulations on civil affairs under Phase 3 and Phase 4 with or without assistance from the Japanese experts. MOJ considers that legal and judicial personnel have improved their understanding of the CC and the CCP through workshops and training by MOJ’s own TOT team to help explain various legal aspects of CC and CCP.

	(Indicator 2) Actual results of deliberating the draft Codes in the legislation process by the Defending Committee. * The Defending Committee is considered to mean the Committee for CC and CCP.	<u>Status of achievement: Achieved (Continued)</u> (Project Completion) In the deliberation process of the draft Codes, the Committee has been making a series of appropriate elaboration and responses to the questions made by the members of Council of Jurists of Council of Ministers, Inter-Ministerial Meetings, National Assembly and Senate. This process deepened the understanding of those members on the Codes and the creation of collaborative environment for the legislation. In reality, the CCP was promulgated in July 2006 and enforced in July 2007, and the CC was promulgated in December 2007 and enforced in December 2011.										
(Overall goal) Laws and regulations with respect to civil affairs and their applications are reliable and useful for Cambodian People.	(Indicator 1) Increase in the number of civil cases (No. of filing and final adjudication)	<u>Status of achievement: Achieved</u> (Ex-post Evaluation) Number of civil dispute resolutions (adjudications) processed with application of the CCP <table border="1"> <thead> <tr> <th>2012</th> <th>2013</th> <th>2014</th> <th>2015</th> <th>2016</th> </tr> </thead> <tbody> <tr> <td>3,920</td> <td>4,419</td> <td>5,850</td> <td>5,120</td> <td>N.A.</td> </tr> </tbody> </table> The data on the number of filing was not available.	2012	2013	2014	2015	2016	3,920	4,419	5,850	5,120	N.A.
	2012	2013	2014	2015	2016							
	3,920	4,419	5,850	5,120	N.A.							
(Indicator 2) Enactment and application of new Civil Code and Code of Civil Procedure	<u>Status of achievement: Achieved</u> (Ex-post Evaluation) CC was enforced in December 2011. (The followings were achieved by the end of the project: The CCP was promulgated in July 2006 and enforced in 2007, and the CC was promulgated in December 2007. See indicator 2 for project purpose.)											
(Indicator 3) Degree of satisfaction of Cambodian people with civil court system	<u>Status of achievement: Achieved</u> (Ex-post Evaluation) Complaints filed with MOJ have decreased while complaints filed with courts have increased (data is not available). People began to file their complaints directly with courts instead of with MOJ, showing their awareness of/trust on the civil legal system. Also, people's criticisms on courts have decreased, meaning people are now more satisfied (people files complain to MOJ if they are not satisfied with the court system).											

Source : Terminal Evaluation Report, Interviews with MOJ at the time of ex-post evaluation

3 Efficiency

While the project cost was within the plan, the project period was longer than planned as the project was extended for one year to produce Outputs that had not been completed within the original project period (ratio against the plan: 85% and 133%, respectively). Therefore, the efficiency of this project is fair.

4 Sustainability

<Policy Aspect>

The "Rectangular Strategy Phase 3" (2013) and a number of sub-decrees and regulations (e.g., Sub-decree on Establishment of Committee for Legal and Judicial Reform, No. 491, dated 24 October 2013) support legal and judicial reform including the civil legal system at the time of ex-post evaluation.

<Institutional Aspect>

Pursuant to Sub-Decree, No. 240, dated 29 August 2014, on Organization and Functioning of MOJ, the concerned ministry has General Department of Civil Affairs under which the subordinate departments, namely, (1) Department of Legal Affairs and Civil Statistic (20 staff members with responsibilities: legislate bill and regulations in civil affairs; participate in dissemination and law training: and monitor and provide comments on draft laws of the concerned Ministry and other institutions) and (2) Department of Research, Dissemination, and Law Training on Civil Matters (10 staff members with responsibilities: organize to disseminate on laws in civil matters via media; research and evaluate situation of the need of dissemination, law training in civil matters). With that Sub-Decree, MOJ only changed the names of departments but the personnel remain the same. No problem is reported on the number of personnel of the departments in pursuing their tasks on civil affairs.

<Technical Aspect>

Most of the counterpart personnel for this project still work in MOJ. Based on the interview with MOJ, most of the members of the working groups under this project, namely, Committee, drafting group and TOT members, are still working in their respective groups for Phase 4. However, many of them were moved to different departments where mandate is not relevant to civil matters, and are involved in civil matters only when they participate in the Phase 4 activities (once or twice a week). Since the working groups are not institutionalized in MOJ, there is a concern on sustainability of the technical level after termination of assistance from JICA in the future.

On some topics, mostly on immovable registration and hypothec, MOJ officials has capability to draft law at its own initiative. Other than that, MOJ and Japanese experts for Phase 4 are working in group to draft law. For dissemination of law, they are able to disseminate on their own initiative or cooperate with the Japanese experts. For example, MOJ has conducted various workshops in provinces on hypothec and other issues related to land for the judicial personnel.

<Financial Aspect>

Based on figures (see the table) and information given by MOJ, the gradual increase in the budget allocations is because of the policy of support to the judicial system. MOJ has the total actual expenditure a bit less than 100% of the total actual budget plan. Despite such an increase and the fact that MOJ steadily draft laws, regulations, etc. and disseminate the CC and the CCP, MOJ considers the level of budget is still limited and not enough for fully disseminating the Codes.

<Evaluation Result>

In light of the above, slight problems have been observed in terms of the technical and financial aspects of the implementing agency. Therefore, the sustainability of the effectiveness through the project is fair.

MOJ budget allocation and expenditure
Unit: Million Riel

	2014	2015	2016
Total budget allocation			
Planned	55,031.9	66,631.0	96,162.9
Actual	47,038.0	57,564.5	N.A.
Total expenditure			
Actual	44,718.2	53,008.4	N.A.

Source: MOJ

5 Summary of the Evaluation

The project achieved its Project Purpose by the time of project completion: the legislation process for the CC and the CCP progressed, and the level of understanding of the Codes among legal and judicial personnel increased. After project completion, MOJ continued activities to develop the civil legal system under Phase 3 and Phase 4, and Overall Goal of making this system reliable and useful to Cambodian people was achieved by the time of ex-post evaluation. With respect to the sustainability, slight problems have been observed in terms of the technical and financial aspects of the implementing agency, while the policy support and the MOJ’s organizational structure of for development of the civil-related legal system are secured. As for the efficiency, the project period exceeded the plan.

Considering all of the above points, this project is evaluated to be satisfactory.

III. Recommendations & Lessons Learned

Recommendations for Implementing Agency:

Even though the people’s awareness is increasing, the CC and the CCP are complicated to understand. Therefore, MOJ is recommended to further engage in dissemination of the CC and CCP via TV, radio, etc. to enhance understanding of the public people.

MOJ should assign, those who have been trained as trainers, to the institution where the mandate is relevant to civil matters.

These measures should be taken as soon as possible to enhance the sustainability of the project effects.

Lessons Learned for JICA:

In the planning stage of a project that is to form a new Working Group, JICA should pay careful attention to the implementing agency’s arrangement to make sure the Working Group members function would be institutionalized as regular work of its members. Such institutionalization failed in the project, it would undermine the sustainability of the project effects.



Books of the Civil Code and the Code of Civil Procedures, together with their commentaries, explanatory notes, textbooks and other related regulations (pictures taken under Phase 3)

On Views of Experts

In this ex-post evaluation, opinion of academia was invited to capture more specialized and diverse views for the projects, in addition to the perspectives of the DAC five evaluation criteria to be conducted by the evaluator (JICA overseas office). The Evaluation Department selected and enlisted the support of a leading figure in the field: Yoshiko Homma, professor of Law School of Soka University Law School.

Prof. Homma, author of this report, used to be one of the experts dispatched to a technical cooperation project, “the Legal and Judicial Cooperation Project (Phase 1),” whose successive project is the project of this ex-post evaluation. She, at the time of ex-post evaluation, also makes advice to JICA as a member of the Advisory Committee on Evaluation. For these reasons, we asked her to conduct in depth analysis based on her expertise and experience.

Specifically, Prof. Homma depicted some positive impacts of a series of the projects for almost 20 years that were implemented in Cambodia by JICA in the field of legal and judicial system development: “the Legal and Judicial Cooperation Project” (Phase 1: 1999-2002; a follow-up project: 2002-2003; Phase 2: 2004-2008; and Phase 3: 2008-2012); “the Legal and Judicial Cooperation for the Bar Association of the Kingdom of Cambodia” (Phase 4 of the aforementioned project. 2007-2010), “Legal and Judicial Development Project” (Phase 5 of the aforementioned project. 2017-2022 (plan); and “the Project for Improvement of Training on Civil Matters at the Royal School for Judges and Prosecutors” (Phase 1: 2005-2008; and Phase 2: 2008-2012).

The result of the analysis was appended to the evaluation report as attachments.

Social Impact of Assistance with Legal and Judicial System Development

Expert: Yoshiko Homma (Professor, Law School of Soka University Law School)

A series of projects assisting with legal and judicial system development in Cambodia (the "Assistance Projects") has continued for as long as 20 years since 1999. Although some may criticize these unusually long projects, I have seen a visible positive impact of the Assistance Projects on Cambodia and its people.

The largest achievement of the Assistance Projects should be human resources development. I stayed in the country as a long-term expert from 2002 to 2004 (in the Legal and Judicial Development Project [Phase I]), during which time Cambodian judges in their 30s and 40s, as core members of the working group of the Cambodian side, worked with us on drafting the Civil Code and the Code of Civil Procedure. They are now Secretaries of State or Assistant Secretaries of State of the Ministry of Justice, judges of the Supreme Court, the Chief Justice of the Appellate Court or other government officials, playing a major role in the nation's judicial reform. Another Cambodian, who worked as my assistant-interpreter, later earned Ph.D. at Nagoya University on a scholarship from JICA and is now legal manager of a major financial institution in Cambodia.

In the middle of the Legal and Judicial Development Project (Phase I), Cambodia held its first bar examination and opened the Royal School for Judges and Prosecutors and the Lawyers Training Center. With subsequent assistance from JICA, the two schools have annually sent graduates into the legal and judicial circles. With their worn-out books of the Civil Code and the Code of Civil Procedure, those graduates of the schools are working energetically and educating and training their fellow junior colleagues.

Human resources development is a time-consuming effort, but the energy spent on the effort is never wasted. Once a certain number of core legal professionals are produced, they play a leading role in educating the next generation of legal professionals. Then a stock of legal professionals, bearers of the rule of law, builds up gradually. Cambodia has seen this process over about 20 years from the start of the assistance.

Cambodian society has also changed steadily. In 2002, even roads in Phnom Penh were still unpaved and covered with red clay; people lived in poverty with quite a few children running around in bare feet in impoverished areas. Now in Cambodia, roads are paved, children go to school with shoes on, and high-rise buildings and Japanese major supermarket stores can be found. Although there are still some problems, as described in the ex-post evaluations of the Assistance Projects, Cambodian people try to settle disputes at court without resorting to violence and to protect their property rights by registering them. Cambodia has become remarkably prosperous in just 15 years. Although the whole progress cannot be credited to the Assistance Projects, I firmly believe that the Assistance Projects have made some impact because public expectations that individual rights are protected and disputes can be settled by law without the use of violence are the foundation of stable society.

JICA should assess the impact on the nation's society of the Assistance Projects not only individually, but also as a whole. When a similar project is expected to need long-term assistance, JICA should monitor the project for a long time by using expected long-term impacts as reference indicators. This is because the outcome of a series of projects as a social experiment will offer valuable implications for future cooperation on the Rule of Law promotion in other regions. Furthermore, such evaluation will also be of reference for discussing the future of the Rule of Law in Japan and other donor countries, as well as international harmonization of law. This is because the outcome of a series of projects as a social experiment is useful for assistance with legal and judicial system development in other regions as well as for Japan and other donor countries to discuss how legal and judicial system development and law should be harmonized internationally.