

Country Name	<b>Legal and Judicial Development Project (Phase 3)</b>
Kingdom of Cambodia	

**I. Project Outline**

Background	<p>In Cambodia, drafting and legislation of the Civil Code (CC) and the Code of Civil Procedure (CCP) had been supported by Japan since 1999. As a result, the CCP was promulgated in July 2006 and enforced in July 2007, and the CC was promulgated in December 2007. Through Phase 1 (1999-2003) and Phase 2 (2003-2008) of the Legal and Judicial Development Project, the core human resources were developed as the members of the Committee for the Civil Code and the Code of Civil Procedure (“the Committee”) in the Ministry of Justice (MOJ). However, for the implementation of the both Codes (including consideration of the institutional set-ups and drafting of related laws) as well as the dissemination of them to legal profession, the organization reinforcement of the MOJ was needed with the future shift of the initiative from the Japanese side to the Cambodian side.</p>																				
Objectives of the Project	<p>As Phase 3 of the Legal and Judicial Development Project, this project aimed that the MOJ can take measures necessary for the implementation of the Codes on its initiative through drafting of related laws, coordination with laws submitted by other ministries in the legislation stage, and dissemination of related knowledge to legal profession, thereby having the legal system function on civil matters in Cambodia.</p> <ol style="list-style-type: none"> <li>Overall Goal: The legal system relevant to civil matters functions appropriately.</li> <li>Project Purpose: The Ministry of Justice (MOJ) is able to take necessary measures to implement the Civil Code (CC) and the Code of Civil Procedure (CCP) appropriately.</li> </ol>																				
Activities of the Project	<ol style="list-style-type: none"> <li>Project site: Phnom Penh</li> <li>Main activities: Drafting/modification of laws by the drafting groups for each law created within the Committee; discussions on adjustment with laws by other ministries; establishing a system of- and holding of seminars for dissemination of CC, CCP and related laws, etc.</li> <li>Inputs (to carry out above activities) *As of Terminal Evaluation in September 2011</li> </ol> <table border="0"> <tr> <td>Japanese Side</td> <td colspan="2">Cambodian Side</td> </tr> <tr> <td>1) Experts: 21 persons</td> <td>1) Staff allocated: Project Director; Project Manager; 20 persons as the</td> <td></td> </tr> <tr> <td>2) Trainees received: 22 persons</td> <td>Committee members; 10 persons as the Sub-Committee members; 70</td> <td></td> </tr> <tr> <td>3) Advisory Group in Japan: 37 persons</td> <td>drafting group members; 19 Training for Trainers (TOT) members</td> <td></td> </tr> <tr> <td>4) Equipment: office equipment, etc.</td> <td>2) Office and meeting space</td> <td></td> </tr> <tr> <td>5) Support funding for local activities</td> <td>3) Project operation cost</td> <td></td> </tr> </table>			Japanese Side	Cambodian Side		1) Experts: 21 persons	1) Staff allocated: Project Director; Project Manager; 20 persons as the		2) Trainees received: 22 persons	Committee members; 10 persons as the Sub-Committee members; 70		3) Advisory Group in Japan: 37 persons	drafting group members; 19 Training for Trainers (TOT) members		4) Equipment: office equipment, etc.	2) Office and meeting space		5) Support funding for local activities	3) Project operation cost	
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Project Period	April 2008 to March 2012	Project Cost	(ex-ante) 390 million yen, (actual) 295 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**

## &lt; Special Perspectives Considered in the Ex-Post Evaluation &gt;

- Target (expected achievement level) for Project Purpose Indicators: All three Indicators of Project Purpose mention “the degree of involvement of the Japanese side,” but the expected level is not defined. Based on the statement of the Ex-Ante Evaluation Sheet, “throughout the four-year project implementation, the project will mark the beginning of the self-sufficiency,” “the degree of involvement” was judged as achieved if it was lower than the degree before the project, i.e., even if MOJ did not become able take measures for implementation of the Codes on its own, by the time of project completion.
- Contribution of other phases: The effectiveness of this project is partly based on the achievement of previous phases of “Legal and Judicial Development Project” (Phase 1 in 1999-2003 and Phase 2 in 2003-2008), and the observed statuses of continuation of project effects and achievement of Overall Goal include both outcomes/impacts of this project (Phase 3) and the following phase (Phase 4 in 2012-2017). It was difficult to separate outcomes/impacts of this project from those of other phases.

**1 Relevance**

## &lt;Consistency with Development Policy of Cambodia at the time of ex-ante evaluation and the project completion&gt;

The project was consistent with the Cambodia’s development policy such as the "Rectangular Strategy" (2004) and the “Second Rectangular Strategy” (2008), which position good governance in its center and legal and judicial reform as one of the most important issues for establishing good governance, as well as the "National Strategic Development Plan” (2006-2010), which positions the development of basic laws including the CC and the CCP as a priority policy issue.

## &lt;Consistency with Development Needs of Cambodia at the time of ex-ante evaluation and the project completion&gt;

As mentioned in “Background” above, MOJ needed to develop its capacity for the implementation of the CC and the CCP and the dissemination of them to legal profession at the time of the ex-ante evaluation. The Terminal Evaluation Report for this project (2011) pointed out the continuing needs for capacity development to implement the Codes and the relevant laws on MOJ’s own, as their understanding of the whole structure and practical function of those legal documents were not yet sufficient. As the CC was enforced in December 2011, the capacity development needs further increased.

<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 (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. Continuing from the previous phase, MOJ steadily drafted laws, regulations and instructions related to the CC and the CCP, and discussed with other ministries that were drafting related laws. Cambodian counterpart officials have increasingly shown their commitment and initiative in activities of drafting laws and regulations in each Drafting Group, although advice from Japanese experts was still necessary (Indicators 1 and 2). MOJ also conducted seminars, alone or as part of the project activities, to disseminate the CC and the CCP to juridical personnel (Indicator 3).

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

The project effects have been continued. After project completion, MOJ kept drafting/deliberating related laws and regulations on civil affairs. While most of them were jointly drafted with Japanese experts under Phase 4 project, some regulations were drafted by MOJ alone (also see "Technical Aspect" in "4. Sustainability" below). MOJ has also continued dissemination seminars on the CC and the CCP, sometimes without assistance from the Japanese side.

<Status of Achievement of 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. Regarding the procedure and quality of civil dispute resolutions, no issues are raised by judicial personnel in MOJ's annual meetings (Indicator 1). The number of inquiries on civil affairs (e.g., requests for instructional materials and questions) have increased, but complaints filed with MOJ have decreased while complaints filed with courts have increased. According to MOJ, people's criticisms on courts have decreased (Indicator 2). Also, independence of judicial institutions has been ensured since MOJ decided, following the implementation of the CC and the CCP, not to make any interpretation or instructions on civil matters in response to inquiries from judicial personnel as it used to, because it is within the jurisdiction of courts and Constitutional Council. This became possible by proper functioning of the legal system on civil affairs.

<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 appropriately implementing 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 having the legal system on civil matters function appropriately 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) The Ministry of Justice (MOJ) is able to take necessary measures to implement the Civil Code (CC) and the Code of Civil Procedure (CCP) appropriately.	(Indicator 1) The record of drafting laws, regulations and instructions by MOJ and the degree of involvement of the Japanese side in drafting law.	<u>Status of achievement: Achieved (Continued)</u> (Project Completion) 17 laws, regulations and instructions were drafted by MOJ during the project period (e.g. the Law on the Procedure of Litigation relating to Personal Status executed in June 2010). In general, steady progress has been seen in the drafting of laws and regulations. Drafting Group members have done their best to discuss and draft the laws independently especially in the last year of the project and then ask for advice from the Japanese experts. However, advice from Japanese experts was still necessary in many occasions because the knowledge and understanding of MOJ officials on the CC and the CCP is not sufficient. (Ex-post Evaluation) After this project MOJ issued six draft laws and regulations on civil affairs (e.g. Matrimonial Property Contract Registration Procedure, approved in September 2014). Among them, two regulations (e.g. Inter-Ministerial Ordinance on Registration Procedure pertaining to Preservative Relief and Confiscation of unregistered Property) were drafted without involvement of Japanese experts.
	(Indicator 2) The record of adjustment among laws related to the CC and the CCP by MOJ and the degree of involvement of the Japanese side in those adjustment process.	<u>Status of achievement: Achieved (Continued)</u> (Project Completion) The Cambodian side took initiative in discussing on adjustment of seven draft laws submitted by five other ministries (e.g., Law on Provision of Ownership Right of Private Portions of Co-owned Buildings to Foreigners, submitted by Ministry of Land management, Urban Planning and Construction) (Ex-post Evaluation) Two existing laws drafted by two other ministries are under the process of amendment to align the CC and the CCP (e.g. Law on Secured Transaction, submitted by Ministry of Commerce and executed in May 2007). MOJ has been involved in the process of the amendments to these special laws. The Cambodian counterparts took initiative in this process in consultation with the Japanese experts dispatched under Phase 4 project.

	<p>(Indicator 3) The record of dissemination seminars on the CC and the CCP conducted by MOJ and the degree of involvement of the Japanese side in the seminars.</p>	<p><u>Status of achievement: Achieved (Continued)</u> (Project Completion) Number of CC or CCP dissemination seminars or equivalent activities conducted by MOJ</p> <table border="1" data-bbox="564 143 1513 282"> <thead> <tr> <th></th> <th>2008</th> <th>2009</th> <th>2010</th> <th>2011</th> <th>Remarks</th> </tr> </thead> <tbody> <tr> <td>On the CC and the CCP</td> <td>7</td> <td>6</td> <td>1</td> <td>N.A.</td> <td>On MOJ's own budget</td> </tr> <tr> <td>On related regulations to the CC and the CCP</td> <td>0</td> <td>0</td> <td>1</td> <td>2</td> <td>Jointly with this project or other ministries</td> </tr> </tbody> </table> <p>Japanese experts had acted as the lecturers in seminars in the early stage; later, the MOJ counterparts acted as the lecturers. (Ex-post Evaluation) Number of CC or CCP dissemination seminars or equivalent activities conducted by MOJ</p> <table border="1" data-bbox="564 412 1513 542"> <thead> <tr> <th></th> <th>2012</th> <th>2013</th> <th>2014</th> <th>2015</th> <th>2016</th> <th>2017</th> </tr> </thead> <tbody> <tr> <td>Total number</td> <td>3</td> <td>4</td> <td>6</td> <td>4</td> <td>4</td> <td>3</td> </tr> <tr> <td>of which without involvement of the Japanese side</td> <td>0</td> <td>0</td> <td>4</td> <td>2</td> <td>2</td> <td>0</td> </tr> </tbody> </table> <p>(Note: involvement of the Japanese side is under Phase 4 project) Generally, workshops have been conducted in response to the submission of inquiries and civil dispute resolutions at provincial courts which are mostly related to hypothec, immovable property registration and preservative relief. MOJ has organized workshops based on the same topics and conducted the presentations in provinces with the participation of legal and judicial personnel. Further, MOJ has its own TOT team to help explain various legal aspects of the CC and the CCP. The TOT Team has played an important role in strengthening and expanding the understanding of the judicial personnel.</p>		2008	2009	2010	2011	Remarks	On the CC and the CCP	7	6	1	N.A.	On MOJ's own budget	On related regulations to the CC and the CCP	0	0	1	2	Jointly with this project or other ministries		2012	2013	2014	2015	2016	2017	Total number	3	4	6	4	4	3	of which without involvement of the Japanese side	0	0	4	2	2	0
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<p>(Overall goal) The legal system relevant to civil matters functions appropriately.</p>	<p>(Indicator 1) The procedure and quality of civil dispute resolutions after the application of the CC.</p> <p>(Indicator 2) Prevailing awareness of the CC in the people's lives</p>	<p><u>Status of achievement: Achieved</u> (Ex-post Evaluation) Number of civil dispute resolutions (adjudications) processed with application of the CCP</p> <table border="1" data-bbox="564 891 1353 958"> <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> <p>MOJ considers that the procedure and quality of dispute resolution has been improved. According to the annual meeting report of MOJ, there are no big issues raised up by the judicial personnel at all.</p> <p><u>Status of achievement: Achieved</u> (Ex-post Evaluation) No. of inquiries (e.g. requests for instructional materials and questions) on the CC and the CCP</p> <table border="1" data-bbox="564 1146 1353 1214"> <thead> <tr> <th>2012</th> <th>2013</th> <th>2014</th> <th>2015</th> <th>2016</th> </tr> </thead> <tbody> <tr> <td>137</td> <td>131</td> <td>117</td> <td>183</td> <td>258</td> </tr> </tbody> </table> <p>Increased awareness of people is observed in the followings. Firstly, complaints filed with MOJ have decreased while complaints filed with courts have increased (people file complaints to MOJ if they are not satisfied with the court system). Secondly, people seldom criticize court compared to the past and now most of them have accepted court decisions.</p>	2012	2013	2014	2015	2016	3,920	4,419	5,850	5,120	N.A.	2012	2013	2014	2015	2016	137	131	117	183	258																			
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Source : Terminal Evaluation Report, Interviews with MOJ at the time of ex-post evaluation

### 3 Efficiency

The project cost and period were within or as planned (ratio against the plan: 76% and 100%, respectively). Therefore, the efficiency of this project is high.

### 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; and 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 have 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.

According to MOJ, the materials on civil-related laws such as textbooks and commentaries prepared under Phase 2 are utilized at the time of ex-post evaluation. However, MOJ admits that it does not have sufficient capacity to update the materials when necessity arises.

<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 allocation. 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: MOJ drafted laws, regulations, etc. and disseminated the CC and the CCP together with the Japanese experts but with increasing commitment and initiative by the Cambodian side. After project completion, MOJ continued those activities, some of which were undertaken solely by the Cambodian side even under the following phase of JICA technical cooperation. The Overall Goal has been achieved by the time of ex-post evaluation: improvement was observed in procedures and quality of civil dispute resolutions and people's awareness of the CC and the CCP. 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.

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



Working Group Meeting on a related regulation  
(picture taken under Phase 3)



Seminar on Hypothec (picture 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.