

ANNUAL REVIEW REPORT

DATE: 15 January 2008

Project Number: 00048421

Description: Access to Justice in Cambodia

Implementing Partners:

- Ministry of Justice;
- Ministry of Interior;
- Supreme Court;
- Project Management Unit of the Council of Legal and Judicial Reform;
- Department of the Official Gazette of the Council of Ministers.

Period Covered: 1 January – 31 December 2007

I. PROJECT ISSUES:

<p>Status of Project Risks & Risks Management Strategy: Risks identified in 2006 were resolved by the creation of Maisons de la Justice and shared responsibilities with Ministries of Justice and Interior.</p>	<p>Open Project Issues & Issue Management Strategy: NALDR delayed the submission of sample land booklets for publication. This issue remains unresolved.</p> <p>Delays incurred in the recruitment of IT firm to develop database of human rights training. Nevertheless recruitment took place in August and the project is completed.</p>
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II. PROJECT PERFORMANCE

OUTPUT 1

Description: Rights awareness raising programme

2007 target: Human rights training database established and publications of booklets on land rights and complaint procedure

2007 Achievement: Database established; booklets were not published

Activity1.1: Creation of human rights training database

Start and End Date: 01/01/07-31/12/07

% progress towards activity completion: 100%

Description of deliverables:

1. Human Rights Training Database: Through a competitive bidding process, an IT consulting firm was selected to implement the project. A database interface was fully developed by early November. The database presents the following features:

Contents:

The database was structured according to the topics covered by the trainings, training beneficiaries (gender disaggregate), summary of training contents, training methodology, place of training, budget, and identity of training provider. The topics of the training include main categories of rights, such as due process of law, freedom of assembly, expression and beliefs, economic, social, and cultural rights, rights of indigenous peoples, rights of women, rights of the child, and general human rights trainings.

Information sharing:

For database entry purposes, PMU acted as the network administrator of human rights training providers. Members of the network would enter data from their terminals and PMU would approve the publication of the data in the website. PMU may refuse to publish certain contents, but this is done in consultation with the authors of the data.

A user's manual was also developed for use by PMU and network members. The IT consulting firm organized a training for PMU staff and network members on how to maintain the database.

Although it incurred delays, this component of the project has been successfully completed. PMU is charged with collecting data and maintaining the database to ensure the public have improved access to information about human rights training in Cambodia.

Activity 1.2: Publication of booklets on Land Rights and Complaint Procedure training database

Start and End Date: 01/01/07-31/12/07

% progress towards activity completion: 0%

Description of Deliverables

2. Database for registering land disputes: The National Authority for Land Dispute Resolution (NALDR) received a grant from Japan to equip the Authority with IT equipment and to develop a database of land disputes. NALDR requested to re-program the fund allocated by UNDP for the development of database. NALDR submitted to the Project Executive Group (PEG) a proposal to re-program \$13,000 to fund the publication of booklets on land rights and procedures on land dispute settlement. The proposal was approved by PEG on 28 February 2007.

To facilitate the process of procurement, there was an agreement between UNDP and NALDR that the latter submit the sample to UNDP so it would help in formatting and layout of the booklets. NALDR did not submit the sample, despite repeated reminders. UNDP informed the National Director of the failure of submission of the sample for publications and requested the re-allocation of the funds for the expansion of the Maison de la Justice.

OUTPUT 2

Description: Publication of the Official Gazette

2007 target: Technical guidelines for modernization of the Official Gazette developed and training of Official Gazette staff and relevant ministries
2007 achievement: None.

Activity 2: Capacity building programme for a sustainable Official Gazette

Start and End Date: 01/01/07-31/12/07

% progress towards activity completion: 0%

Description of deliverable:

Support for this project is shared between UNDP and the French Cooperation. UNDP support for this initiative was based on the condition of adoption of a regulatory or legislative act re-affirming the government's obligation to publish instruments that have legal effect in the Official Gazette, as well as clarify a policy regarding information sharing and dissemination mechanism. The French Cooperation finalized a draft sub-decree concerning the dissemination of official legal information in Cambodia and submitted to the Council of Administrative Reform.

The draft sub-decree stipulates content provisions to be published in the Gazette: the mandatory publication of those texts under the penalty of non-enforceability of the texts, the relationship between the Secretariat General of the Council of Ministers and the Department of Official Gazette in the approval of texts to be published, and the functioning of the department.

In September, the Council of Administrative Reform transferred the Official Gazette project to Project Management Unit. PMU is now responsible for following up the process of adoption of the sub-decree.

Due to the uncertain schedule of adoption of the sub-decree, UNDP submitted a revised annual work plan in which the budget for the Official Gazette was rephrased to 2008.

OUTPUT 3

Description: Publication of Bulletin of Judicial Decisions

2007 target: Activity not yet activated.

Activity 3: Bulletin of Judicial Decision: Not to be activated until 2008 depending on funding availability.

OUTPUT 4

Description: Alternative Dispute Resolution at the Local Level

2007 target: Four Maisons de la Justice piloted in four districts in Kompong Speu and Kompong Chhnang provinces; staff of Maison de Justice trained and relevant studies published.

2007 achievement: Four Maisons established and piloted, staff received continuing training; summaries of the Case Study on Divorce and Separation, the Case Study of Indigenous Legal

Systems and Conflict Resolution, and the Feasibility Study on the Establishment of Justice of Peace published and disseminated.

Activity 4: Completed feasibility study on the establishment of a Justice of the Peace and initiation of pilots of Justice of Peace at the district

Start and End Date: 01/01/07-31/12/07

% progress towards activity completion: 100%

Description of deliverables:

Activity 4: The summaries of the Feasibility Study on the Establishment of Justice of Peace, Case Study on Divorce and Separation, and Case Study of Indigenous Legal Systems and Conflict Resolution were published.

1. Feasibility Study on the Establishment of Justice of the Peace: 1,200 copies in Khmer and 200 copies in English. This case study was distributed to judges, prosecutors, and lawyers; Ministry of Justice; districts through Ministry of Interior; members of parliament; human rights NGOs; universities, foreign donors and embassies.
2. Case Study on Divorce and Separation: 1,200 copies in Khmer and 200 copies in English. The study was distributed to judges, prosecutors, and lawyers; Ministries of Interior, Justice, and Women's Affairs; members of parliament; human rights NGOs; universities; and foreign donors/embassies.
3. Case Study of Indigenous Traditional Legal Systems and Conflict Resolution: 500 copies in Khmer and 100 copies in English. The case study was distributed to Ministries of Interior and Justice; human rights NGOs; universities; and foreign donors.

Activity 5: Legal support services (Maison de Justice) piloted at the district level

Start and End Date: 01/01/07-31/12/07

% progress towards activity completion: 100% and on-going

Description of deliverables:

Activity 5: Ministries of Justice and Interior respectively appointed four chiefs and four assistants for the four piloted Maisons de la Justice. The Maisons started operating in August in Phnom Sruoch and Kong Pisey districts, Kompong Speu province, and in Toek Phos and Kompong Leng districts, Kompong Chhnang province.

The districts offered office space for the Maisons, which were renovated and furnished by the project.

Capacity Building of the Officers of the Maisons de la Justice:

A curriculum and training materials were developed for use in the training of the officers of the Maison de la Justice.

In July, eight officers of the Maisons de la Justice and four district and deputy chiefs received a week long training conducted by the Project Group staff on general concepts of alternative dispute resolution at the Ministry of Justice. The training focused on:

- a. Roles and responsibilities of the Maison de la Justice
- b. Common disputes at the local level
- c. Introduction to different modes of alternative dispute resolution
- d. Commune dispute resolution mechanisms

In October, the same officers received a second round of training in Phnom Penh. This training included the following:

- a. Introduction to the use of various Maison de la Justice forms such as: the complaint form, complaint journal, minutes of conciliation, letter of invitation to conciliation
- b. Comparative forms of dispute resolution: alternative dispute resolution versus formal court system
- c. Shared experiences of the implementation of the Maison since the inauguration
- d. Major disputes at the local level
- e. Processes of conciliation at the district level

Conciliations of Cases Submitted to Maisons:

Maisons de la Justice may accept cases that parties voluntarily refer to them. As of end of December 2007, 34 disputes were submitted to the Maisons, including the following cases:

- 4 divorces
- 21 Land disputes
- 3 debt cases
- 6 insult cases

Three land disputes were resolved through conciliations.

Technical Support of the Maison de la Justice to the Commune Dispute Resolution Committee:

In September, the officers of each Maison organized trainings for 20 newly-formed Commune Dispute Resolution Committees (CDRC). (Please refer to next Activity 6 for more details on CDRC). The trainings were focused on the nature of disputes at local level, advantages of resolution of disputes at local level and an introduction to the roles and duties of the Maison de la Justice.

Activity 6: Strengthened dispute resolution methods at commune councils

Start and End Date: 01/01/07-31/12/07

% progress towards activity completion: 80%. This activity remains experimental for the remainder of the project duration in order to determine its effectiveness.

Description of deliverables:

Activity 6: With the assistance of the UNDP project advisory team, the ADR Project team conducted research on models of dispute resolution mechanisms being supported by certain local NGOs in Banteay Mean Chey, Battambang, Kandal, Kompong Thom, Oddar Mean Chey, and Siemreap. In March 2007, the team made field trips to these provinces to conduct the

research. The research analyzed the strengths and weaknesses of the methods used. The findings of the research were presented to an exploratory delegation composed of district chiefs and heads of the provincial women's affairs of the piloted districts and provinces. This took place before their visit local dispute resolution projects in Kompong Thom, Banteay Mean Chey, and Battambang. The team discussed with the implementers, stakeholders, and users of the mechanisms their experiences and lessons learned and how to apply it in the establishment of the Commune Dispute Resolution Committees (CDRC) in their localities.

The delegation learned the different models of dispute resolution mechanisms and their operations.

Upon their return to their localities, the delegates organized consultation forums with respective commune councils and village leaders on how a dispute resolution mechanism could be set up in each of the communes under the Access to Justice Project. The consultations adopted the procedures and criteria for selection of the commune dispute resolution committee, operational rules of the committee, and rules of procedure for the conduct of dispute resolution.

The piloted model commune dispute resolution committee was composed of ex-officio members and elected members. The ex-officio membership is composed of a member of the commune council, a commune woman focal person, and a commune policeman. There were four elected members, chosen by the commune council among candidates proposed by the villages. Each village proposed two candidates—one male and one female. There are a total number of seven members on each committee.

In mid-September, 20 commune dispute resolution committees were formed. In one commune, three out of seven members were women, and in five communes, three out of seven members were women. In other communes, two of the seven members were women.

As already stated in Activity 5, members of each of the 20 commune dispute resolution committees received trainings on the concepts of dispute resolution from the officers of the Maisons de la Justice at the district offices.

Should the above-mentioned models of commune dispute resolution mechanism proved to be feasible, the Alternative Dispute Resolution Project Group would suggest that they be replicated in other areas of the country.

Dispute resolution by the Commune Dispute Resolution Committees

By the end of October 2007, the CDRCs in the four districts received 137 disputes, of which 74 were resolved. These disputes included land disputes, insults, domestic violence, contracts, and inheritance.

OUTPUT 5

Description: Special Support to Women

2007 target: Community conversations conducted to on issues of domestic violence, and studies related to creation of jurisdictional authority at local levels, completed.

2007 achievement: 24 community conversations conducted in each of six villages in Toek Phos districts in Kompong Chhnang province; community conversations were expanded to another 6 villages in Kompong Leng district, Kompong Chhnang province and 5 villages in Phnom Sruoch and 5 villages in Kong Pisey districts, Kompong Speu province.

Activity7: Women and women's organizations empowered at the commune level and below through community enhancement conversations

Start and End Date: 01/01/07-31/12/07

% progress towards activity completion: 100%

Description of deliverables:

Activity 7: Community conversations started with six villages from three communes in Toek Phos district, Kompong Chhnang Province. Three villagers--one man and two were women--in each village were recruited and trained to be facilitators of the community conversations. The training of facilitators was provided by UNDP-trained Community Capacity Enhancement (CEE) specialists. CCE tools were presented to the facilitators and subsequently applied in the community conversations.

In each village, conversations were conducted twice a month and participation levels were approximately 30 villagers per conversation held.

Topics of conversations included the causes of domestic violence; its impact on the victims, children, family, and the community; role of local authorities in preventing domestic violence and protecting the victims; and criminality of domestic violence.

Mid-year survey conducted in July 2007 demonstrated that within the communities:

1. Domestic violence is not only internal family issue, but also the community issue: 61% against 25% of the survey in December 2006.
2. Neighbours should intervene to stop DV: 92% against 70% of the survey in December 2006.
3. Measures should be taken against perpetrators: 99% against 69% of the survey in December 2006.

Following the survey, the Project Team organized a retreat in Siemreap province to reflect on successes and shortcomings of the conversations. Participants in the retreat included: 18 facilitators of the piloted communities, three monks, women focal persons of the three communes, district governors, and four officers of the district and provincial women's affairs. The participants discussed and proposed plans to be implemented from now until the end of 2007. The plans include:

1. The invitation of more domestic violence perpetrators to the community conversations. The facilitators and village and commune authorities would be involved in the invitation;
2. Encouraging village participants in the community conversations to disseminate the messages about domestic violence and its adverse effect to the community to their neighbors;
3. Monks would raise domestic violence issues and its negative effects in the Buddhist

preaching sessions;

4. Using local media, including loud speakers, to propagate messages about the negative effect of domestic violence. Village volunteers would undertake this task;
5. Making signboard posters in the communities campaigning against domestic violence. Facilitators and commune authorities would undertake this task;
6. Organizing marches against DV by participants of the community conversations, students, teachers, local authorities, and rallies at the commune offices;
7. Police intervention in cases of serious violence.

As a follow-up to these retreat recommendations, in August and September 2007 facilitators in each village mobilized fellow villagers to make two sign boards depicting messages against domestic violence and encouraged each participant of the community conversation to talk to his/her neighbours on the negative effects of domestic violence.

Expansion of the Community Conversations

Since August the community conversations have expanded to another 6 villages in Kompong Leng district (Kompong Chhnang province), 5 villages in Phnom Sruoch district and 5 villages in Kong Pisey district (Kompong Speu province).

Forty eight (48) facilitators (32 women, 16 men) were selected and underwent trainings provided by Community Capacity Enhancement trainers. They were introduced to the CCE tools to be applied in the community conversations and domestic violence. Experienced facilitators from Toek Phos district were invited to share their knowledge and skills with their newly-recruited counterparts in Kompong Leng district.

Activity 8: Study on divorce, separation and related issues completed and recommendations for amendments to existing legal framework proposed

Activity 8: Already reported in Activity 4.

Start and End Date: 01/01/07-31/12/07

% progress towards activity completion: 100%

Activity 9: Opportunities for jurisdictional authority at the district level explored and implemented to grant rights to women and children, to prevent and, protect women against domestic violence including the arresting of weapons, and custody decisions

Activity 9: Advocacy plan being considered.

OUTPUT 6

Description: Special Support to Indigenous People

2007 target: Legal awareness and ADR skills provided to indigenous people in 4 villages in Rattanak Kiri and 2 villages in Mondol Kiri; Legal representation and judicial services provided to indigenous clients; Indigenous customary rules compiled; Assistance provided to indigenous people in the process of constitution of legal identity and community land registration; and two peace tables organized.

2007 Achievement: 12 sessions of legal awareness and ADR skills provided to 6 villages in Mondol Kiri and Rattanak Kiri province; no cases have been received by CLEC; customary rules in 6 villages completely compiled in Khmer and English.

Activity 10: Empowerment of Indigenous peoples and their organizations

Start and End Date: 01/01/07-31/12/07

% progress towards activity completion: 60%

Description of target(s)/deliverable(s):

Activity 10: The Community Legal Education Center has finalized a curriculum on legal awareness for indigenous people. The curriculum will be used to train traditional elders and key persons in the target communities.

The curriculum uses participatory approaches that provide the opportunity for villagers to share their local knowledge in the training. The main contents of the curriculum include: fundamental human rights, indigenous rights under Cambodian laws, such as land law, forestry law, mining law etc. and ADR skills.

The training started in late October in 3 villages in Rattanak Kiri and 2 villages in Mondol Kiri. One of the four target villages in Rattanak Kiri did not receive the training due to the inaccessibility during the rainy season. The training was organized into 2 modules, with a 2-day training session for each module. The first module covered fundamental and legal rights of the indigenous peoples, while the second module covered alternative dispute resolution basic concepts and skills. There were 150 participants, including village traditional elders and village chiefs, attended the training. The training was given through indigenous interpreters.

Activity 11: Legal awareness campaign on indigenous rights and indigenous communal authority (IA)

Start and End Date: 01/01/07-31/12/07

% progress towards activity completion: 60%

Description of target(s)/deliverable(s):

Activity 11: CLEC has also finalized the curriculum on system of indigenous livelihoods. It will be used to train government officials and court personnel. The training will be implemented in mid-November.

The main contents of this curriculum include: fundamental human rights, livelihood systems of indigenous people, customary laws of indigenous people, and the legal rights.

A two-day training will be provided from December 19-20 to 48 provincial officials in Mondol Kiri and Rattanak Kiri, including police officers, military police officers, judges and prosecutors, court clerks, officers from Land Department, Forestry Administration, and Mining Department.

Subjects covered by the training were fundamental rights of indigenous peoples, the traditional agricultural practices, and the customary legal system of those peoples.

Activity 12: Judicial services (including translation and legal representation) for indigenous people available in Mondolkiri and Rattanakiri provincial courts

Start and End Date: 01/01/07-31/12/07

% progress towards activity completion: 60%

Description of target(s)/deliverable(s):

Activity 12: The CLEC office in Ratanak Kiri has been functioning since 2006. The office receives cases from indigenous people and provides legal consultations to them and/or legal representations in court. Another office in Mondol Kiri was opened in August.

No case was received since the inception of the offices in these two provinces.

Activity 13: National policy advocacy and legal framework developed to formalize indigenous communal authority

Start and End Date: 01/01/07-31/12/07

% progress towards activity completion: 60%

Description of target(s)/deliverable(s):

Activity 13: The final check of data accuracies concerning indigenous customary rules in Mondol Kiri and Rattanak Kiri was completed. A compilation in Khmer language of customary rules of four villages in Rattanak Kiri was also completed.

The compilation of customary rules of two villages in Mondol Kiri was completed at the end of December 2007.

The English translation of the customary rules of the six villages was underway, with the exception of one of four villages in Ratanak Kiri, which was already complete and was submitted to UNDP's Communications Office for editing.

The completed compilation will be used to advocate government officials to recognize the traditional authorities and their positions in the national legal system. These rules were presented to the Ministry of Justice in December.

Activity 14: Peace Table—inter-institutional coordination promoted and strengthened

Start and End Date: 01/01/07-31/12/07

% progress towards activity completion: 60%

Description of target(s)/deliverable(s):

Activity 14: Peace Tables would be organized in January and March 2008.

III. LESSONS LEARNED

Procurement

Technical problems occurred during the procurement process with identifying the contractor to develop the database. This resulted in a delay of the project delivery. The UNDP Procurement Office solicited emailed request for proposals from potential IT firms and individuals. Three firms applied, but one of them did not separate financial from technical proposals. As a consequence, the process did not meet the competitive requirements. A second advertisement was launched - this time including written solicitations followed by verbal ones, and advice was provided with regard to the importance of separating technical and financial proposals. More applications were submitted.

Another technical problem occurred in the process of recruiting a legal NGO to implement the indigenous project. Due to the very high selection requirements — legal NGOs, specialization in or familiarization with indigenous issues, and based in the areas of implementation--only one NGO submitted a proposal. Though UNDP/Cambodia's Committee on Contract, Assets, and Procurement waived the competition requirement because of the peculiar nature of the project and of the field situation, UNDP Advisory Committee on Procurement refused to grant waiver based on the non-publicity in newspapers.

Advisory Committee on Procurement reversed its decision after a detailed explanation of the problems of accessibility of the indigenous areas and limited media coverage and newspapers circulation in the areas.

Participation and support of local officials are essential to project achievements

The process of establishing the Maison de la Justice has been successful due to the participation and support of the district governors. The ADR Project Group engaged the governors in almost every activity from training to the exploratory study tour, and in planning. The district governors made available spaces for offices of the Maisons and places for training of the Commune Dispute Resolution Committees (CDRC).

The district governors and officers of the district and provincial women's affairs were involved in the process of forming the CDRCs, and supported the work of the facilitators in the conduct of the community conversations. They also participated in all steps of the planning process.