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Access to Justice in Cambodia

Project Assessment Report

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Abbreviations and Acronyms

AECID	-Spanish Agency for International Cooperation and Development
ADR	-Alternative Dispute Resolution
A2J	- Access to Justice
AWP	-Annual Work-plan
BRC	-UNDP Bangkok Regional Centre
CCE	-Community Capacity Enhancement on Domestic Violence
CDRC	-Commune Dispute Resolution Committee
CLEC	-Community Legal Education Centre
CLJR	-Council for Legal and Judicial Reform
DIM	-Direct Implementation
HRBA	-Human Right Based Approach
IP	-Indigenous People
LJR	-Legal and Judicial Reform
LAC	-Legal Aid of Cambodia
M&E	-Monitoring and Evaluation
Maisons	-Maisons de la Justice
Mol	-Ministry of Interior
MoJ	-Ministry of Justice
NIM	-National Implementation
NGO	-Non-governmental Organization
OG	-Official Gazette
OGC	-UNDP Oslo Governance Centre
RGC	-Royal Government of Cambodia
TOR	-Terms of Reference
UNDAF	-United Nations Development Assistance Framework
UNDP	-United Nations Development Programme
USAID	-United States Agency for International Development
VF	-Village Facilitator

1.Executive summary

This report is based on the findings of an assessment of the project “ Access to Justice in Cambodia”, funded by the UNDP Democratic Governance Thematic Trust Fund (DGTTF) under the Regional Access to Justice Initiative. This assessment was conducted in April and May 2009 with the purpose of identifying and documenting the results/impact of the project, with a view to documenting lessons from DGTTF supported initiatives.

DGTTF funds in the amount of USD 221,000, combined with regional programme resources (USD 50,000) provided by the Regional Centre in Bangkok (RCB), and TRAC resources allocated by UNDP CO (USD 500,000), were crucial for jumpstarting project activities, engaging national stakeholders and attracting interest from donors. In 2007, the Government of Spain contributed 1.6 Million Euro (aprox. 2,1 mil USD) to project funds.

The assessment team was able to confirm that project had as immediate results the following:

- (i) Development of a human rights training database
- (ii) Piloting of Alternative Dispute Resolution (ADR) mechanisms on local level (district and commune) in 6 provinces
- (iii) Empowering and improving access to justice and to Alternative Dispute Resolution mechanisms for disadvantaged groups, with focus on the poor, women and indigenous people (IP).

Due to strategic considerations on different partnership options for more effective implementation of project activities, UNDP is planning to close down the project in first half of 2010 and is looking into modalities to build up on the project results for the IP, ADR, and gender components in the framework of other interventions (decentralization) and in cooperation with other national partners.

The assessment team’s work and its report (including this Executive Summary) are organized according to areas indicated in the Terms of Reference for this assessment (attached in annex) and suggested template for the report developed by the RCB. The country study used the following criteria to assess results:

1. Effectiveness
2. Sustainability
3. Relevance and Strategic Positioning
4. Efficiency
5. Political Economy
6. Codification of lessons learned, tools

Key Overall Results from the Assessment: Main findings and Lessons Learned

While it is too early to assess the overall impact of the project (given that project is still running) the assessment indicates that the DGTTF supported project was successful in applying innovative strategies that have led to a larger programme on access to justice supported not only by UNDP core funding but also by the Spanish government through its agency for international cooperation, AECID.

However, the level of commitment from the government counterparts for some of the project components has been limited and proved to be the main reason for a shift in strategy concerning the continuation of project activities.

Effectiveness

- Out of the four expected project outputs the project managed to initiate only two. The project developed a human rights database (output 1) and launched and supported creation of Alternative Dispute Mechanisms (output 4) at local level. Due to reasons explained in section 2 , Support to Official Gazette (output 2) and Support to Supreme Court (output 3) through publishing of court decisions were abandoned .
- The project was innovative in piloting Alternative Dispute Mechanisms (Commune Dispute Resolution Committees (CDRCs) and Maisons de la Justice on commune and district level respectively, and improved access to justice and access to alternative dispute resolution for poor women and IP
- The project was catalytic substantially, financially but only partially in strengthening partnerships for the CO
- The project required much longer than one year to achieve results due to issues related to the capacity of local partners, operations and commitment by partners on national level.

Sustainability

Sustainability of project results in the near future cannot be ascertained at this stage. While some partners have indicated that the government may include the Maisons de la Justice that provides ADRs in its 2010 budget, there are no official documents to that effect. The future of the project may therefore still depend on its ability to attract interest from donors. UNDP CO is looking into the ways of building on the successes of the project through assistance provided through other thematic areas (decentralization and gender) and in co-operation with other national partners.

Relevance and Strategic Positioning

The project provided the CO with an entry point for working on A2J for women and IPs and established a niche for UNDP in supporting the informal justice system.

Efficiency

Lack of commitment and low capacity from the national counterparts side, triggered various operational issues (switch from NIM to de facto DIM, high staff turnover and lack of continuity in project management, unclear division of responsibilities between national partners and UNDP, communication lapses between counterparts and project staff, long procurement/recruitment processes etc.) which significantly affected project implementation.

Political Economy

The justice system in Cambodia is highly fragmented which significantly influenced the project performance. Legal and Judicial Reform (LJR) includes 4 institutions: Council of Legal and Judicial reform (CLRJ), Ministry of Justice (MoJ), Ministry of Interior (MoI) and the courts.

The project works with four implementing agencies (CLJR, MoI, MoJ and Ministry for Women's Affairs) all of which have distinct agendas. This set up made it difficult for the National Project Director from the Council of Legal and Judicial Reform to efficiently coordinate and oversees all project activities. Even though the Council is comprised of representatives of all institutions dealing with justice and rule of law, the real political power of this body seems to be limited.

Ministry of Interior is clearly a favourite with international donors as it is seen as having political will for reform. Therefore, components of Legal and Judicial Reform implemented by this Ministry were most successful. As such, the newly adopted law on Deconcentration and Decentralization might provide a good opportunity for the MOI (which is tasked with implementation of main elements of the law) to take over the project results when UNDP support ends in 2010.

The *Ministry of Justice* has an interest in the project due to the potential it has of showing its constituents at the local level that they are providing services to the public. So far, however it has not demonstrated real ownership of the project.

The issue of domestic violence is not seen as politically sensitive by the Government, which enabled the project to use it as an entry point to empower women to speak out in the community. According to one of the interviewees, conversations with women could be used as a tool to expand discussion to issues such as land disputes since authorities are much more inclined to apprehend male protesters than female.

Codification of Tools and Lessons Learned

The project and CO would have benefited more from documenting tools and making the best use of its experiences. Mechanisms like Community Conversations and Peace Tables managed to produce significant results in empowering targeted groups and providing remedies for grievances (e.g. return of land to IPs), while trainings conducted by the project and partner NGOs managed to create and develop capacities of target groups (poor, women, IP and to some extent government) at local level. However, the assessment team was not able to obtain any training manuals or curricula for these trainings.

Preparation of appropriate studies, research and baselines at the initial stage enabled the project to identify and address systemic problems identified. However, significant lessons learned from the operational aspect of the programme, partnership (both external and internal to project), and should be noted to avoid similar challenges in the future.

2. Introduction

Purpose, objective and scope of the assessment

As per the original ToR the objective of this country assessment is primarily to assess results of the DGTTF supported "Project Access to Justice in Cambodia". This exercise is part of a broader regional assessment of the DGTTF supported Asia-Pacific Rights and Justice Initiative with a view of strengthening the DGTTF's role in supporting innovation in democratic governance by codifying, analysing and sharing lessons from past experiences to enhance regional and global interventions. In that sense the country study will also contribute to lessons and recommendations for enriching future programming and policy options for access to justice that may be useful for practitioners and COs in the region and globally. The assessment was an initiative of the Regional Centre in Bangkok and the UNDP Oslo Governance Centre.

The Cambodia country study is included in the overall regional assessment to allow gathering views and on-site experiences and prepare case studies providing information on the impact of DGTTF projects in terms of innovation, being a catalyst and mobilizing funds. The main purpose of the site visits was to discover to which extent the country projects supported have been innovative and catalytic in supporting breakthroughs in sensitive democratic governance issues and in generating broader scaled activities.

The country study is an assessment and not a project evaluation. It intends to provide an overall analytic review of results based on the above mentioned criteria and not an evaluation to assess progress towards and the achievement of a given outcome through the traditional analysis of the results chain and performance measurement tools. It is mostly an exercise of evaluative knowledge to internalize and collect valuable information that needs to be documented in order to provide forward-looking recommendations for the RCB role in advancing the A2J initiative. It is also a lessons learned exercise to analyse and document country office experiences in implementing DGTTF supported access to justice interventions, with a view to fostering stronger knowledge management.

Methodology

The approach used for the assessment was mostly qualitative and not quantitative. It was done through carrying out analyses of relevant documentation, project reports and lessons learned case studies, and semi-structured interviews with a wide range of stakeholders from donors, government institutions and civil society. The assessment team also visited project locations and observed project activities with the direct participation of beneficiaries.

As per the ToR, the main criteria used for the assessment of results were i) Effectiveness; ii) Sustainability; iii) Relevance and Strategic Positioning; iv) Efficiency; v) Political Economy and vi) Codification of lessons learned, tools.

In line with this methodology the assessment provided data at a minimum to i) ascertain whether or not project results have been achieved and, if not, whether there has been progress made towards its achievement; ii) identify some of the external factors that influence the result; iii) assess if the contribution of DGTTF and the regional initiative of A2J can be linked to achievement of the results; iv) assess if the partnership strategy has been appropriate and effective; v) identification of innovative methodologies to approach key development issues; vi) analyse if national capacities were developed through DGTTF assistance; vii) ascertain whether the assistance provided by DGTTF project was of a participatory nature; viii) Identify indirect beneficiaries and their perceptions of how they have benefited from the DGTTF assistance.

The assessment team was comprised of 2 members, a Governance and Learning Advisor from OGC, and a Programme Manager seconded by his CO to participate in the assessment as a Research Fellow. The assessment mission was fielded from the April 23rd to May 7th 2009. The team was able to obtain relevant information in terms of immediate project results, ownership issues and national partnerships and the role of UNDP in supporting A2J in the national agenda and how such role played out for UNDP strategic positioning as well. The assessment team spent one week in country, from April 27th to May 1st 2009 and during this period team members had extensive meetings with some of the main project stakeholders.

Limitations and Constraints of the Assessment

The assessment team managed to interview some of the project stakeholders and undertake only one field visit to Kompong Speu province (out of 6 in which the project operates) which may affect the quality of the assessment in regards to ascertaining impact with the direct beneficiaries. In addition, due to time constraints some of the relevant stakeholders were not available for meeting. It is also important to note that, since the focus of the assessment was not a traditional performance review, the team did not seek to audit the information provided in interviews, and rather sought to analyse information received by seeking the points of view of different project stakeholders with diverse interests.

3. Project background and strategy

The Access to Justice Project in Cambodia is based on the framework established by UNDP globally in which access to justice is defined as "empowering the poor and disadvantaged to seek remedies for injustice, strengthening the linkages between formal and informal structures and countering biases inherited in both systems to provide access to justice for those who would otherwise be excluded". This project is in line with Royal Government of Cambodia's Rectangular strategy, the national Strategic development plan (2006-2010) and the Strategy for Legal and Judicial Reform (SLJR) from 2003 and action plan for implementation of SLJR developed in 2005. The project has been working based on the human rights based approach

and specifically targeted the enhancement of access to justice for claims holders through the legal empowerment of women, indigenous peoples and the poor to successfully resolve disputes. The project has worked on both supply (duty bearers) and demand (claims holders) side of justice in both formal and informal justice structures.

The project contributes to the 'Good Governance and the promotion and protection of Human Rights' priority area identified by the UN Development Assistance Framework (UNDAF) 2006-2010. In particular, the project is related to UNDAF outcomes "1.2. Improved public access to information related to (i) management of public resources (ii) judicial decisions and laws (iii) rights" and "1.3. Effective, independent and impartial justice system set up and equal access increased". In the UNDP Country Programme for Cambodia for 2006-2010, the project is placed under the overall outcome for the democratic governance practice area: "Reinforced democratic institutions which help create checks and balances on the executive power" and under output 1.2 "Capacity of the Ministry of Justice and local authorities developed to increase access to justice".

The project strategy included a twin-track approach where both formal and informal justice systems are addressed with the aim at bringing justice closer to the people. In particular, the project is targeting enhancement and institutionalization of customary ADR mechanisms, raising awareness of claims holders' rights and regulations related to land ownership, improvement and dissemination of legal and judicial information, full recognition of the rights of indigenous peoples to communal lands and application of customary rules and decision making process, as well as the piloting of local jurisdiction mechanisms to settle disputes and protect rights particularly those of women and children.

The project is designed and implemented in accordance with the following principles:

- Access to justice is a basic human right as well as an indispensable means to combat poverty and to prevent and resolve conflicts.
- Development programming should be guided by national and international human rights standards and principles.
- The independence, integrity and complementarity of both formal and informal justice systems must be strengthened, making each more responsive and effective in meeting the needs of justice for all— especially the poor and marginalized.
- Capacity development for access to justice requires building on existing systems, strengths and solutions.

Based on a request from Council for Legal and Judicial Reform (CLJR), UNDP funded a study in 2005 titled "Pathways to Justice for the Poor, Women and indigenous peoples". The study explored the role and relationship of formal and informal justice systems and alternative dispute resolution (ADR) mechanisms in Cambodia for the above mentioned groups. As a result of the priorities identified by the study, the project addressed land and domestic violence issues and specifically targeted the poor, women and indigenous peoples. In addition to this, DGTTF funds and funds committed from BRC and UNDP CO enabled preparation of three studies which provided a solid basis for the formulation of project activities:

- 1) A case study on IP traditional dispute mechanisms
- 2) Feasibility study on establishment of justice for the peace¹
- 3) A case study on divorce and separation

3.1 Project outputs

The project had two phases. The original project document was signed in April 2006 and envisaged four main outputs:

1. Development of human rights training database
2. Support to Official Gazette
3. Publication of judicial decisions
4. Alternative Dispute Resolution (ADR)

The project managed to initiate only activities related to outputs 1 and 4 (human rights database and ADR) while activities 2 and 3 were not addressed due to differences between project partners on how to move on. According to the original project document the duration of the project was to be 3 years (April 06-April 09). In 2007 funding was secured from the Government of Spain so an addendum to the project document was signed (approved by the project Executive Board in December 2007) and the second phase of the project was initiated. In this phase, focus was placed on of the fourth output of the project, i.e. the expansion of activities related to ADR for the poor, women and indigenous people in Cambodia. Consequently, the annual work plans for 2008 and 2009 deal only with the fourth output. The project is expected to last until March 2010.

The project is nationally implemented (NIM) with several implementing partners: the Ministry of Justice (MoJ), the Ministry of Interior (Mol) , the Supreme Court, the Project Management Unit of the Council of Ministers, and the Department of Official Gazette of the Council of Ministers. Some of the activities were outsourced to two local NGOs, Legal Aid of Cambodia (LAC) and Community Legal Education Centre (CLEC).

Due to limited capacities of the MoJ to manage funds (the financial management capacity of MoJ was rated as inadequate by assessment carried out by an independent company) , UNDP has been managing some financial aspects of project by providing direct payments rather than NIM advances. This combined with some operational issues affected the sense of ownership of the project by the Government (particularly within the MoJ).

¹ The study was shared with relevant partners (MoJ and Mol) and received positive feedback. The MoJ has expressed high level of interest for the idea but wanted to first accumulate lessons learn from piloting of "Maisons de la Justice", before embarking on the piloting of mobile judges concept.

The first three outputs of the project were supposed to address the capacities of duty bearers through the formal justice system. Based on the study “Pathways to Justice” and other researches and studies mentioned in section three, UNDP had prepared a project document focusing on alternative dispute resolution mechanisms (Output 4), but upon the request from the Government, outputs 1, 2, and 3 were included in project document. The main intention of outputs 1,2 and 3 was to facilitate access to information and dissemination of legal information in a user friendly manner, particularly for communities and disadvantaged groups.

1. Human rights training database

The human rights database was completed in 2008. However, although some support was provided for maintenance of the database (one IT person from the Government was assigned to this task), no data was gathered or inserted in database at the time of this assessment. According to CLJR, there were/are no funds available for updating the database. Some data is available with some NGOs but it appears that there is no will to share it, as NGOs view this as an added burden and a risk of being perceived as providing a ‘rubber stamp’ to government activities in the human rights arena.

2. Support to Official Gazette

Funds for the modernization and dissemination of the Official Gazette (OG) were initially allocated by the French government through its bilateral development agency, but due to lack of the agreement with a French proposal of a new sub decree on the functioning of the OG, this output was abandoned. The French proposal envisaged that the OG should be available free of charge to the public online by a web portal. Currently, the OG is being sold to other Government bodies in form of CD and in hard copy, so implementing the French proposal would result in loss of revenues for OG. To illustrate, the Mol is in charge of dissemination of the OG to all 1621 communes in Cambodia, but it only buys 600 copies so only approximately one third of the communes are informed on new legislation. The idea of providing the OG free or charge online was met with opposition from the Department responsible for its publication, which argued that it needs the revenues from OG sales to cover its operating costs, and that online publication was not appropriate since the vast majority of population in Cambodia do not have access to internet. A deadlock ensued and no progress was made on this output.

3. Publication of judicial decisions

This component of the project never came to life. Its aim was to make court decisions widely available to the public and the legal system but the quality of such decisions was deemed too low and printing them was not deemed in the interest of bringing about improvements to the system. Capacity development activities were discussed between UNDP and the Supreme Court but there was no agreement on how to proceed and this output was likewise abandoned.

4. Alternative Dispute Resolution (ADR)

This output is covering three main areas

a) Establishment of ADR mechanisms including Maisons de la Justice (Maisons) and Commune Dispute Resolution Committees (CDRC) on district and commune levels

Cambodia has 24 provinces that encompass 171 districts and 1621 communes. The legal system is structured in such manner that the lowest level court is at the province level (located in the capital of each province), while there are no formal judicial institutions at district and commune levels. Consequently, the population living in remote areas have very limited access to justice and means of resolving disputes due to the low level of awareness among claims holders of their rights, high level of costs involved (travel and legal costs) in accessing justice and a significant backlog of cases in provincial courts.

The project managed to establish ADR mechanisms at district and commune levels by establishing 20 Maisons and 56 CDRCs in 6 provinces.

The CDRC is a dispute resolution mechanism at commune level, which is composed of seven members of the commune, of which at least 30 percent are female. The Maisons are tasked with collecting and disseminating legal information, monitoring of the activities of CDRCs, mediating cases not resolved by CDRCs and referring cases to provincial courts which cannot be settled on local level.

The CDRC seems to enjoy higher level of trust from the users than the Maisons, mainly due to the fact that parties can choose two of their own mediators (each party to the dispute selects one and a third mediator is appointed by the CDRC). CDRC members have up to now been appointed by the Commune Council, but the system of selecting the CDRC will be revised to one where the members are elected. The CDRC consists of a Chief who is a member of the Commune Council, Deputy Chief (usually female), a police officer who is also part of the Council and four remaining members who are village representatives, at least one of whom is female.

Maisons are located on district level and can cover several communes, some of which do not have CDRCs. The Maison at Korng Pisey district in Kampong Speu province, which was visited by the assessment team, covered a total of 13 communes, but only five of these had CDRCs.

In 2008, 597 cases were received at the district level by the Maisons while 1192 were received at commune level by the CDRCs. The trend for 2009 is that the cases received by Maisons are mainly at the same level as last year while the number of cases received by CDRCs is increasing. The cases that occur in the communes without formed CDRCs are received directly by Maisons.

UNDP has supported trainings for the Maisons staff and CDRC members. Maisons staff has received training in domestic violence and domestic law with some details of international law. However, training on human rights, indigenous rights and the human rights based approach were not included. CDRC members have received basic trainings in mediation.

b) Empowerment of Women

Legal representation - UNDP has contracted the local NGO Legal Aid of Cambodia to provide legal aid representation of women in three provinces.

Community Capacity Enhancement (CCEs) - Building on the positive results achieved by the *HIV/AIDS and Partnership for Gender Equity* project (HPGEP) to address HIV/AIDS issues through community conversations, the project made use of the same methodology to address domestic violence.

A nationally recruited consultant developed curricula on domestic violence and in November 2006, 30 trainers who were previously engaged by HPGEP on HIV CCEs were trained to integrate domestic violence into community conversations.

Under this output, 231 village facilitators received training and CCE were conducted in 77 villages with the main purpose of raising awareness among target groups (women and communes) on domestic violence, so as to transform it from a family issue to a community and social issue.

c) Access to Justice for Indigenous Peoples (IPs)

Legal representation and peace tables - For this component the Project has contracted the Community Legal Education Centre (CLEC), a local NGO with experience in work with IPs. During 2008, the CLEC has received 6 legal aid cases and facilitated 8 peace table dialogues. Peace Tables are forums for discussions where local authorities come together to discuss and resolve disputes with IPs community mostly related to land disputes. In several cases Peace Tables have been successful in returning land taken away by others back to indigenous peoples (see Box).

Capacity development for IPs and national authorities-the Project in co-operation with CLEC provided training in dispute resolution skills for IP village elders. Limited training on IP issues

Peace tables

Peace Tables are forums for discussions where local authorities come together to discuss and resolve disputes with the IP community mostly related to land disputes. In an effort to find peaceful resolutions to sensitive land rights issues, indigenous communities in Monduliri and Ratanakiri meet with government officials and landowners for Peace table talks supported by UNDP, the Ministry of Justice and the Ministry of Interior.

The meetings aim to give all parties the opportunity to voice their concerns and seek a mutually agreeable solution to land rights disputes. They also enable traditional indigenous authorities to build stronger relationships with government and gain a clearer understanding of formal legal structures surrounding these disputes. In several cases Peace Tables have been successful in returning land taken away by others back to indigenous peoples.

and culture was provided to national and local authorities including police and judges. In addition, one radio and one TV show were organized aimed at raising awareness of the public on IP issues.

Combined with TRAC resources allocated by the UNDP Cambodia CO (USD 500,000), DGTTF funds were crucial for jumpstarting the project activities, engaging national stakeholders and attracting interest from donors. Later, the Government of Spain contributed 1.6 Million Euro for the expansion of activities related to output 4, ADR mechanisms and legal empowerment for poor, women and indigenous people.

Below are the main findings of the assessment team with regard to project outputs:

4. Effectiveness

As the project is still ongoing, it is perhaps too early to assess its full impact. However there seems to be a genuine feeling among main stakeholders (Government counterparts, Maison officials, UNDP and the donor) that the project has had overall positive results in bringing a system of alternative dispute resolution closer to disadvantaged groups. The ADR system used by the project is seen as inexpensive, easy to access and to some extent effective. Moreover, the project is appreciated by provincial courts which have experienced a decrease in backlog of cases, increasing the efficiency of the formal justice system.

The project was innovative since it piloted Alternative Dispute Mechanisms (Maisons and CDRCs) on commune and district levels and improved access to justice and dispute resolution for disadvantaged groups.

The project has also piloted ADR mechanisms for Indigenous Peoples in the form of Peace tables taking into account local traditions in dispute resolution. The partnership between UNDP, CLEC (a local NGO with a tradition of advocacy and on rights-based legal aid for IPs) and the government at the local level has proven to be successful both in raising awareness and empowering IPs. Moreover CLEC staff included members of IPs, which proved crucially important to the success of this component. It is important to note also that according to CLEC, having the 'weight of the UN' behind the project has contributed to getting the attention of public officials to their work on IPs issues.

The project was catalytic on two levels.

First, the initial DGTTF investment of USD 221,000 made it possible for the CO to later mobilize approximately 2 million USD (1.6 million Euros) of non-core funds through the Spanish Agency for International Co-operation and Development (AECID).

Secondly, the project managed to raise awareness among the main stakeholders (women, IPs and to some extent central and local authorities) of issues of domestic violence, land disputes etc. As a consequence, women and IPs are now more aware of their rights while the project to a limited extent contributed to bringing gender and IPs issues to the government agenda on policy level. As documented in the mid-term evaluation report, UNDP's involvement in documenting traditional dispute resolution practices and in supporting traditional methods of dispute settlement is seen as a positive contribution by the NGOs working on indigenous peoples organization in Rattanakiri province.

It is opinion of the assessment team that related activities like free legal representation, community conversations on the issue of gender based violence, Peace Tables, capacity development of IP elders combined with the establishment of ADR institutions and capacity development of Maison staff and CDRC members (related to women's rights) had a high level of synergy resulting in overall positive results for target groups. However, impact remains limited as the communes/districts covered by the project are very few in relation to the national territory.

Maisons and CDRCs-There is a significant demand for services provided by Maisons and CDRCs especially from the targeted disadvantaged groups (poor, women and IPs).The number of cases received by CDRCs is on increase in 2009 while number of cases received by Maisons is on the same level.

Domestic violence - The Community Conversations had a positive influence on the attitude and perception of domestic violence in communities acting as a deterrent. The project has received significant support from local offices of the Ministry of Women's Affairs as well as from local government leadership which expressed their satisfaction of CCE impact on communities resulting in a decrease in the level of domestic violence. Local authorities expressed interest to continue with Community Conversations even without UNDP support.

IPs -The project has produced some results in terms of empowering IPs and raising awareness among IP communities on their rights. It established Peace Tables – forums for discussions where local authorities come together to discuss and resolve disputes with IP community. In several cases Peace Tables have been successful in returning land taken away by others back to indigenous peoples. A contracted local NGO, (CLEC) has undertaken training of government staff including police on IP issues and IP culture. In addition, a radio and TV show have been organised in which IP issues and culture were discussed. The partnership between UNDP, Government, local authorities and local NGO has been crucial in enabling the project to move forward.

In terms of 'replicability', the project is replicable in other districts as has already been demonstrated by the expansion in the number of Maisons and CDRCs as well as the CCEs beyond the original 2 pilot provinces (the model was replicated in 4 new provinces). As mentioned above, the project's involvement in documenting traditional dispute resolution

practices and in supporting traditional methods of dispute settlement is appreciated by development partners.

5. Sustainability

The project activities and outputs are aligned with Government Legal and Judicial Reform Strategy. However, government ownership was very limited mainly due to the relatively low capacity of national counterparts, cumbersome management arrangements and some operational issues and delays which hampered the relationship among partners, particularly with the Ministry of Justice.

The project ends in the first half of 2010 and the CO is looking into modalities to build on the results achieved in the area of IPs and the empowerment of women. This may be done in the framework of other interventions (for instance decentralization, gender) and in co-operation with other national partners.

The project has significantly sought to develop the capacities of rights holders (demand side) while capacity development for duty bearers (supply side) was only addressed to a limited extent i.e., it was mostly focused on local level, while there was no progress on national level.

Specific findings with regard to the sustainability on each project component are as follows:

a) ADR mechanisms (Maisons de la Justice and Commune Dispute Resolution Committees)

Even though there seems to be verbal commitment from the government side to take over the funding of the Maisons and CDRCs, the sustainability of these institutions in the near future may still depend on its ability to attract interest from the donors. The sustainability of the Maisons is more in question (compared with CDRCs) and Maison staff has expressed concern about the future after UNDP withdraws support. The Government is considering inclusion of Maisons funding in the national budget for 2010, but no firm commitments have yet been made. Even though this was not specifically confirmed, in the long term the Government sees Maisons as an initial step towards establishing district small claims courts (Sala Lahou) which used to exist in Cambodia before 1970s.

The sustainability of CDRCs is much more probable. CDRC members are not receiving salaries for their work but they seem very motivated and taking pride in performing their

Transparency in providing information

The Maisons are tasked with collecting and disseminating legal information, monitoring of the activities of CDRCs, mediating cases not resolved by CDRCs and providing referrals. The following information is visibly displayed at the Maisons premises of Korng Pisey district in Kampong Speu in Khmer:

- Rules governing the functioning of the Maison
- Statistics of each commune serviced by the Maison
- To do list for Maison Officials
- CDRC organigramme (with photos and names of the officials) in each of the 5 communes serviced
- Organizational chart of Maisons and CDRCs

duties. This can be contributed to the fact that being a member of this body really contributes to one's esteem in the community.

Capacity Development efforts (mostly trainings) have been partially successful and appreciated by attendees, but based on the stakeholder's statements were insufficient in some areas. Ministry of Justice staff, employees of Maisons and CDRC members, all claimed that they would need additional trainings to perform their duties more effectively.

6. Relevance to strategic positioning

The project provided the CO with the entry point for working on access to justice for women and IPs. However, the CO decided not to extend the project in its current form due to lack of commitment from the national partners and is currently working on the exit strategy and exploring ways on building up on the project results through other programmatic areas like decentralization and gender. The UNDP country office currently has no justice portfolio and this project has been placed under "decentralization".

Other main donors active in the justice area include EC (support to legislation with focus on rule of law, human rights, anticorruption), Australia Aid (support to security sector) and USAID and Asia foundation (mainly targeting capacity development of legal aid local NGOs).

The value added of UNDP's engagement in Legal and Judicial Reform remains in its particular focus on alternative dispute resolution and it is safe to say that UNDP CO managed to established a niche for UNDP in supporting the informal justice system.

The assessment team was able to meet only with the donor funding the project (AECID), which has expressed satisfaction with regard to overall project results and co-operation with UNDP. The AECID representative appreciated the consultative approach used by UNDP, but stressed out that UNDP should endeavor to coordinate its activities more closely with other partners involved in access to justice, for instance GTZ. He also mentioned that while UNDP project staff seems knowledgeable on activity level, they do not always give the impression of understanding 'the big picture' of the overall goals the project aims to achieve in development terms.

7. Efficiency

Efficiency (costs, time, and managerial aspects versus results) must be observed taking into account the relatively low capacity of the national stakeholders and somewhat unfavourable external project environment. There were significant delays in implementation due to numerous operational issues. These include a switch from NIM to DIM, staff turnover, cumbersome management arrangements, unclear division of responsibilities between national partners and UNDP, communication lapses between counterparts and project staff, delayed procurement/recruitment, etc.

Management arrangements proved to be a major obstacle in implementation of the project. There were four different implementing agencies (each in charge of one output) and the National Project Director (NPD), who is situated in the Council for Legal and Judicial Reform, does not have the leverage with all four agencies and cannot enforce decisions.

Salary supplements and level of DSAs were the source of continuous grievances and significantly influenced the implementation of the project. Although the assessment team considers that the practice of salary supplements in this case has been fully justifiable having in mind the overall situation of civil service in Cambodia, it seems that too much energy and time was spent in discussions on this issue. The government claims that a different rate of DSA compared to the rate received by project staff amounts to double standards and has influenced the level of commitment of the government staff and their sense of ownership of the project,

High staff turnover, resignation of the project manager, and delays in procurement and recruitment procedures also affected project implementation and the relationship between partners.

7. Political economy

There seems to be limited interest from development partners to support Legal and Judicial Reform (LJR) due to numerous challenges in this sector. The judicial system in Cambodia is seen as being not independent. Low quality of court decisions, inconsistency with international standards and serious capacity gaps continue to represent serious challenges in implementation of LJR.

The negative perception of the judicial system along with high level of corruption, slow passage of important legislation and inability to implement existing laws has led most donors to abstain from engagement and support to LJR. Apart from significant support provided by the Government of Australia (Criminal Justice Assistance Project (CCJAP) targeting the security sector, the majority of donors involved in justice sector work on the demand side.

It seems that Government support in improving justice for women is genuine. The issue of women's rights is less politically sensitive than IPs rights and land ownership issues and the project benefited from the support of the local offices of the Ministry of Women's Affairs and local authorities.

There has been an overall lack of legal framework and guidelines on IPs issues on national level up to now. In the first half of 2009, three major documents dealing with IPs issues were adopted: a policy on IP development, a policy on land use management and a sub-decree on communal lands. It remains to be seen whether the implementation and enforcement of these

policies will take place on the ground. The land in provinces inhabited by IPs is seen by the Government as potentially lucrative for investments, so this issue has proven to be highly politically sensitive. For example, in cases involving high-ranking officers or powerful individuals particularly in land dispute cases, the ADR system supported by the project was ineffective, and lawyers or NGOs representing the cases in court were threatened. In addition, lack of knowledge on culture of IPs among national partners and the majority of the population represents another obstacle since IPs culture and customs are often perceived negatively. This issue was partially addressed by the project through limited training on IPs issues for the police, local authorities and judges.

9. Lessons learned and codification of knowledge

Programme oriented research - The preparation of appropriate studies, research and baselines at the initial stage enabled the project to identify and address systemic problems and impact the lives of the disadvantaged directly by improving access to justice through raising awareness, capacity development, free legal aid and establishment of ADR mechanisms on local level.

Using a trainer who is herself indigenous to develop the awareness of IPs of their rights and set up Peace Tables proved to be a crucial element in successfully developing the capacity of indigenous elders and others to understand their rights and articulate their demands during negotiations at the 'Peace Tables' .

Project formulation - Several factors contributed to the progress made by the project on ADR and its failure to make progress in the other areas it sought to cover, which involved human rights and access to information. The first three project outputs, which targeted national level governmental bodies, were added to the project document based on government requests, reportedly so that the government could demonstrate to donors that it was willing to undertake reforms by 'ticking off' a series of items from its Legal and Judicial reform project catalogue². The fourth output formed the basis of the original proposal that was submitted by UNDP to the Deputy Prime Minister's Office based on needs identified in previously carried out research and studies focusing on the rights of women and indigenous people,. However, it must be noted that Government fully participated in project formulation of the 4th output (ADR) since the inception phase, (UNDP commissioned preparation of "Pathways to Justice" study based on request from RGC) which was also confirmed by National Project Director who referred to ADRs output as 'his project'.

² The project catalogue is an instrument for dialogue between the Government of Cambodia and the international community . It consists of a catalogue of initiatives deemed necessary for the implementation of Legal and Judicial Reform.

Baselines and data for monitoring and evaluation – Data collection and analysis of cases handled by the CDRC and the Maisons should be carried out systematically and so as to enable the CO to measure and document project results for reporting purposes as well as to establish a baseline for any future activities in the area of access to justice. The Maison at Korng Pisey district visited by the assessment team held carefully kept records of cases received as well as figures for number of cases settled, abandoned and referred to courts on provincial level, which indicates that some data is available. Information received by the assessment team indicates that in 2008, 597 cases were received at the district level by the Maisons while 1192 were received at commune level by the CDRCs. Reportedly, the trend for 2009 is that the cases received by Maisons are mainly at the same level as in the previous year while the number of cases received by CDRCs is increasing. There could be a systematic effort to capture this information and to seek to determine the reasons behind these trends. An increase of the number of cases received by the CDRCs could be due to many reasons: for example, low agricultural production in rural areas caused by drought could lead to worsening poverty and more tension on household and community levels, which could result in more disputes; or, perhaps the rise in the number of cases taken to CDRCs is due to the relative success of the Committees, encouraging more women to seek their services for mediation on domestic violence issues, for example. In addition, since only some communes have CDRCs and others do not, it would be important to see the extent to which the existence of a CDRC has acted as a deterrent for domestic violence and other issues. An in-depth inquiry including collection and analysis of CDRC and Maison data and focus group interviews should be considered, as this would allow the CO to better understand the achievements of its overall work on access to justice in Cambodia.

Balanced approach targeting duty bearers & rights holders- The project has achieved significant results on the demand side of access to justice by empowering targeted groups (mainly women and IPs) and raising awareness among these groups. The project to some extent also addressed the supply side by assisting the government in setting up ADR mechanisms (Maisons and CDRCs) and capacity development of these institutions.

Capacity Development -There was no in-depth capacity assessment exercise of the institutions involved in the project in the programming phase which resulted in the abandonment of three out of four project original outputs and related activities. Capacity assessments should have been done in the planning phase so that expectations could be harmonized from the start.

Capacity Assessment exercises would also enable the project to more precisely and systematically define and implement CD strategies. Although the beneficiaries were appreciative of the trainings received, almost all claimed that they needed to acquire more skills to perform their jobs.

Cross-cutting issues and HRBA- The project could have benefited from a more systematic application of the HRBA. UNDP staff as well as government and NGO counterparts) should have been trained in the human rights-based approach to access to justice so they could better understand how the project is working to support access to justice for marginalized groups as a whole. This would help staff consider the need for looking at cross-cutting issues

in all aspects of the project. This was also one of the recommendations emphasized by the project donor (AECID).

Partnerships- The selection of partners, incentives, and managing expectations proved to be a critical factor which significantly impacted the implementation of the project. Even though the CO invested significant effort in managing the relationship and trying to ensure buy-in of national partners, perhaps a more harmonized approach in incentives (there seems to be different level of incentives and DSA rates on different UNDP projects) could have benefited the project.

Accountability/feedback mechanisms and M&E- One of the issues identified was the lack of accountability/feedback mechanisms for ensuring credibility and improving level of trust in the ADR institutions. There was limited oversight of the quality of work of bodies established by the project. Although certain level of monitoring has been performed, the project would benefit from more advanced M&E mechanisms which would ensure that the project outputs are delivered with quality desired and that quantitative data are collected in order to identify and address project issues and codify lessons learned.

Management arrangements- The management set-up in this project was very cumbersome. The National Project Director who is the Director of the PMU of the CLJR has very little control over the project other than to endorse expenses. The only part of the project that has adequate funding is the ADR component which is handled by the MoJ and Mol. This affected project efficiency and led to operational delays resulting in damaged partnership relations. The project would have been more successful if implemented with a single agency/partner.

External partnerships and co-ordination- Project could have benefited by greater efforts in securing external partnerships (NGOs, Academia) and better co-ordination with other donors (e.g. GTZ, National Authority for Land disputes, Cadastral Commission on IP component). In addition partnering with local NGOs especially in more remote areas would provide more added value to capacity development efforts and significantly reduced operational workload.

Exit strategy- A proper and timely prepared exit strategy is the key for sustainability of achieved results. The UNDP CO and staff involved in project management have initiated the preparation of exit strategy in a timely basis. Faced with evident lack of commitment from some national government partners, which has impacted the delivery of project activities, the UNDP CO is planning to continue the successful project components in other interventions and in co-operation with other partners (e.g. Ministry of Interior, Ministry of Women's Affairs).

Annex 1-Summary table of tools and case study on CCEs and IPs

-Activity/tool	Description	Achievements
CCE- Community Capacity Enhancement	Awareness raising on the domestic violence through organisation of Community Conversations sessions and capacity building of communal leaders for dispute resolution	<p>225 villagers were trained as facilitators to conduct community conversations in 75 villages on domestic violence using the Community Capacity Enhancement (CCE) methodology. From these conversations, villagers come up with community action plans to deal with domestic violence.</p> <p>Positive Influence on attitude/perception of domestic violence in communities acting as a deterrent</p> <p>Synergy with other project components (free legal representation for women, CDRCs, Maisons) was achieved</p>
Peace tables	<p>Peace Tables are for as for discussions where local authorities come together to discuss and resolve disputes with IP community , mostly related to land disputes</p> <p>They also raise awareness among IP communities on their rights and provided local authorities with better knowledge on IP culture and issues</p>	<p>CLEC has facilitated eight peace table dialogues . In several cases, Peace Table negotiations facilitated the return of contested land back to the IP community.</p> <p>Awareness among IP communities on their rights was raised</p> <p>Awareness and understanding among national stakeholders on issues of IP and their culture was raised</p>
" Commune Dispute Resolution Committee (CDRC)"	<p>The CDRC is a dispute resolution mechanism institution at commune level composed of seven members..</p> <p>The CDRC seems to enjoy higher level of trust from the users than the Maisons, mainly due to the fact that parties can choose two of their own mediators (each party to the dispute selects one and a third mediator is appointed by the CDRC). CDRC members have up to now been appointed by the Commune Council, but the system of selecting the CDRC will be revised to one where the members are elected. The CDRC consists of a Chief who is a member of the Commune Council, Deputy Chief (usually female), a police officer who is also part of the Council and four remaining members who are village representatives, at least one of whom is female.</p>	<p>56 Commune Dispute Resolution Committees' (CDRC) have been set up and 1192 cases were received at commune level (CDRCs). CDRC seems to enjoy high level of trust from the users</p>

<p>"Maison de la Justice "</p>	<p>The Maisons offer ADR on district level. Each Maison supported by the project can cover a number of communes.</p> <p>The Maisons are tasked with collecting and disseminating legal information, monitoring of the activities of CDRCs, mediating cases not resolved by CDRCs and providing referrals. They are staffed by two officers who are civil servants of the Ministry of Interior and Ministry of Justice</p>	<p>20 'Maisons de la Justice' (Maisons) have been set up in 2008 and 597 cases were received.</p>
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Annex 2 Site photos

1. Maison de la Justice at at Korng Pisey district, Kampong Speu province.



2. Organigramme at the Maison de la Justice and CDCs at Korng Pisey district, Kampong Speu province.



3. "Community Dispute Resolution Committee" mediating a case at Korng Pisey district, Kampong Speu province.



Annex 3- List of persons interviewed

UNDP Cambodia Country Office

Ms. Sophie Baranes, Deputy Country Director (P)

Mr. Ismaël Toorawa, Assistant Country Director

Ms. Rany Pen, Programme Analyst

UNDP Access to Justice Project Team

Mr. Koy Neam, former Project Manager

Mr. Sok Narin, Former Project Assurance

Mr. Yin Sopheap, Regional Specialist

Mr. Heang Path, CCE Specialist

Mr. Kong Rady, National Legal Specialist

Council of Ministers-Council for implementation of Legal and Judicial reform

H. E. Suy Mong Leang, Head of PMU, National Project Director.

CLEC

Mr Yeng Virak, Executive director

Consultants

Tan Try-midterm review report

Legal Aid Cambodia

Mr. Kao Dyna, Woman's Justice Program Manager

Mr. Kim Leng, Legal Director

Ms. Dorine Van Dekur, Advocacy and Management Adviser

AECID

Josep Vargas, Country Representative, Spanish Agency for International Cooperation and Development

Maison de la Justice officials at Korng Pisey district, Kampong Speu province.

Maison de la Justice officials and CDRC members at Phnom Srouch District, Kampong Speu province