Programme on Legal and

Judicial System Development

in Cambodia

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Programme on Legal and Judicial System Development in Cambodia

1. Status Quo and Challenges of Legal and Judicial Sector in Cambodia

Background of Legal and Judicial Reform in Cambodia

- French Colonial Period to1975 (before Pol Pot regime: Legal System strongly influenced by
- Basic Laws on Civil Matters (Civil Code and Code of Civil Procedure of 1920)
- From 1975 to 1979 (During Pol Pot Regime):
- Legal and Judicial Systems as well as the Social Infrastracture were abolished and destroyed
- Intellectuals including most of the Legal Practitioners were persecuted and killed (The numbers of Legal Practitioners who had remained in the country after the Pol Pot Regime is said to be only 6)



- Since 1979 to 1991: Civil War and Socialism
- Delay in Development of Legal and Judicial System
- Since 1991 to 1993: UNTAC Period
- Totally depended on Assistance from Foreign Countries After 1993: Free Market Economy, Multiparty Democracy
- "Absence of Law" → The necessity of Laws and Legal Systems

Main Challenges in Legal and Judicial Sector in Cambodia

- 1) Development of Fundamental Laws
- 2) Human Resource Development of Legal Practitioners
- 3) Improvement of Access to Court, Access to Justice
- 4) Effectiveness of the Court Judgement
- 5) Anti-Corruption, Promotion of Good Governance
- 6) Establishment of Proper Legal Systems for Human Rights
- and Economic Development

3. JICA's Previous and On-going Cooperation

Legal and Judicial Development

1999. 3 - 2003. 3 Legal and Judicial Development Project (Phase1)

Training for Legal Practitioners, Drafting of CC and CCP

2008. 4 - 2012. 3 Legal and Judicial Development Project

Laws, Dissemination of the Codes

Training Judges and Prosecutors

2005.11 - 2008. 3 The Project for the Improvement of the Training on Civil Matters at the Royal School for Judges and Prosecutors(RSJP) of the Royal Academy for Judicial Professions(RAJP) (RSJP Project)

Revision of the Curriculum, Development of Teaching Materials, Trainers' Training

2008. 4 - 2012. 3 RSJP Project(Phase2)

Revision of Materials, Trainers' Training (including Prospective Ttrainers), Continuous Legal Education(CLE), School Manage-

Strengthening the Bar Association

2001. 7 - 2002. 7 Projects collaborating with Japan Federation of Bar Associations (JFBA)

2002. 9 - 2005. 8 Projects collaborating with JFBA Establishment of Lawyers' Training Center (LTC), Supporting Legal Aid Activities

2007. 6 - 2010. 6 Legal and Judicial Cooperation Project with the Bar Association of the Kingdom of Cambodia

Strengthening of the Management of LTC, Education on Civil Matters, CLE

2. The Policy of the Royal Government of Cambodia and the Strategy of the Government of Japan

Rectangular Strategy Phase 2 (2008)

"Good Governance": the Core of the Rectangular

(i) Fighting Corruption; (ii) Legal and Judicial Reforms; (iii) Public Administration Reforms in all

Aspects (including Decentralisation and De-concentration); and (iv) Reform of the Armed

NSDP update (2009-2013) Goal: Poverty Reducation and Economic Grouth

- < Legal and Judicial Reform > Legislation of Fundamental Laws
- Training and Law Dissemination
 Strengthen the Capacity of Judges, Prosecutors, Court Clerks, Law Enforcement Officials, etc.
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"Legal and Judicial Reform Strategy" (2003) "Plan of Action for Implementing the Legal and Judicial Reform Strategy (2005)

7 strategic objectives

- 1) Improve the Protection of Personal Rights and Freedom
- 2) Modernization of the Legislative Framework
- 3) Provide Better Access to Legal and Judicial Information
- 4) Enhance Quality of Legal Processes and Related Services
- 5) Strengthen Judicial Services, i.e. the Judicial Power and the Prosecutorial Services
- 6) Introduce Alternative Dispute Resolution Methods
- 7) Strengthen Legal and Judicial sector Institutions to fulfill their Mandates

2) Modernisation of the Legislative Framework:

- 8 Prioritised Fundamentall Laws:
- 1- Code of Civil Procedure (CCP), 2- Civil Code (CC), 3- Penal Code, 4- Criminal Procedure Code, 5- Law on the Statute of Judges, 6- Law on the Organization and Functioning of Court, 7- Amendment of the Law on Organization and Functioning of Supreme Council of Magistracy, 8- Anti-Corruption Law
- * 1-, 3-, 4- and 5- have already been enacted and 2- Civil Code (CC) will enter into force in December 2011
- 4) Enhance Quality of Legal Processes and Related Services
- · Human Resource Development of Legal Practitioners (Judges, Procecutors and

Japan's Country Assistance Plan

- The 21st Conference on Overseas Economic Cooperation (April, 2009) set up in the Cabinet defined as follows
- " Basic Policy on Legal and Judicial Development Assistance" Japan places the "Legal and Judicial Development Assistance as one of the priorities of Japan's
- Overseas Economic Cooperation • Strategic Countries: China, Mongolia, Cambodia, Indonesia, Laos, Vietnam and Uzbekistan
- Assistance Areas: In addition to the area of fundamental Laws such as Civil Matters and
- Criminal Matters, Japan actively provides assistance to the areas of of Economic Laws
- Fearure of Japan's assistance: Dialogue/Consensus-Oriented Approach, Needs-Oriented, fair administration of Laws by recepient countries



Assistance Policy

Through continuing support for implementation and dissemination of the Civil Code and the Civil Procedure Code as well as capacity development of judicial experts and related government officials of Ministry of Justice, JICA will contribute towards the promotion of legal and judicial reform

1) Drafting of ancilary laws/Support for implementation of new laws

n order to maximize the output and outcome of the previous and on-going projects, namely application of Civil Code and Civil Code of Procedure, JICA's support will focus on drafting of remaining ancillary laws as well as strengthening of institutional capacity of Ministry of Justice for proper implementation and dissemination of

2) Capacity Development of judicial experts and related government officials

Through assisting human resource development, JICA will continue to provide support for the strengthening of management and training capacity of the Royal School for Judges and Procecutors(RSJP) aiming at ensuring a fair and proper trial in Cambodia. In addition, JICA will consider to expand its support for improving the quality of legal education in universities which will directly lead to improved practical knowledge of future legal practitioners.

2004. 3 - 2008. 3 Legal and Judicial Development Project

Legislating of CC and CCP, Drafting of Ancillary Laws, Development of Textbooks and Commentary

(Phase3)

Improving the practices of MOJ, Drafting of remaining Ancillary

Chart of the projects

Adjustment and Coordination of Laws Legislation of Its Dfrafted Laws Dissemination

Capacity Development of MOJ and Human Resources

Development of Teaching Material and Curriculum Traines' Training

tional Institution and Civil Law Education

Education on Civil Matters

Support for BACK and LTC

Outputs of the Previous and On-going Projects

[Drafted Laws and Regulations]

- Civil Code,
- Code of Civil Procedure, - Law on Application of the
- Civil Code - Law on the Procedure of Litigation Relating to Personal
- Status - Law on Non-Litigation Civil Procedure.
- Inter-ministerial Prakas on Immovable Registration, etc. [Publication]

CC, CCP, Commentary and Texkbook of CC/CCP etc.

[Number of graduated judges and prosecutores during Japan's support] 235 (as of January 2011)

[Outputs]

Curriculum, Practical Manuals (Procedure of First Instance, Procedure of Attachment of Immovable Property, Auction Procedure of Immovabl Property etc.), Q&A on CC and CCP etc.

[Number of graduated students during Japan's support] 359 (as of January 2011)

[Outputs] Lawyers' Handbook, Guidebook on Ultimate Facts of CC, etc.

By March, 2012

Project Purpose:

The Ministry of Justice is able to take necessary measures to implement the Civil Code and the Code of Civil Procedure

appropriately.

Project Purpose:

Royal School for Judges and Prosecutors (RSJP) is able to implement the Practical Training on Civil Matters Self-Reliantly

By June 2010

Project Purpose: BAKC (the Bar

Association) and LTC (Lawyers Training Center) provide qualified training for the development of qualified lawvers

4. New Project Starting in April 2012

After April 2011

Integrating all related activities into one Project focusing on Capcity Development of the Legal Professionals aiming at proper implementation and dissemination of the CC and the CCP.

BAKC WG

Overall Goal

New and existing laws and regulations including the CC and the CCP are drafted, amended and implemented independently and continuously.



Professors and Lecturers

[Structure of the Working Group (WG) Activities (tentative)]



Joint Working Group

Lawyers (Candidate Lecturers of LTC)

RULE WG (Royal University of Law and Economics)

WG members will be selected from MOJ, RAJP, BAKC and RULE. The project will focus on the activities to deepen understanding of the CC and the CCP among legal professionals for development of legal theory of Cambodia and for better implementation of the CC and the CCP.

[Activities for **MOJ Capacity Development for** better implementation of CC and CCP 1

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