

CAMBODIA JUSTICE SECTOR DELIVERY STRATEGY

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Executive summary

The Justice Delivery Strategy has been developed for the Australian development assistance program to Cambodia. It describes how AusAID will support and promote changes leading to *prosperous, safe and secure communities* in Cambodia. We will do this by *helping Cambodia put into practice its relevant policies and laws* – the priority development outcome of both governments. The Strategy is framed by an intended withdrawal by AusAID from the law and justice sector at the end of the current country strategy in 2015.

The Strategy emphasises a narrower but deeper engagement in law and justice, with an emphasis on the needs and demands of the most vulnerable, particularly youth and women affected by gender based violence. Compared to previous work in the sector by Australia, this strategy represents a more targeted approach where our main objective is improving community safety and establishing a model for community corrections, as an alternative to detention. AusAID believes these are two development challenges that can be effectively tackled in the current political climate with the financial and management resources Australia has available. As such, this strategy should be interpreted as being more pragmatic than visionary.

To achieve the best development impact that is realistic within a three year time frame AusAID will only focus its efforts on achieving sustainable and tangible benefits to the poor and vulnerable within the political space available to us. We will do this in a way that builds on Australia's previous achievements and existing relationships in the sector.

There are two delivery strategy outcomes:

1. **Women, youth and children are safer and communities have less crime.**

Building on the success of the crime prevention and community policing work, AusAID will support the government to scale-up the number of provinces and districts using the integrated Crime Prevention and Community Safety/Community policing approach to benefit more people, more quickly. Working at the level of local institutions and their interactions with communities through the RGC sub national structures will produce greater progress and more tangible benefits to the Cambodian people. This will include work with Ministry of Women's Affairs and civil society groups to reduce gender-based violence. AusAID will support NGOs to expand access to legal services and survivor assistance and to increase legal awareness at the local level.

The strategy outcome will be delivered through progress in the following areas:

- Community works better to demand and deliver safety and access to justice
- Police force engages with community and responds to demands for safety
- Cambodians have greater awareness of the law, their legal rights & responsibilities

By the end of the delivery strategy the following key results are expected to be achieved:

- 25% reduction in reported petty crime in participating communities
- 25% reduction in incidence of gender-based violence in target communities;
- More than half of community respondents in participating communes perceive that police engagement has improved during the past year

2. More effective non-custodial sentencing system piloted

The recent passage of the Penal Code, and pending passage of the Correction Law, creates the enabling environment for AusAID to support whole of government change in judicial and custodial processes in Cambodia. AusAID will contribute to changes necessary for the piloting of non-custodial sentencing which in time could contribute toward reduced prison over-crowding. AusAID will work with the community to change attitudes and perceptions about non-custodial sentencing and alternative sentencing to support successful implementation. AusAID support for alternative sentencing pilots was confirmed as a credible strategy for introducing change in the law and justice sector by the recent Cambodia case study for the ODE Law and Justice Evaluation.

The strategy outcomes will be delivered through progress in the following areas:

- Community attitude to non-custodial sentencing
- Non-custodial sentencing options by court piloted

By the end of the delivery strategy the following key results are expected to be achieved

- utilisation of non-custodial sentencing for petty crime convictions in pilot courts increases from zero to twenty-five per cent (or at least 30% of judges and prosecutors use alternative sentencing for more than 30% of their annual case load)
- Community awareness of non-custodial sentencing raised and attitudes towards these sentences start to change

Progress towards each of the delivery strategy outcomes will also be reliant on

- use of strengthened systems for evidence-based performance management
- Cambodia-Australia mutual accountability that includes increased use of RGC recurrent budget funds

Delivery will occur through a program of assistance with an indicative funding envelope of A\$4 million per year. This may increase to include EVAW funds to implement law enforcement activities of the National Action Plan for Domestic Violence.

Delivery will be principally through one large initiative – the Cambodia Community Justice Assistance Partnership. Separate grants to support a national legal aid program and the work plan of Transparency International will support other partner efforts to increase access to justice and support the work of the Anti Corruption Unit, ring-fenced from our main area of bilateral support. Policy dialogue will be used to promote change that supports sustainable achievement of the delivery strategy outcomes as well as a transition to Australian exit from the sector.

Acronyms

ADR	Alternative Dispute Resolution
AFP	Australian Federal Police
AIDS	Acquired Immune Deficiency Syndrome
ARF	Adviser Remuneration Framework
ARTIP	Asia Regional Trafficking in Persons [Project]
AUD	Australian Dollar
AusAID	Australian Agency for International Development
AWP	Annual Work Plan
CCJAP-III	Cambodia Criminal Justice Assistance Project, third phase
CDC	Council for Development of Cambodia
CDCA	Crime Data Collection and Analysis
CDPD	Commune Development Planning Database of the Ministry of Planning, supported by the National Committee for Decentralization and Deconcentration
CDRC	Community Dispute Resolution Committee
CIP	Commune Investment Plan
CJS	Criminal Justice Sector
CLEC	Community Legal Education Centre
CLJR	Council for Legal and Judicial Reform
CNP	Cambodia National Police
CPCS	Crime Prevention and Community Safety
CRA	Corruption Risk Assessment
CSCS	Cooperation for a Sustainable Cambodian Society
CSI	Crime Scene Investigation
D&D	Decentralisation and De-concentration [National program on sub-national democratic development]
DANIDA	Danish International Development Agency
DFGG	Demand for Good Governance Program
DFID	Department for International Development (UK)
DFT	District Facilitator Team
ECCC	Extraordinary Chambers in the Courts of Cambodia
EVAW	Ending Violence Against Women
EWMI	East West Management Institute
Ex-Com	Executive Committee of the Provincial Rural Development Committee
FSF	Flexible Support Fund
GAD/C	Gender and Development Cambodia
GDoP	General Department of Prisons
GIZ	[Deutsch] Gesellschaft für Internationale Zusammenarbeit
GMS	Gender Mainstreaming Strategy
GoA	Government of Australia
GS	General Secretariat (of the CLJR)
GWG	Gender Working Group
HIV	Human Immunodeficiency Virus
HLWG	High Level Working Group on Model Courts
HR	Human Resources
HRM	Human Resource Management
I&A	Inspections and Audit
ICRC	International Committee of the Red Cross
IMS	RGC Justice Sector's Indicator Monitoring System
IP3	Third Implementation Plan of National Policy for Sub-National Democratic Development

ISP	Implementation Services Provider
JAG	Justice Advisory Group
JICA	Japan International Cooperation Agency
JJWG	Juvenile Justice Working Group
KM	Knowledge Management
L&J	Law and Justice
LAC	Legal Aid Cambodia
LJRS	Legal and Judicial Reform Strategy
M&E	Monitoring & Evaluation
MDG	Millennium Development Goal
MEF	Ministry of Economy and Finance
M&EF	Monitoring and Evaluation Framework
MoEYS	Ministry of Education, Youth and Sport
MoH	Ministry of Health
MoI	Ministry of Interior
MoJ	Ministry of Justice
MoP	Ministry of Planning
MoSVY	Ministry of Social Affairs, Vocational Training and Youth Rehabilitation
MoWA	Ministry of Women's Affairs
MTR	Mid-term Review
NCDD	National Committee for Sub-National Democratic Development
NCHADS	National Centre for HIV/AIDS, Dermatology and STDs
NGO	Non-Government Organisation
NMB	National Management Board
NREM	Natural Resource and Environment Management
OECD	Organisation for Economic Cooperation and Development
OHCHR	Office of the High Commissioner for Human Rights (UN)
PADV	Project Against Domestic Violence in Phnom Penh
PAF	Performance Assessment Framework
PCC	Provincial Coordinating Committee
PCP	Police Courts Prisons (provincial meetings)
PFM	Public Financial Management
PFT	Provincial Facilitation Team
PSF	Partnership Support Fund
PTD	Pre-Trial Detention
RAJP	Royal Academy for Judicial Professions
RGC	Royal Government of Cambodia
SA	Subsidiary Arrangement
SFD	Strategic Framework Document
SNIF	Sub-National Investment Facility
SWAp	Sector-Wide Approach
SWOT	Strengths Weaknesses Opportunities Threats
TA	Technical Assistance
TAF	The Asia Foundation
TWG	Technical Working Group
UNDP	United Nations Development Program
UNICEF	United Nations Children's Fund
USAID	United States Agency for International Development

1 Context

1.1 Critical development issues

Cambodia has enjoyed impressive gains in security, safety and economic development since 1992. The institutional and population vacuum created by two decades of conflict and genocide has been gradually filled through the efforts to rebuild the state and its institutions, including the legal system. For example, today there are over 240 trained prosecutors and judges in Cambodia, compared to just five in 1992. Political stability and the end of conflict have led to increases in the community perceptions of safety and there have been recorded reductions in officially reported crime, with the exception of domestic violence.

Key legislation has been adopted. Civil society organisations and NGOs provide important justice service delivery, including legal aid, victim assistance and advocacy. Women and men are entitled to equal rights and status under land and property laws. The Khmer Rouge trials provide evidence that Cambodia has made some progress with rebuilding government institutions and rule of law processes.

Challenges remain, however, in establishing a fair, transparent and accountable legal and judicial system in Cambodia. Patronage and corruption are widespread in the system. Judges have limited access to published Cambodian statutes and cases. Cambodia has a punitive culture resulting in harsh penalties for even minor offences. This, combined with a growing percentage of young people with few opportunities, has led to prison overcrowding. The prison system is at 167 per cent of its capacity and is growing at a rate of over 12 per cent a year. Alternative and non-custodial sentences, while provided for in legislation, are not utilised by judges. 36 per cent of the prison population is in pre-trial detention and many are incarcerated for misdemeanours when non-custodial options are available under the law. Prison overcrowding makes rehabilitation and humane treatment of inmates difficult and threatens to undermine recent improvements in prison management. Citizen awareness of legal rights and procedures is low and their trust in the system equally so. Court procedures are cumbersome and non-transparent, and court clerks extract payments from litigants to move cases forward.

More than 60 per cent of Cambodia's population is under 25 years of age and more than 350 000 young people seek work for the first time each year. Youth unemployment is a rising issue. In one survey, 62 per cent of youth respondents reported that they had witnessed a crime perpetrated by a youth "gang". Diverting youth from activities that bring them into conflict with the law is a priority for communities in Cambodia.

Despite a reduction in politically motivated crimes, Cambodia has witnessed a rise of other forms of crime. The Government has issued a directive to Commune Councils on Commune and Village Safety that is seeing some reduction in theft, gambling and drug use, but has yet to make an impact on domestic violence. Other issues such as illegal logging and fishing and illicit revenues from extractive industries and land seizures are factors that feed patronage and elite rent seeking.

There is limited access to justice for many citizens in Cambodia, especially vulnerable groups – the poor, survivors of domestic violence and rape, ethnic minorities and persons with disabilities. Recent studies suggest that access to the formal justice sector is limited by the resources required to file a complaint, low level of knowledge about relevant laws and judicial processes, and lack of trust in the legal system.

Violence against women remains a concern. A survey by the Cambodian Ministry of Women's Affairs found that 22.5 per cent of married women experienced violence in their homes, and a similar percentage were raped by their husbands – with 9 out of 10 victims not seeking legal redress. This reflects social norms, women's limited knowledge of the law and judicial process, the threat of sanction or stigma, lack of money to pay for legal representation, inadequate survivor assistance services and a lack of trust in justice institutions. Women with disabilities are extremely vulnerable to violence and abuse. It is estimated that 40 per cent of deaf women in Cambodia have been sexually abused.

The Cambodian Government has committed, in its Rectangular Strategy, to 'peace, political stability and social order through specific measures aimed at promoting the rule of law.' Under the Rectangular Strategy, the Government has committed to reforms in law and justice through the National Legal and Judicial Reform Strategy, Strengthening of Police Posts and the National Crime Prevention and Community Strategy. Laws have recently been passed to allow for community corrections as an alternative to custodial sentences, and to divert drug users to community based rehabilitation services. However, implementation of these policies is difficult, as there is no single lead agency for these reforms, inter-agency coordination is poor and government policy is ahead of community attitudes to community corrections and harm reduction. The key Cambodian government departments responsible for law and justice, the Cambodian National Police, Ministry of Interior and Ministry of Justice have uneven influence, budgets and capacity. There is limited use of data which makes planning, resource allocation and management for police, courts and prisons in Cambodia difficult. The 55,000-strong Cambodian police force is poorly trained and equipped (though improving); routinely charge illegal fees for service and cases are rarely decided on evidence. There are signs that senior managers in the police are interested in changing its public image and becoming more professional. The work of the AFP Transnational Crime team is highly valued. The mutual interest of both governments to stop transnational crimes such as drug and people trafficking is creating a demand within the CNP for greater use of forensic evidence across the board. The Anti-corruption Unit appears to have political support to start taking action to deter blatant, every day, corruption that impacts directly on the poor. The ACU has established a working relationship with Transparency International that may see incremental improvements in petty corruption impacting on the poor, for example, the Prime Minister's requirement to publish user/facilitation fees and provide receipts. However, the projected increase in salaries for public servants is too slow to expect much change on illegal fees over the period of the strategy.

1.2 Australia's commitment to law and justice

Following the Independent Review of Aid Effectiveness, AusAID confirmed that one of its ten core development objectives is improving governance in developing countries to deliver services, improve security, and enhance justice and human rights for poor people. AusAID recognises justice and human rights as development goals in their own right and an intrinsic part of the poverty reduction agenda. Injustice and personal insecurity are central to people's experience of poverty. Globally, being poor means being vulnerable to crime and to conflict in the family or community, to dispossession or exploitation by more powerful economic interests, and to unfair dealings.

Australia's Strategic Approach to Aid in Cambodia 2010-15 identifies law and justice as an important area for Australian aid during the period of the country strategy. The Strategy articulates that: *AusAID will place increased emphasis on work with local authorities, communities and civil society to prevent crime and improve community safety, reduce prison overcrowding, expand access to legal services and consider alternative ways to resolve disputes. There will also be a focus on reducing violence against women.*

This strategy emphasises a narrower and deeper engagement in law and justice with a focus on reducing prison overcrowding and increasing community safety. AusAID will cease its engagement in the justice sector at the end of 2015 to focus on its core investments with Cambodia in agriculture/rural development, health and infrastructure.

The phase out of support in law and justice reflects the recommendations from the aid review that country bilateral aid programs should reduce the number of sectors and concentrate on those sectors that offer higher development returns during a period of large budget growth. This will leave the Cambodia program focused on health, rural development and infrastructure investments.

Providing assistance in the justice sector is also expected to complement other components of the AusAID country strategy for Cambodia. Improvements in community security can help the poor to escape from poverty traps and help to reduce gender-based violence. Providing assistance in law and justice has provided diplomatic benefits. Relationships between Australia and the justice sector provide effective entry points for dialogue about security issues, domestically and regionally. An expanded relationship between CCJAP and the AFP Trans National Crime team will broaden AFP relationship nationally and sub nationally and secure on-going relationships that benefit the national interest at the end of the project.

2 Donor Support in the Justice Sector

2.1 Australia's past and present support

AusAID has provided law and justice assistance to Cambodia since 1997 totalling almost \$60 million in funding to date through the Cambodia Criminal Justice Assistance Project (CCJAP). Australia's major program of support to law and justice has been delivered by a managing contractor. The Attorney General's Department has provided *ad-hoc* legislative drafting support.

The current phase involves \$27 million of assistance over 5 years with an extended end-date of October 2012. The current phase is focused on implementation of aspects of the Cambodian Government's Legal and Judicial Reform Strategy and takes a system approach to strengthening the criminal justice system. CCJAP enjoys a high level of regard from the Cambodian Government. Other non-CCJAP support to law and justice in Cambodia, including whole-of-government programs, small grants schemes and regional programs is outlined in Annex 3.

Over fourteen years CCJAP has evolved from a post-conflict recovery program to target both institutional capacity building and community based legal service delivery. The outcomes have been important but have fallen short of expectations. The Mid-term Review of CCJAP III argued that the objectives of the program were over-ambitious, in terms of both the political space available to accomplish major reforms and the capacity of the counterparts to absorb change. Most line ministries have no budget control and refuse to commit or match donor resources in most areas. Securing RGC budget commitment to their policy priorities in the sector will be a focus of policy dialogue in the new program.

CCJAP III has made some gains in improving prison conditions, drafting national laws, instituting strategic planning processes in Ministries and bringing NGOs into the reform agenda dialogue. However, the political authority, competence and budget autonomy of different institutions has determined progress, rather than any coherent policy vision driven Council for Legal and Judicial Reform. Progress has occurred in some areas where political will has backed reform efforts. The General Department of Prisons in particular has demonstrated a will to tackle health and human rights issues in prisons by increasing health services, rehabilitation programs and introducing minimum standards for prison construction. The most successful CCJAP activities have focused on points of interaction between the public and law and justice institutions and/ or where there is local political/ institutional will/ leadership.

To date, Australia's support has:

- Engaged with police and commune councils at local levels to initiate crime prevention and community safety activities with measureable benefits for more than 100,000 citizens over the past three years including greater awareness of domestic violence and improvements in relations between police and citizens. Reported crime has reduced between 12 per cent and 38 per cent in targeted communities.
- Integrated these successful pilots on community safety and crime prevention into a national government mechanism for funding local development.
- Constructed 25 health posts in partner prisons and helped broker a deal with the Ministry of Health to give health posts accreditation under the national health system. This move gave prisoners access to medicines and hospital referrals on the same basis as the general population. The agreement also resulted in 90% increase in TB treatments and 33% increase in HIV testing between 2009 and 2010.
- Helped to increase the number of prisoners in rehabilitation programs from 1,610 in 2006 to 3,217 in 2010.

- Helped to broker agreements between the General Department of Prisons and NGOs on the delivery of services to women prisoners.
- Provided small scale capital investments in security fencing which have led to a four-fold increase in out of cell hours for prisoners, improving their physical and mental health. Prisoners were spending up to 23 hours a day in their cells previously.
- Introduced a case management system in Cambodia's Court of Appeal, which has seen the number of cases of prisoners spending more than 12 months in prison without a court decision drop from 354 in 2008 to zero in 2010.

Implementation of CCJAP since 1997 in the evolving development context in Cambodia offers an unusually clear picture of what outcomes are achievable and that incremental progress on improving the justice system is possible even in difficult circumstances. AusAID's experience and lessons learned provide a clear direction for future support. These lessons include:

1. Where Cambodia has genuine commitment external assistance can make a real contribution to improving people's experience of the justice system. Despite rhetorical commitment, other areas such as judicial reform are not responsive to either financial or technical assistance, or to donor advocacy or moral pressure. We can expect only very limited change in judicial reform in the next period of our engagement. Any renewed will of the RGC to implement judicial reform will not become apparent until after the general elections in 2013. Creating an independent judiciary and an accountable police service run counter to the interests of the elite, which means they won't happen in the time-frame of the next program. Where political interests are less at stake, change can happen. Experience has shown that prison reform and community safety (crime prevention, strengthening community police posts and access to community justice) are themes where external assistance can support existing Cambodian government interests and effect change.
2. Engage across law and justice agencies with thematic rather than systematic engagement – CCJAP set out to engage with all the major actors in the justice system but this resulted in parallel capacity building and isolated changes that did not address fragmentation of the justice system. Focusing on practical themes that span the functions of different agencies is more likely to be productive and is consistent with Cambodian government policies and strategic plans.
3. Have clear objectives – Australia's assistance to date has reflected a number of different agendas, including stabilisation in post-conflict and fragile states, longer-term development objectives and Australia's own national interests in areas such as transnational crime cooperation. The existence of multiple objectives has made it difficult to prioritise and sequence the assistance and measure its impact. Through this delivery strategy, AusAID aims to clarify the goals of Australian law and justice assistance and to define achievable objectives within a well-articulated political analysis.
4. Find practical solutions and then institutionalise them – the experience of CCJAP and other donor initiatives is that top-down institutional reforms take a very long time to impact on access to justice, if at all. The most successful CCJAP activities focused on points of interaction between the public and law and justice institutions.
5. Piloting is a credible strategy – CCJAP demonstrated the effectiveness of pilots and how to achieve sustainable results by institutionalising proven change. Using external assistance to create a space where risks can be taken is a credible strategy. For example, CCJAP linked simple and cost effective Crime Prevention and Community Safety pilots to the National Program on Sub-National Democratic Development – creating the opportunity to scale-up.

6. Use modest capital works to support reform – CCJAP III effectively used modest capital works investments to contribute measureable change towards project outcomes. The health post case in prisons is a good model that could be replicated for women and youth, vocational education and non-custodial sentencing. Small-scale works are less likely to distort local systems and more likely to result in benefits if they are linked to existing institutional change processes.

Constraints to change

Key constraints to change in the Cambodia justice sector include:

- lack of political will for an independent judiciary or judicial discipline, therefore difficult to influence legal and judicial reform;
- structural/systemic corruption, low salaries and reliance on patronage for livelihood;
- failure to expand tax base and improve revenue collection limits public funding, large informal sector and corruption influences peoples views on paying taxes;
- a weak and underfunded MOJ that limits its convening power to lead on alternative sentencing;
- poor relationships with central agencies, such as MEF – this doesn't effect MOI which has its own power and budget resources, but is a significant constraint to MOJ and courts administration;
- beneficiary group competes with general poor for resources – the justice sector receives 0.2 per cent of the national budget; which is compounded by a generally punitive community attitude towards prisoners and people before the court, further discouraging government from increasing budget allocations in the sector; and
- lawyers prefer not to work in the provinces, therefore legal aid instruments are expensive and unlikely to attract government financing.

2.2 Support of Other Development Partners in Sector

There are a number of development partners that work towards changes in the justice sector. Besides AusAID support for CCJAP, several other donors have provided assistance to the Cambodian justice sector (see Annex 3). For instance, DANIDA works with the Council for Legal and Judicial Reform; the governments of France and Japan provide support for the drafting of the Criminal Code and Code of Criminal Procedures; the Civil Code and Code of Civil Procedures and also the Bar Association and the National Police; USAID supports the promotion of rule of law and the protection of human rights; and UNICEF provides support on child justice and juvenile crimes.

AusAID's main bilateral partner in justice, Danida, is phasing out its assistance in Cambodia at the end of 2012. Danida (Chair the Technical Working Group for Legal and Judicial Reform) have provided extensive support to the Council for Legal and Judicial Reform for several years, for little attributable change. Their current position is that any assistance during 2012 will depend on the unlikely adoption of the "fundamental laws" on judicial appointment and discipline. USAID has worked with the Ministry of Justice to introduce electronic case management into the Phnom Penh courts, based on the national court register. USAID is also reducing its support to the justice sector, for budgetary reasons. This will leave only small, ad hoc engagements in the sector by other donors: UNICEF with the MOJ on juvenile justice; the ICRC on health in prisons; and, The Asia Foundation on community justice through civil society.

3 Theory of change

3.1 Program logic

AusAID recognises many justice reforms will be incremental and uneven as in most post-conflict states. Many of the issues that constrain reform of criminal justice at the community level are attitudinal and require changes that have generational timeframes. In the slow process of cultural change, the state structures / actors such as police and courts which have responsibility for ensuring safety and security in communities have yet to earn their trust and respect. Political elites are not treated equally within this system and enjoy relative impunity compared to the poor. However, there are areas of common interest and policy commitment that do not challenge the interest of the elites and this is the space where we intend to work.

Our theory of change (see Chart 1) is based on the understanding that where there is political advantage to the government and the right kind of support from donors, change is possible.

The ultimate goal of the combined efforts of the government, donors and civil society work in the Justice Sector is to achieve a prosperous, safe and secure environment in Cambodia, enabled by an effective, transparent and accountable justice system.

Achieving these outcomes needs all stakeholders to understand their role in sector reform and to commit to principles of constructive engagement. The key government actors include the lawmakers (politicians), enforcers (judges and police), administrators (commune and court clerks) and prison management. It also encompasses the citizens, their civil society advocates and the private sector.

Realising an effective transparent and accountable justice system requires that law enforcers understand and apply the law in accordance with professional standards. Courts and police will find alternatives to prosecuting small cases and adopt a more rights based approach to their functions. Those handing out sentences will make use of the full suite of options available under law, handle appeals in a timely fashion and be actively improving monitoring and reporting procedures, with appropriate oversight. Alternatives to prosecuting small cases and adoption of a more rights based approach to their function will be necessary in the courts.

Prison management will effectively implement existing and new policies, implement case management of prisoners and ensure the human rights of prisoners with appropriate oversight.

Local authorities will need to implement integrated initiatives that proactively prevent, mitigate and resolve crime in their communities in compliance with national standards and laws.

Citizens will take responsibility for their own actions, demand better services, participate in decision-making and collaborate with government to solve problems. The collaboration of the private sector will contribute to crime prevention and adjust their practice to respond to crime issues. The media will be reporting on crime in an ethical manner and more accurately represent community issues.

Legal educators will need to encourage diversity, provide rights based education and maintain up to date professional knowledge and practice while also conducting education outreach and link academia to society and government.

Political leadership and lawmakers have a key role to play as advocates for constituent interests in setting priorities and managing the coordination and communication of the process

effectively. This includes allocating adequate budget, monitoring behaviour and practices and holding other actors accountable. Local authorities need to implement integrated initiatives that proactively prevent, mitigate and resolve crime in their communities in compliance with national standards and laws.

All stakeholders must commit to equitable access for marginalised groups, young people, women (especially those affected by gender-based violence) and children.

The system has sufficiently developed monitoring data bases to enable whole of sector progress to enable appropriate oversight and use of evidence based data to inform policy development, priority setting and measure progress.

The combined result of these changes will see positive changes in four clear areas:

- Firstly, the work of citizens, national and local authorities, NGOs and media outlets will result in greater awareness among people of their legal rights and a greater number of disputes being resolved appropriately and effectively at a local level. The community will work together to reduce violence against women and to support young people to reduce their risk of conflict with the law, all resulting in more effective crime prevention.
- Second, the efforts of law makers and law enforcers will result in a police force that is responsive to community needs and government provision of legal aid to the poor which will clarify the gaps in legal aid to marginalised groups that needs to be filled by civil society. This will create more equitable access to justice.
- Third, political leadership that demands responsive and accountable public administration in the sector will produce more effective cooperation between government agencies. Legal sector professionals will use evidence to decide cases. The result of all these factors will be more effective courts and trial management.
- Fourth, with changes in sentencing and prison management coming into effect we will see the implementation of an effective non-custodial sentencing system, more human and appropriate custody with a focus on prisoners being rehabilitated into society. These factors will result in more effective sentencing and prison management.

These four outcomes of effective sentencing and prison management that focuses on human custody and rehabilitation; more effective courts and trial management through improved professionalism; more equitable access to justice through rights based community policing and access to legal aid and more effective crime prevention as the result of local dispute resolution and community led preventative action, will result in a more effective, transparent and accountable justice system, ultimately resulting in a prosperous, safe and secure environment in Cambodia.

3.2 Delivery Strategy Narrative

As the lead and only substantive donor all four intermediate development outcomes from the global theory of change have been brought across to form the shared development outcomes of the Delivery Strategy.

To prepare us to effectively contribute to these outcomes there are a number of foundational activities we have identified that will not lead directly to the delivery of these outcomes but are important contextual and background tasks. These include a number of management tasks such as building capacity and support for implementing partners, due diligence about using partner funding systems, mapping institutional monitoring systems and mandated review and oversight processes in government, and developing a full engagement and communications strategy. We have undertaken research and analysis to deepen our understanding of sector context through studies on prison overcrowding, how to scale up Community Safety linked to the Commune and Village Safety priorities of the government, and the role of non state actors.

A number of principles will inform the implementation of all aspects of the delivery strategy. Thematically our work will focus on reducing Gender Based Violence and ensuring that the rights of marginalised people (including youth) are protected. Procedurally we are focused on working through partner systems as much as possible, fostering government/civil society relationships, strengthening government capacity and developing accountability and transparency at all levels.

To deliver the strategy outcomes, we will provide local expert sector advisers to facilitate policy formulation around non-custodial sentencing and rehabilitation across relevant Ministries. Our local expert sector advisers will also assist MOJ monitor the use of the court register, which will be the primary source of measuring change in sentencing practices and court administration and a basis for dialogue around mutual accountability that forms the basis of the new Partnership. While working to improve the court processes and use of alternative sentencing we will also provide funding for prison infrastructure and local adviser support to continue and expand prison reform and rehabilitation programs. These justice outcomes will be complimented by improved infrastructure to ensure humane, safe custody, together leading to our first end of Delivery Strategy Outcome of humane and appropriate sentencing.

We will provide local advisory support on planning procedures and budgeting to the Cambodian National Police to integrate community policing into the Commune Village and Safety committees and to routinely collect and analyse crime data. At the same time we will support the justice sector Ministries disseminate relevant laws and policies and facilitate dialogue between citizens and agencies around community policing and alternative sentencing. Through these activities we will see improved understanding at a local level of legal rights and responsibilities and increased dissemination of information about law to communities. We will also assist Government authorities implement crime diversion strategies with communities particularly around violence against women and marginalised groups. Together these will lead to our second end of Delivery Strategy Outcome of authorities have strengthened capacity to prevent mitigate and resolve crime in their communities.

The unifying theme of these two outcomes is the interest of the government for citizens to have greater confidence in the justice system, that support is in place to prevent crime, provide access to justice through the courts and receive support from the government for effective rehabilitation into society.

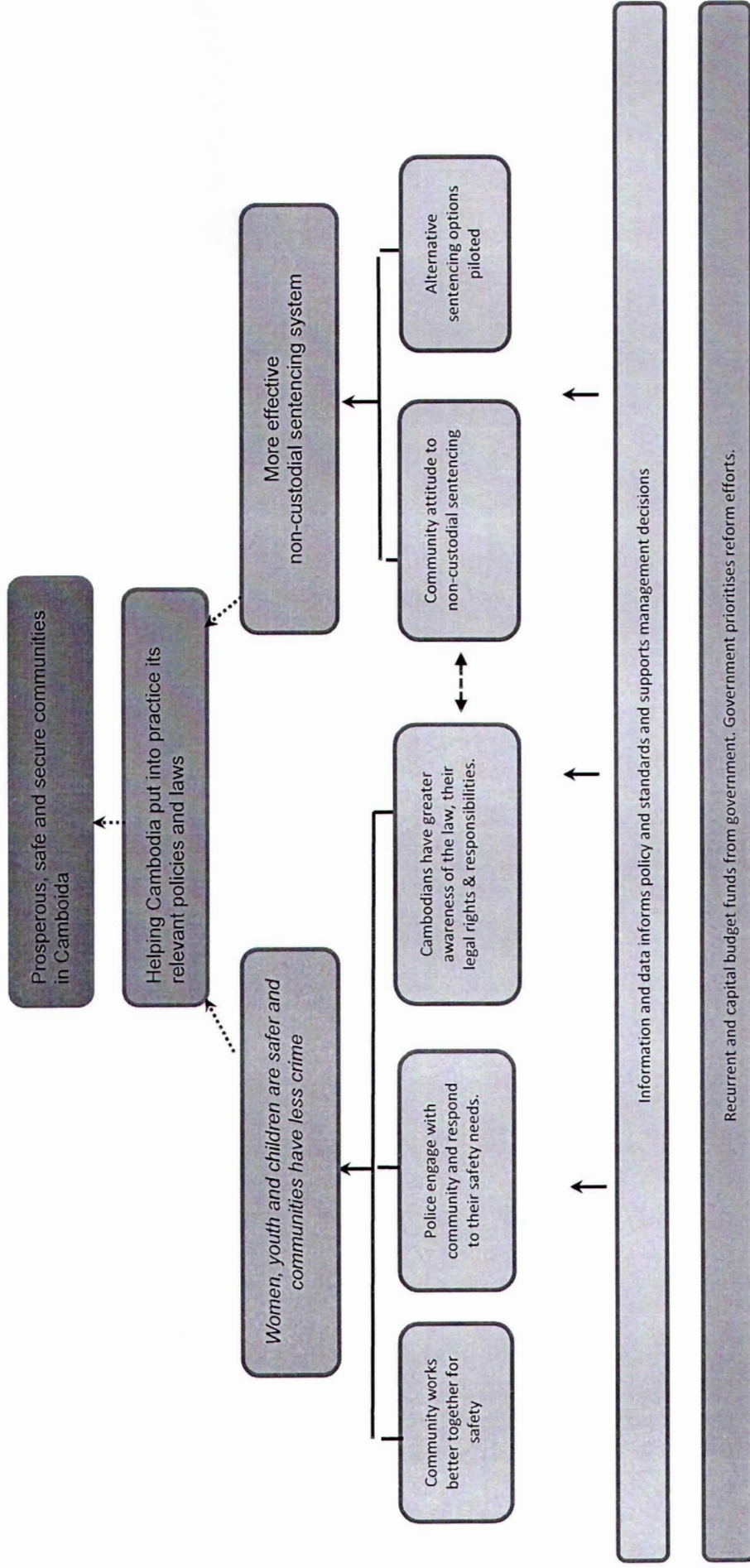
Dedicated funding will be ear marked for legal aid. As the government arrangements for legal aid develop, we will complement CCJAP IV support with legal aid grants to NGOs through the Community Development Fund, and consider additional project funding to NGOs to achieve national coverage through a project managed Flexible Support Fund. The fund will also that will also fund civil society and capital works. Local expert advisers will assist the government harmonise data systems and support continuous improvement in data collection and analysis. Funding will be made available for IT equipment and systems establishment.

Cumulatively this will result in the provision of legal aid services to the poor, more effective coordination between government agencies and a justice sector that is able to manage performance with evidence. Achieving these outcomes will allow joint performance monitoring consistent with our aid effectiveness commitments and prepare the government to undertake its own sector monitoring when Australian assistance ends in 2015.

We believe these two pathways, underpinned by strengthened use of the governments monitoring systems, will make a measurable contribution towards achieving more effective crime prevention, better and more equitable access to justice, more effective courts and trial management and effective sentencing and prison management and see progress towards an effective, transparent and accountable justice system in Cambodia.

[See Diagram: Delivery Strategy – Theory of Change]

Chart 1 : Delivery strategy – theory of change



4 What Australia will contribute to

4.1 Crime prevention for safer communities

Justice in the community is a foundation for post-conflict governance and development. This is recognised in the Cambodian Government's National Policy on Village and Commune Safety and elsewhere. In 2010 the Government issued guidelines on 'The Implementation of Village and Commune Safety Policy' – with a safe village and commune defined as one that has 1) no cases of theft or robbery, 2) no production, circulation and use of illegal drugs 3) no paedophilia, trafficking of children and women and domestic violence, 4) no gangsters or gangs and 5) no gambling or illegal use of guns or crimes. Vulnerable people and commune or district communities do not have the same access to justice as wealthier people and those in cities and provincial capitals. This is mostly because of the limited use of local dispute resolution methods for petty crimes (which accounted for more than 65 per cent of recorded crime in 2010) but also because of the costs of access to justice and shortages of legal representation.

The Cambodian Government, through its decentralisation program, will be shifting a large share of its functions and budget resources to local levels. Communities are getting a bigger say in resource allocation through participatory planning processes. This will further open up opportunities for people within communities to make the transition from the post-conflict environment to one in which government and community can work together to achieve local economic development aspirations. A stable, safe community which is relatively free of crime is an important enabling factor which allows Cambodian citizens to expect a degree of certainty in their daily lives that allows economic development to flourish.

Building on the experience in 6 provinces to date, Australian aid will support Cambodian agencies and stakeholders to more effectively implement crime prevention and community safety activities in action plans for Sub-National Democratic Development, and National Action Plan to Prevent Domestic Violence, an integral part of its policy for decentralisation and deconcentration. Women, youth, children, people with disability, the poor and ethnic minorities will especially be targeted so they have better access to justice, and also involved in participatory planning processes for commune activities.

Support will be delivered through the government's decentralisation system – for both planning and financial disbursement. Investments in community safety and security represent good value for money. In 2010, over 100,000 citizens benefited from community safety and crime prevention activities through CCJAP III at a total cost of around A\$400,000. Evaluation reporting suggests these activities have improved communications between local police and the community, reduced reported crime levels, and helped to improve action on incidents of violence against women and girls. Support to 2015 will build and expand on these results. Audits of these arrangements in CCJAP III have established confidence that locally administered grants are visible and accountable.

Delivery Strategy Development Outcome

Women, youth and children are safer and communities have less crime

Headline Results

25% reduction in reported petty crime in participating communities

25% reduction in incidence of gender based violence recorded by participating communes

Police force engaging with community

Australia will build on existing support to community policing to increase the involvement of local police in outreach and public education to improve relations with communities and community safety. It will also involve more regular patrols, community patrolling and additional training for police. Community policing activities will be integrated into community safety activities so that local communities drive policing priorities. AusAID will encourage more women local police. The police will also work with the community to collect and use crime statistics. Raising community awareness of rights and legal procedures will be a focus. Community work will raise awareness and changing attitudes towards ending violence against women. Supporting the Cambodian National Police to ensure commune police have the administrative skills necessary to provide timely and accurate crime data.

Cambodian awareness of the law, rights & responsibilities

Supporting community awareness raising on laws, procedures and crime prevention.

4.2 More effective non-custodial sentencing

Australia is “chasing change” with a deliberate focus on the implementation of laws and policies that have strong government ownership and leadership. The government is concerned about the:

- limited community confidence in local police or justice institutions;
- limited access to justice for many citizens;
- community concerns about safety and security;
- growing diversion of under-employed youth into activities that bring them into conflict with the law;
- violence against women and drug abuse;
- limited use of evidence to inform planning, resource allocation and management for the police, courts or prisons in Cambodia.

The recent passage of the Penal Code, and pending passage of the Correction Law, creates the enabling environment for AusAID to support whole of government change in judicial and custodial processes in Cambodia. By chasing this change AusAID will contribute to changes necessary to implement non-custodial sentencing which in time could contribute toward reduced prison over-crowding.

Overcrowding in Cambodian prisons is caused by several factors, including: an increasing number of pre-trial detainees (around 36% of prison population); an increasing rate of incarceration; community expectation of custodial sentencing for even misdemeanours; limitations to some prison infrastructure; poor coordination between police, courts and prisons; and weak management in some prisons. The Cambodian criminal code allows non-custodial sentencing but judges rarely use such legal provisions as the mechanisms to support supervised non-custodial sentences do not exist.

AusAID support for alternative sentencing pilots was confirmed as a credible strategy for introducing change in the law and justice sector by the recent Cambodia case study for the ODE Law and Justice Evaluation. The first three phases of CCJAP established a high level of political will and bureaucratic commitment to reduce prison overcrowding. AusAID support will support the government to implement the non-custodial provision of the law which will help to alleviate prison overcrowding beyond the phase out of Australian assistance.

With policy dialogue, activities in the major initiative and flexible partnership funds AusAID will support the General Department of Prisons (GDoP), the Cambodian National Police (CNP), the Ministry of Justice and other relevant ministries and stakeholders to pilot activities that reduce the number of people entering Cambodian prisons. In parallel, AusAID will work with the community to change attitudes and perceptions about non-custodial sentencing and alternative sentencing to support successful implementation.

Delivery Strategy Development Outcome

More effective non-custodial sentencing system

Headline Results

at least 30% of judges and prosecutors use alternative sentencing for more than 30% of their annual case load (gender disaggregated)

There are a number of interconnected change processes that will be supported under the Delivery Strategy that is expected to lead to the piloting of a more effective non-custodial sentencing system

- Community attitude to non-custodial sentencing
- Non-custodial sentencing options by court piloted
- Strengthened systems for evidence-based performance management
- Cambodia-Australia Mutual Accountability

4.3 Strengthened evidence-based performance management

Australia will support the use of strengthened systems for evidence-based performance management. Supporting the use and strengthening of government monitoring systems will highlight implementation constraints, improve resource allocation and identify areas for policy dialogue. Supporting the Cambodian National Police to ensure commune police have the administrative skills necessary to provide timely and accurate crime data. Supporting roll out and use of a national crime database. Supporting roll out and use of a national crime database.

Mutual accountability

Australia will use policy dialogue and program management structures to ensure that the Cambodia Australia partnership is managed for mutual accountability. This will include policy dialogue to enable a planned transition to Australian exit from the sector at the end of 2015.

4.4 Linkages between objectives

The linkages between Crime Prevention for Safer Communities and Non-Custodial Sentencing focus areas

Interaction and Mutual Reinforcement

These two focus areas of support are mutually reinforcing of community based approaches. For progress to be made awareness and demand from local communities is required. A decrease in crime through community crime prevention and safety activities in parallel to the piloting of alternative sentencing involving targeted communities may

demonstrate that the risks of reoffending on release in targeted communities can be mitigated against.

Benefits to the Poor

By aligning support with the government system for increasing legal awareness and community security and the political and economic imperative to alternative sentencing, AusAID will provide direct and tangible benefits to the poor and vulnerable in the community

Promoting Transparency and Accountability

Contribute to demands for transparency and accountability in justice sector institutions. Evidence from the justice sector will inform government and civil society, whilst enabling dialogue between them.

5 How Australia will deliver its support

5.1 Proposed ways of working

While the Cambodia bilateral program faces a significant scale-up of funds, the law and justice sector program will not have a substantial increase. AusAID will commit to providing around A\$4 million a year to law and justice, funded from the Cambodia bilateral base budget. This may rise to \$6 million in 2013-14 if those elements of a comprehensive approach to Ending Violence Against Women that deal with law enforcement are integrated into the 2013 Annual Work Plan of CCJAP IV. A feasibility study is planned for July 2012.

Retaining an Implementation Services Provider to manage sub-contracts with civil society organisations, other development partners and infrastructure will reduce the administrative burden on AusAID Post and mitigate the fiduciary risk of using government financial systems. The program will have a focus on partnership – it will be guided by the National Management Board and government policies, facilitate partnerships across justice sector ministries, and between government and civil society, and use a partnership approach for monitoring and evaluation. This is an appropriate model given the long relationship and the desire to transition out after 2015.

To contribute to the development outcomes outlined in the theory of change AusAID will deliver the majority of its assistance through a major program of support – similar to the existing CCJAP arrangement. This modality is a proven model for AusAID assistance in the sector; it can deliver and disburse, has an effective brand name that we will retain, despite a name change that gives emphasis to the community justice and partnership themes to be pursued, can utilise existing national advisers and relationships to be effective and efficient, while reducing the burden on AusAID staff for the design and implementation of the program. Additional small grants programs, the victim assistance elements of the Ending Violence Against Women (EVAW) Budget Measure managed for AusAID by UNWOMEN, regional programs and whole-of-government engagement outlined in Annex 3, will support AusAID's efforts and objectives in the sector.

Within this program there will be a combination of modalities:

- **Small scale infrastructure investments** – to improve prison conditions through renovations or establishment of vocational training centres and health posts to meet minimum human rights standards and alleviate overcrowding. Also for courts to improve case management and community infrastructure for youth diversion and community planning.
- **Local expert advice and facilitation** – tailored capacity building to assist communes and districts to use planning processes, to assist counterparts collect and use data, to initiate pilots, and to assist with implementing alternative sentencing provisions.
- **Flexible partnership fund** – to commission short-term international TA as required, support NGO activities in areas beyond the capacity of local authorities to deliver, for example youth diversion, reintegration programs for prisoners and legal aid, civil societies and government agencies to deliver community awareness and education activities as well as ad hoc technical assistance from whole-of-government agencies and pilot programs. This could be managed by The Asia Foundation who currently manages the World Bank's non-state actor small grants scheme for local governance activities.
- **Funding for community-based justice** – through the existing modality to finance commune community safety committees, finance for local investments and services to support demand driven national scale up of community safety and prevention

activities. This includes community education and awareness raising in areas such as domestic violence, trafficking and drug abuse, youth diversion activities and vocational training. Community prevention work will involve participation of citizens in identifying priorities and solutions and applying for funding support through Commune Investment Funds.

To ensure cohesion, small grants and flexible partnership funds are clearly linked to the objectives of the delivery strategy. Small grants to communities would ideally focus on trialling changes relating to alternative dispute resolution and non-custodial sentencing. Similarly, flexible partnership funding would ideally focus on activities that produce outputs such as active use of the alternative sentence provisions of the penal code and effective civil society monitoring of the court register.

AusAID will use the services of an Implementation Services Provider to:

- manage financing and technical assistance that enables the Cambodian Government to implement its policies and monitor progress through its own systems;
- manage the financing of innovation and pilot activities with the potential for scalability implemented by other donors and/or civil society; and
- manage financing and provide fiduciary oversight of small scale infrastructure that provides complementary support to management reforms in the law and justice sector.

A National Management Board made up of representatives from both governments will approve annual plans, responsibilities and performance indicators. This will include representatives from AusAID, Ministry of Justice, Ministry of Interior, Cambodian National Police, Ministry of Women's Affairs, Council for Legal and Judicial Reform, Ministry of Social Affairs Veterans and Youth, General Department of Prisons and Ministry of Economy and Finance. A partnership approach between both governments will emphasise mutual accountability. Annual allocations will be based on the government fulfilling its obligations under the partnership agreement. This will be jointly monitored using government data and independent reviews.

Local Cambodian advisers will work across a number of ministries and agencies at the national and regional level to provide strategic guidance.

The 2011 mid-term review of CCJAP III recommended that AusAID take a more direct role in policy dialogue, managing relationships and setting the overall strategic direction of the program. In the past, the Managing Contractor has taken this role. The Review recommended that a program director be engaged – similar to the Australia Indonesia Partnership for Justice. This position is not feasible with available resources. So it is important that the First Secretary and Senior Program Manager for law and justice with support from the Counsellor have greater oversight of any Implementation Services Provider and engage with reform agents. This is already underway, and the move to Cambodia national advisers has been effective. Australia's place on the Law and Justice technical working group will be an important mechanism for engaging with other donors and identifying priority issues. AusAID's policy dialogue will focus on supporting inter-ministerial arrangements for alternative sentencing, increased government monitoring and use of data and RGC budget contributions, a government owned and affordable legal aid mechanism, integration of community policing and community safety, and finalisation of juvenile and police laws.

AusAID's work will also be supported by research and analysis and will work to prepare for a transition to the next phase of assistance. This includes mapping government Public Financial Management systems and funds flows from the National budget to support the functions of the justice sector at a national and sub-national level; mapping justice sector M&E, reporting and learning processes, and research and analysis to deepen our

understanding of sector context through studies on prison overcrowding (ICRC), community based justice models (The Asia Foundation), including government initiatives to reduce violence against women.

To prepare Australia to effectively contribute to the sector through this delivery strategy there are a number of foundational activities that have commenced in the final year of CCJAP Phase 3. Mapping government Public Financial Management systems and funds flows from the national budget to support the functions of the justice sector at a national and sub-national level; mapping justice sector monitoring systems, reporting and learning processes, and research and analysis to deepen our understanding of sector context through studies on prison overcrowding, community based justice models, including government initiatives to reduce violence against women. There is also an opportunity for Australia to engage in public finance management and decentralisation and deconcentration (D&D) where there are well developed arrangements for donor harmonisation and joint financing arrangements in place or under development. For example, Australia is an active participant in the Legal and Judicial Reform Technical Working Group that monitors progress on the Legal and Judicial Reform Strategy and coordinates donor support.

In addition, engaging with the sector wide approach (SWAP) by donors for decentralisation service delivery will give AusAID a seat at the table, with potential benefits of the SWAP for other aspects of the aid program. Integrating community crime prevention and community safety activities into D&D will also provide a mean of scaling up current pilots and leveraging additional finance from the government and other donors.

5.2 Financing modalities

The delivery strategy will be financed through one programmatic initiative and a number of activities funded through a small-grant mechanism and a flexible partnership fund. These will form the basis of three pathways to achieving the shared development outcomes. The Cambodia Community Justice Assistance Partnership initiative is the most significant investment – accounting for more than 90% of the proposed allocation through this delivery strategy, with small grant, flexible partnership and policy dialogue activities accounting for the remainder.

CCJAP is currently managed through a Managing Contractor, with the National Management Board approving expenditures reflecting agreed priorities. It works well, in the context of high fiduciary risk relating to use of government finance systems. We will continue to need an imprest account but would expect the financing modality for D&D designed by development partners such as EU and SIDA to accommodate earmarked and pooled funding for the work of mandated committees.

The proposed modalities for financing activities are selected to manage fiduciary risk and to focus efforts on delivering change before exit. There will be no direct use of RGC public finance management systems and a managing contractor will be engaged by AusAID and RGC to control funds. The International Team leader engaged by the managing contractor will oversight infrastructure procurement and small grant programs. With this independent fiduciary oversight in place we expect to allocate funding for infrastructure, using government procurement systems. This is currently managed through the imprest account. This approach was selected after careful analysis, including a Fiduciary Risk Assessment of the overall Public Finance Management system (which amongst other things confirmed that RGC systems are not yet sufficiently strong to enable Australia to use budget or sector budget support) and an EU assessment of financing through the operating account for the D&D program, that is promising, but not really using government systems.

5.3 Policy dialogue

Australian engagement in the Cambodian justice sector is now set in a context where RGC ownership and policy is in place and there are existing commitments to change. So policy dialogue is used for messaging by all Australian actors, in whatever forum, to acknowledge the progressive policies of the government and sector leadership and commit Australia to contribute towards implementing the agreed changes.

As policy issues emerge the Ambassador, Minister Counsellor or Counsellor progress dialogue with RGC. Senior level policy dialogue is undertaken by the Ambassador who delivers targeted speeches to signal policy issues that are shared, and constraints where Australia believes it can help. The Ambassador also uses lunches as a means of engaging in policy dialogue with RGC and civil society leaders on justice sector issues. The AusAID Minister Counsellor engages in policy dialogue with sector leaders on constraints to the sector, such as corruption, civil service salaries Australian government focus on Ending Violence Against Women, as a key focus for us in the justice sector. The First Secretary has regular meetings with the Chairman of the National Management Board, Minister for Justice and Ministry of Finance on sector policy and budget issues and engages with other government Ministries and Development Partners on cross-cutting issues of public financial management, decentralisation and the role of non-state actors in the sector.

As a bilateral donor and bilateral partner Australia has effectively engaged in policy dialogue with national and civil society leaders about strengthening the governance and delivery of justice in Cambodia. Entry points for policy dialogue during the life of this delivery strategy are detailed in Chart 2 and include:

- Planning for the exit of Australia as a bilateral donor to the sector by the end of this delivery strategy.
- MOI is driving reforms in Decentralisation and Deconcentration (D&D). The Organic Law mandates communes establish community security committees and strong government interest in absorbing the model of CCJAP3 CPSC pilots as the model for operations of the security committees. Policy dialogue needs to expand to areas within MOI leading D&D.
- Policy dialogue is encouraging MOJ initiatives (including alternative sentencing) and providing small financial support to enable MOJ to scale out improvements. We could link dialogue and financing to the Independent Investigation office.
- There is strong donor interest in a joint financing mechanism for legal aid, or a low-cost alternative such as community based para-legal support. This is led by UNOCHR and Danida. AusAID can support and offer financing if necessary using a policy dialogue approach.
- Prison overcrowding is a result of 1) a punitive culture; 2) lack of institutional mechanisms to support alternative sentencing in the community. However, the inevitability of ongoing increase in prison overcrowding is something all justice sector Ministries recognise needs to be addressed. We have work underway to establish duly authorised and collaborative inter-ministerial arrangements to work through the issue, identify arrangements and get community participation. This is the new reform that the next phase of assistance will tackle.
- Juvenile justice legislation has been forwarded to the Council of Ministers. UNICEF is a key stakeholder on juvenile justice and we will provide support if necessary for UNICEF to lead DP support for implementation.
- Funds available through a new budget measure to End Violence Against Women will be used to give the Ministry of Women's Affairs leverage on the CCJAP National Management Board and earmarked funding to implement its work-plan to prevent violence against women and increase social assistance to survivors of violence.

Chart 2 : Policy dialogue entry points for Australia

Australian Aid Objective	Policy dialogue	Stakeholder engagement	Financing
<p>Community Justice</p> <p>Cross cutting areas - violence against women, juvenile justice, harm reduction, disability, monitoring</p>	Phased exit from bilateral support to sector by 2015	MOI, MOJ, other development partners, UN agencies	Minimal – engage through existing forums and raise early to prepare phased transition to complete RGC and civil society funding
	Integration of community policing and commune security committees	MOI, bilateral dialogue and NMB	Minimal- support facilitation of forums and workshops; support legal information dissemination
	Government contribution to legal aid instrument; contribute expertise to feasibility and design work of joint DP mechanism	DP's, UNCOHR (lead donor), CLJR and MEF	Contribute funding and TA (if needed) for feasibility/design work; contribute to joint donor fund
	Embed commune security into D&D; expanded role of communes to provide alternative sentencing options	Invite NCDD (D&D) participation on NMB	Imprest account leading to financing through joint DP D&D financing modality. Dialogue around transparent use of funds and results
	Use full suite of options under the law	Collaboration between police, prisons, courts, communities, social agencies (MOWA, MOSVY, NCDD) and MEF – to be invited onto NMB	tbd – financed through imprest account and D&D modality
	Arrangements specific to Cambodia context and financially sustainable	MEF/NMB, UNCOHR, ICRC	Economic modelling of cost-benefits of alternative sentencing and implementation options
	Integration and implementation of RGC Violence Against Women policies into next phase	Justice sector Ministries, Ministry of Women's affairs; civil society partners; Women's and Children's Committees; GIZ, UNICEF	Partnership Agreement with UNWOMEN imprest account and/or D&D financing mechanism to support community based initiatives by civil society and Commune Village Safety and Women's Committees.
	Enactment and implementation of Juvenile Justice Law Trial "Child friendly courts"	Juvenile Justice Working Group, UNICEF National Management Board; Ministry of Justice; Juvenile Justice WG; UNICEF, Justice Nicholson	tbd– possible UNICEF Partnership to support their lead
	Integration of Harm Reduction policy into Community Safety Policy and CNP training	NACD, NMB, CNP Training Division, HAARP implementing partners	tbd – either through UNICEF partnership and/or grant to Australian NGO (Justice Nicholson's NGO)
	Introduce MMT into Phnom Penh prisons	NMB, GDOP, MOH, WHO, HAARP, UNICEF	Minimal, through HAARP and HSSP2 financing
			Minimal, technical support from HAARP TSU and HAARP Implementing Partners; ongoing

Australian Aid Objective	Policy dialogue	Stakeholder engagement	Financing
	Application of GOA and RGC Disability access/equity policies into CJS. Relevant, timely, accurate and use of M&E systems in the justice sector for planning and budgeting	NMB, MOSVY, justice Ministries; UNICEF, Disabled Peoples Organisations All justice sector Ministries, NCDD (Commune data base); civil society partners	dialogue/facilitation by Post. Analysis on, population size estimate and options (Desk and Disability Adviser) TA and some financial support

- AusAID will leverage current agency relationships with The Harvard Kennedy School of Government Program in Criminal Justice to support the Cambodian Government to use their own indicators to spark, reinforce, and communicate progress toward strategic goals to improve community safety and reduce prison overcrowding.

5.4 Linking government, civil society and delivery strategy

The linkages between the roles of government, civil society and the delivery strategy are summarised here for two outcome areas: community based justice and prison overcrowding.

Community based justice

- **Role of government** – MOI (National Police, D&D), MEF (sub-national financing, MOJ budget, legal aid budget); MOJ (Courts administration, alternative sentencing lead); MOWA (Violence against women); MOSVY (youth rehabilitation); Provincial Governments and Council (Courts, District and Commune Planning and priority setting, reporting to government on service delivery obligations); commune councils (mandated to operate community security committees; women's and children's committees); Council for Legal and Judicial Reform (provincial community justice forums).
- **Role of AusAID** – policy dialogue and high level advocacy as well as active supervision of activities under CCJAP initiative and small grant activities.
- **Role of development partners** – UNOCHR (Monitoring Human rights in prisons, leading development of legal aid mechanism); USAID (Co-chair L&J TWG); Danida (Co-Chair L&J TWG); UNICEF Juvenile Justice, Children's Court (AusAID Partnership Agreement); GIZ Violence against women (AusAID Partnership Agreement); WHO – health in prisons, mainstream harm reduction (MMT); ICRC – health in prison settings.
- **Role of civil society** – Legal Aid Cambodia – legal aid and community awareness and moderation/facilitation within the Courts for full justice options (funded through CDF/Human Rights small grants scheme); LICADHO – monitoring Human Rights, violence against women (funded through CDF/Human Rights small grants scheme); The Asia Foundation - AusAID Partnership Agreement, funded to undertake analysis on community based justice models to support next phase.

Alternative sentencing

- **Role of government** – Deputy Prime Minister and head of Council of Ministers, Minister of the Interior (Deputy Prime Minister); Minister for Justice – joint authorisation of alternative sentencing working group TORs and composition (being facilitated as part of transition strategy – key indicator of what is possible); MOJ – Controls use of alternative sentencing by Courts; need confidence in mechanisms to supervise alternative sentences; MOI – controls Ministries with responsibility for supervising alternative sentences and supports communes likely to offer community

service orders; MOSVY – youth community rehabilitation; MEF – financing of alternative sentencing institutional arrangements; Provincial governments, district and commune councils.

- **Role of AusAID** – policy dialogue and high level advocacy as well as active supervision of activities under CCJAP initiative and small grant activities.
- **Role of development partners** – UNOCHR – legal aid instruments to advocate alternative sentencing; ICRC – advocacy for implementation of prison overcrowding report (funded by CCJAP3); UNICEF – Juvenile Justice; D&D Program Based Approach (WB, UNDP, EU, SIDA, Danida) – capacity building sub-national levels of government; possible financing modality to sub-national governments; Danida – legal aid fund.
- **Role of civil society** – Legal Aid Cambodia facilitates/advocates alternative sentencing through national and provincial courts. UNWOMEN, GIZ and NGOs support victims of gender-based violence and advocates for changes in cultural norms towards such violence.

5.5 Support for cross-cutting policies and commitments

Cross-cutting issues that will be integrated in all strategy activities and outcomes relate to gender equality, disability, and HIV.

The overall gender strategy for delivery of Australian contributions to the Cambodian justice sector is based on pro-actively supporting women to participate in and benefit from participatory planning processes as well as mainstreaming gender in all activities covered by the delivery strategy and in assisting the partner agencies and project managers to mainstream gender in their work. The recent Ending Violence Against Women budget measure provides an opportunity to integrate key justice sector related components of the Cambodian National Action Plan to Prevent Violence Against Women into a new program, providing leverage to include the Ministry of Women's Affairs on the National Management Board and provide earmarked funds for initiatives that address violence against women and girls. The feasibility of integrating the legal enforcement components of the EVAW measure will be tested in July 2012.

The overall inclusive development strategy for the program is based on pro-actively supporting women and persons with disability to participate in and benefit from participatory planning processes. We have commissioned research on disability issues in the justice sector to get a better understanding of the issues and practical ways to support people with disabilities in conflict with the law.

Harm reduction policies (including for injecting drug use) introduced by the regional HAARP program will be integrated into mainstream training for the Cambodian National Police to get coherency between a progressive policy and local level application through the village safety policy. AusAID is in dialogue with the Ministry of Health to allow the continuation of Methadone Maintenance Treatment for clients who go to prison.

6 Strategy management

6.1 Fit with other parts of country program

This delivery strategy addresses proliferation by integrating into the program the following activities that contribute to the objectives of the law and justice delivery strategy for Cambodia:

- Community Development Fund activities that focus on the law and justice sector
- Mekong NGO Regional Program activities that focus on the law and justice sector
- Human Rights Small Grants Scheme activities
- Asia Regional Trafficking in Persons Project

There are a number of programs funded through the AusAID bilateral program in Cambodia and the AusAID East Asia Regional Program, which have the potential to complement, support and/or be strengthened by this delivery strategy. These are detailed in Annex 3 and include:

- Demand For Good Governance (DFGG)
- Human Rights Small Grants Scheme
- Community Development Fund
- Extraordinary Chambers of the Courts of Cambodia
- Mekong NGO Regional Program
- Cambodia Food Security Budget Measure – NGO Cooperation Agreements
- HIV/AIDS Asia Regional Program (HAARP)

The delivery strategy also takes into account several initiatives managed by other Australian Government agencies in Cambodia's law and justice sector. This includes short technical assistance provided by the Attorney-General's Department on legislative drafting and the Australian Federal Police Law Enforcement Cooperation Program with Cambodia, focused on transnational crime activities. The delivery strategy ensures that there is complementarity between delivery strategy initiatives and activities and WOG initiatives, as well as regular communication and coordination through the AusAID Post and Australian Embassy team.

6.2 Transition from existing to new program

The existing program will be modified to reflect the narrowed focus and the transition to exit from the sector. The narrowed focus includes modification of several existing activities that contribute to the end-of-strategy outcomes. These include:

- Modification of the CPCS pilots by embedding the model into the commune security committees. We will use a capacity building approach with experienced pilot communes building the capacity of neighbouring communes on a demand driven basis. Funds for this will be allocated by provincial or district councils, using D&D earmarked financing, leveraging off D&D administration capacity building funded by other development partners (see Annex 3).
- Existing small scale support for Legal Aid (through CCJAP and the Community Development fund) will leverage contributions from other development partners to become a national legal aid program, less reliant on Australian contributions.
- We will provide targeted funding for innovation and piloting that has the potential to scale-up through a small grants mechanism and flexible partnership funds. These funds will target activities that produce tangible outputs identified in the theory of change (Chart 1) and are clearly linked to intermediate outcomes under this delivery strategy.

- We will use EVAW gender-based violence (GBV) funds to leverage the influence of the MOWA on justice sector Ministries, and ensure the RGC's Action Plan on GBV is integrated into the Annual Work Plans.
- We will support strengthening and use of government monitoring systems, across all sector Ministries. We have started mapping all relevant government monitoring and reporting systems with the active support and encouragement of the sector justice ministries.

The major new initiative that requires minimal financing but active policy dialogue and inter-ministerial facilitation, is the identification of the community-based mechanisms to support alternative sentencing. This must be context specific and will not involve the creation of new institutions, unless funded by government. This is the subject of transitional work with MOI and MOJ hosting workshops amongst all stakeholders to explore options based on existing community arrangements. The scale-up of active community security committees, integrated with community policing, legal aid and legal information dissemination is fundamental to expanding alternative sentencing options.

6.3 Management and Resource implications

AusAID will manage implementation of the delivery strategy and portfolio of activities beneath it with the following resources:

- **National Management Board** – a group of senior officials from RGC and Government of Australia that oversee development and implementation of an Annual Work Plan. The National Management Board is responsible for ensuring that the joint RGC and GoA commitments underpinning the partnership themes continue to support strategic objectives of the RGC Village and Commune Safety Policy and the Legal and Judicial Reform Strategy as well as contribute to the agreed end-of-strategy outcomes. Membership of the NMB is proposed to comprise RGC appointees of Secretary of State or equivalent rank from: Ministry of Interior (Chair); Ministry of Justice; Council for Legal and Judicial Reform; Ministry of Women's Affairs (new); Ministry of Social Affairs Veterans and Youth (new) and Ministry of Economy and Finance. The GoA will appoint as a NMB member a representative of the Australian Embassy in Phnom Penh.
- **First Secretary – First Secretary** – overall accountability for delivering strategy, government and development partner policy dialogue and relationships, cross-cutting areas being integrated (*e.g.* disability, harm reduction, VAW, juvenile justice, D&D, PFM); ensuring performance information is routinely collected and available to Government of Australia and Cambodian Government. Approximately 30% of workload dedicated to law and justice.
- **Senior Program Officer** – overall responsibility for coordination of contractual inputs from tendered and Partnership Agreements and contract management. Activity management, performance management and preparation of annual QAI report, relationships across the sector at senior official and deeper levels of government; strong D&D background; civil society relationships; sub-national government relationships.
- **Desk/Performance Manager – Manager** – maintain whole-of-government relationships and advice to Post on relevant developments in policy as well as monitoring and reporting against the performance assessment framework. Liaison within AusAID (Thematic Adviser, OPS, and with WOG); Performance monitoring for APPR. Approximately 30% of desk manager workload to law and justice and <1% for performance and quality manager.
- **Law and Justice Thematic Adviser** – brings relevant international experience to support innovation, oversight of progress and performance monitoring for Governance Thematic review.

- **M&E Expert Panel** – will be used for Technical Advisory group monitoring implementation of the delivery strategy.

The constraining issues in the justice sector are not technical, but based in the political economy, public sector normative behaviour and the evolving government policy for community safety. To support RGC in the change process and transition from Australian bilateral support, other resources anticipated for implementation of the delivery strategy include:

- **Local Advisers** – for sectoral coordination, facilitation, capacity building of sub-national stakeholders; and program management. It is possible for these resources to be procured locally. Skills include: political/strategic; procurement (for infrastructure), imprest account/financial management and oversight; infrastructure supervision.
- **Whole of Government** – RGC would like access to occasional, short term inputs from Attorney General's Department and Australian Federal Police.
- **Technical Advisory Group** – team composition is to be confirmed but is likely to include individuals with international legal empowerment/rule of law competencies, combined with AusAID M&E expert panel as well as a L&J Adviser and RGC nominees.

6.4 Assumptions

The delivery strategy is based on the assumption that the Cambodian Government:

- will engage meaningfully with Australia to plan and implement the transition to exit of bilateral Australian support to the sector;
- has a genuine commitment to earn the confidence of the communities in the justice sector, especially for women, girls and boys;
- will fund the Communes for the work of the community security committees through the National Budget if the Provincial Governments present a Budget Strategic Plan linking policy, cost and outcomes for the RGC community and village safety policy;
- is willing to lead on implementing alternative sentencing options to imprisonment despite community attitudes; and
- will collaborate across Ministries to share and analyse data (sex disaggregated) for continuous improvement.

In addition, the delivery strategy assumes that:

- AusAID engages effectively in policy dialogue to plan and implement the transition to exit of bilateral Australian support to the sector;
- AusAID and implementing service providers maintain relationships across the program to ensure activities are sustainable and effective;
- AusAID and implementing service providers maintain focus on demand for safety and justice in the community, especially the needs of women, girls and boys, and on their relationships with sub-national authorities, courts and community based organisations; and
- AusAID uses innovative approaches to developing capacity at local levels to respond to community demands, such as south-south cooperation.

6.5 Risks and their management

There are developmental, program and institutional risks for AusAID and RGC agencies as well as risks associated with the Australian exit from the sector. These different risks are presented in detail in Annex 2 – Risk Management Matrix. These risks are interdependent in fragile states and it is important to balance them to ensure that mitigation of program risks does not increase other risks. The key mitigation approach is mutual accountability – which encourages effective management of fiduciary risks

through competitive resource allocation processes; a clear schedule for phasing out Australian support during the second half of 2015; effective acceptance by the RGC of responsibility to taking over budget and planning support for CPCS activities; and use of regular verification and evaluation to ensure efficient and effective delivery of results. There will be no new policy innovations. Rather the program will work to support government implementation of its existing laws and policies for community based justice where government leadership and political will are in place. The policy dialogue related to scope of Law and Justice Sector assistance will be at the agenda of High Level Consultation between both governments in June 2012.

Fiduciary risk is minimal under the programs proposed for this delivery strategy because there is no direct use of RGC public finance management systems and a managing contractor is engaged by AusAID and RGC to control funds. The International Team leader engaged by the managing contractor oversights infrastructure procurement and small grant programs. This approach was selected after careful analysis, including a Fiduciary Risk Assessment of the overall Public Finance Management system (which amongst other things confirmed that RGC systems are not yet sufficiently strong to enable Australia to use budget or sector budget support) and an EU assessment of financing through the operating account for the D&D program, that is promising, but not really using government systems.

Other risks associated with working with the Cambodian justice sector include:

- New and emerging democratic systems and governance structures in a recent post-conflict environment. This risk is moderate as the program is well embedded in new sub-national institutional arrangements required by the Organic Law.
- Inadequate budget allocations continue to create mistrust between ministries. This risk is high, to be managed 1) through the National Management Board to ensure a fair share of project resources to participating Ministries; and, 2) introducing principles of mutual accountability and the expectation that participating Ministries submit budget proposals for RGC funding that reflect the strategic priority of the activities as a basis for government budget support.
- Community continues to mistrust the formal criminal justice system. This risk is high given the systemic issues of corruption. The program logic accepts that this is unlikely to change much in the life of the strategy. Crime prevention, alternative sentencing, community policing and routine monitoring of the court register are strategies designed to increase confidence in the justice system. Support (external to the project) to Transparency International's partnership with the Anti-Corruption Unit to monitor courts has potential. There are indications the government and the ACU want to increase confidence of the people in the criminal justice system, using approaches that take account of the political economy in Cambodia.
- Low status of women within Cambodian society. This risk is high and will impact efforts to reduce domestic violence. Including MOWA on the National Management Board, and supporting civil society partnerships at the local level to promote behaviour change in men and women will complement other DP support for women's empowerment. This assistance will be led by MOWA with support from UNWOMEN, with AusAID facilitating partnerships between MOWA and MOI for implementing a comprehensive approach to EVAW.
- Weak coordination between agencies and committees responsible for design, authorisation and implementation of activities. This risk is moderate for the crime prevention component as the program will be implemented at the sub-national level, under the authority of the Provincial Governors, who have delegation authority to convene all de-concentrated line ministry officials. The risk is high for implementing the Corrections Law and introducing options for community correction. The new

program will provide strong support to the Alternative Sentencing working group (with broad government representation) established by the Minister for Justice and facilitate constructive working relationships, energised with good outcomes from the Provincial pilots.

- Unaccountable behaviour, corruption and fraud in execution of CCJAP. This risk is moderate to low based on experience to date. Program Advisers will have regular performance assessments, which include Government counterparts. The Cambodian Labour Law requires evidence of performance management to justify contract termination and all performance discussions will be documented. Project funds will be audited annually.
- Police may be reluctant to engage with the community on crime prevention /community safety. This risk is high to moderate. A cultural change is underway, but still relatively new, to have police located in communities, report to commune chiefs and support the work of the community safety committees. The high level (Prime Minister and Chief of Police) political support to the Commune and Village Safety Policy and Strengthening of Police Posts, and upcoming commune and national elections provide opportunities to help the police engage constructively with the communities they serve.
- CPCS activities identified in CIP plans take too long to execute. This risk is high to moderate, depending on capacity of communes to implement and alignment of project financing with the government's Commune/Sangkat Fund. Capacity support needs will vary and the capacity development strategy will reflect different needs.
- Corruption and fraud in the procurement process could occur through collusion during the bidding process; biased bid evaluation; and/or suppliers/contractors offering incentives for favourable treatment. This risk is moderate to low and will be managed by PAS and active implementation of the Commonwealth Procurement Guidelines.
- Lack of support and engagement of provincial government officials. This risk is moderate to low as the program objectives are genuinely shared and government ownership of the objectives reside with The Ministry of Interior, who direct the national policies to be implemented through the Governor's office.
- Judges reluctant to accept reforms in judicial administration. This risk is high. The emphasis on monitoring the use of the court register will provide regular opportunities for the National Management Board to compare and contrast different court practices and decide priorities for inspection.
- Community perceives that court system is corrupt and inefficient. This risk is high, and provides a rationale for the choice made in this strategy to keep people out of the court system if at all possible. AusAID has a couple of options to support an integrity assessment of the courts (Global Integrity, and Transparency International), which would be supported outside of the project, and hands off by AusAID. Working relationships with the courts is essential to implement the government's Correction Law.
- Australia's relationships with the Ministry of Interior suffers due to AusAID's withdrawal from the law and justice sector with negative consequences for cooperation on matters of Australia's national interest, in particular, transnational crime cooperation. This risk is moderate to high. To manage this risk we will facilitate broader engagement between the AFP Transnational crime team and the Ministry of Interior and extend AFP networks and relationships to include other areas of the Cambodian National Police in Phnom Penh and at the Provincial level.

6.6 Performance management

AusAID with inputs from its contracted ISP will establish a straightforward but rigorous performance management system for the Delivery Strategy. The Delivery Strategy

management system promotes a results driven focus that is underpinned by five core internationally recognised performance management principles:

1. focus dialogue on results at all phases of the development process;
2. align programming, monitoring, and evaluation with results;
3. keep measurement and reporting simple;
4. manage for, not by results; and
5. use results information for learning and decision-making.

The Cambodia Program will use a Performance Assessment Framework as the principal basis for assessing progress towards the Delivery Strategy development outcome targets. The Performance Assessment Framework (PAF) together with more background is presented in Annex 1. The PAF will be continually refined.

Performance Management System

The Delivery Strategy performance management system will be driven by an annual review and planning process. This will be associated with the preparation of the Cambodia Program Annual Program Performance Report (APPR) of the Cambodia Program. Towards the beginning of each year the Cambodia Program will:

- Discuss Delivery Strategy context and assess progress principally against PAF annual milestones. The PAF will be refined as appropriate and PAF annual milestones for the following twelve months will be established. Independent assessment of progress against key initiatives under the Delivery Strategy is expected to feed into this process.
- Prepare concise results narrative on progress achieved and management consequences for the next twelve months for inclusion into the APPR.
- Establish an annual work plan for the Delivery Strategy setting out key tasks and responsibilities for achieving annual milestones. This will draw heavily on the APPR management consequences section of the APPR. Consistency with the Cambodia Program Management Plan (PMP) which sets out key quality assurance events will also be necessary.
- Review and adjust individual Performance Development Plans (PDPs) to promote mutual consistency with Delivery Strategy annual milestones.

Delivery Strategy stakeholders including Australian Government agencies, Government of Cambodia and AusAID corporate and advisory support will be invited to engage in performance management discussions. The approach will be guided by AusAID's Performance Management and Evaluation Policy and changes that occur in response to the Independent Review of Aid Effectiveness (April 2011).

Measuring contribution of aid

Development change occurs principally due to the efforts of a country and its people. Measuring the specific contribution of Australian aid (or aid more generally) to this change is challenging but necessary for both management and accountability purposes. There will be a concerted effort to identify in advance the expected contribution of Australian aid to all Delivery Strategy development outcome targets and annual milestones in the Performance Assessment Framework.

Review and evaluation

A mid-term review of the Delivery Strategy will be conducted at the end of 2012-13. This will provide an opportunity to more broadly review progress under the Delivery Strategy and assess whether any major changes in approach or outcome targets are required. A final review of the Delivery Strategy is expected to occur in 2015.

AusAID will also explore the use of independent cluster evaluations at strategic points during delivery strategy implementation to ensure that results are being adequately

captured across the portfolio. These evaluations will inform decisions on scaling-up successful programs while discontinuing activities that are not meeting their target.

As part of the transition towards Australian exit from the sector, performance assessment will make use of RGC monitoring systems and also implement independent community perceptions surveys related to Country Strategy PAF and changes we identify as feasible for Australian Aid Objectives, as a basis of TAG reviews, in addition to normative project management reviews.

Annex 1

Performance assessment framework

Annex 1: Performance assessment framework

Explanatory Notes

The main objective of the Performance Assessment Framework (PAF) for the Law and Justice Delivery Strategy is to provide AusAID with the evidence needed to inform Australia's ongoing engagement. It is intended as an assessment tool for tracking progress against the three objectives. Each row of the PAF provides information relating to the objectives of the Delivery Strategy and consists of five columns (see also schematic diagram following page):

- **Goal 2015 (column 1)** *Why is the Delivery Strategy important to Cambodia?* The achievement of the strategy objective [column 2] is expected to **influence** this high-level development change. The Goal tells us **why** the achievement of the strategy objective is significant for the development of Laos. It helps to tell us why our support is important in political and development terms. As such, it represents an important advocacy and management tool for the Cambodia Program.
- **Delivery Strategy Objective (column 2)** *What are we trying to influence?* These are **measurable** objectives that are expected to be achieved with the support of the Australian aid program by 2015. These objectives have been identified based on areas where the Australian aid program is expected to have the most influence.
- **Objective Indicators (column 3)** *How do we know if we have been successful?* These indicators detail what is expected to be achieved by 2015. These represent the outcomes expected to be achieved at the end of the Delivery Strategy. It provides information to help AusAID tell us if desired changes **occurred** or **occurred with greater quality** as a result of AusAID's efforts.
- **Annual Milestones (column 4)** *How do we know if we are making progress?* Annual milestones are established at the beginning of each year to coincide with the quality reporting cycle and early program planning and management decisions. They allow us to track progress each year in order to achieve our objectives. Some milestones will be predefined and set over a three year period; others will evolve each year as new priorities are identified or new opportunities arise for Australian assistance. This flexibility enables AusAID to use information from the PAF to choose sectors, reassess priorities and guide interventions and actions during the implementation of this Strategy.
- **Australian interventions (Column 5)** *What actions are required by AusAID?* This sets out the activities, initiatives, policy dialogue, partnership agreements etc. that are necessary to achieve each objective. The opportunities identified in the Delivery Strategy provide a basis for actions to be undertaken by the country program.

Performance Assessment Framework 2012-2015

CRIME PREVENTION FOR SAFER COMMUNITIES			
Outcomes 2015	Outcome indicators	2012 milestones	GoA assistance (planned in <i>italics</i>)
1. <i>Women, youth and children are safer and communities have less crime</i>	<ul style="list-style-type: none"> Incidence of petty crime in commune (25% reduction) Reduced incidence of violence against women and girls (25% reduction) 	<ul style="list-style-type: none"> New major program of assistance begin implementation Roll out of CPSC to six new provinces Community-based justice grants support small-scale community activities to trial change 	<ul style="list-style-type: none"> CCJAP III (extension) Policy dialogue <i>New major program of assistance</i>
a. Community works better to demand and deliver safety	<ul style="list-style-type: none"> Proportion of commune women and men participating in community forums for CPCS planning (%) Number of women survivors of violence that access health and counselling support 	<ul style="list-style-type: none"> Community groups supported to reduce violence against women established 	<ul style="list-style-type: none">
b. Police force engages with community and responds to demands for safety	<ul style="list-style-type: none"> % of community respondents in participating communes perceive that police engagement has improved over past year (target more than 50%) 	<ul style="list-style-type: none"> Community policing integrated with commune village safety and security objectives 	<ul style="list-style-type: none"> Policy dialogue
c. Cambodians have greater awareness of the law, their legal rights & responsibilities	<ul style="list-style-type: none"> Community perception of their understanding of the law, their legal rights and responsibilities (increases by 10% each year) 	<ul style="list-style-type: none"> Legal information is communicated to citizens by MoI, MoJ, CNP, MoSVY, MoWA 	<ul style="list-style-type: none"> Policy dialogue
d. Strengthened systems for evidence based performance management	<ul style="list-style-type: none"> National crime database rolled out and used nationally 30% of districts and provinces provide on-time and on-quality crime data to CNP database 	<ul style="list-style-type: none"> 	<ul style="list-style-type: none">
e. Australia-Cambodia Mutual accountability	<ul style="list-style-type: none"> RGC policy reform 10% real increase in allocations to CNP, GDoP, MoJ and sub-national VCS as % recurrent budget 10% or more increase in allocation to commune safety in commune investment plan budgets for target communes % CCJAP implementation budget sourced RGC recurrent budget Variance from planned inputs, activities and outputs for whole-of-CCJAP and partners 	<ul style="list-style-type: none"> RGC Strategy for national roll out of CPSC RGC Policy to integrate community policing and crime prevention endorsed and communicated. Policy dialogue initiated to prepare for exit from sector after 2015 	<ul style="list-style-type: none">

NON-CUSTODIAL SENTENCING OPERATIONS			
Outcomes 2015	Outcome indicators	2012 milestones	GoA assistance (planned in <i>italics</i>)
2.) More effective non-custodial sentencing system	<ul style="list-style-type: none"> At least 30% of judges and prosecutors use alternative sentencing for more than 30% of their annual case load (gender disaggregated) 	<ul style="list-style-type: none"> New major program of assistance begin implementation Inter-ministry cooperation facilitated to enable non-custodial sentencing Flexible partnership funds used to support trials of non-custodial sentencing and related changes 	<ul style="list-style-type: none"> CCJAP III (extension) Policy dialogue <i>New major program of assistance</i>
a. Community attitude to non-custodial sentencing	<ul style="list-style-type: none"> 	<ul style="list-style-type: none"> 	<ul style="list-style-type: none">
b. Non-custodial sentencing options by court piloted	<ul style="list-style-type: none"> Number of courts and cases participating in community correction sentencing pilots 	<ul style="list-style-type: none"> 2 pilots on community corrections 	<ul style="list-style-type: none">
c. Strengthened systems for evidence based performance management	<ul style="list-style-type: none"> Proportion of courts effectively using court register (%)? 	<ul style="list-style-type: none"> MoJ uses Court Register to analyse, benchmark, interpret, use and feedback court performance data to strengthen policy and court management 	<ul style="list-style-type: none">
d. Australia-Cambodia Mutual accountability	<ul style="list-style-type: none"> RGC policy reform Variance from planned inputs, activities and outputs for whole-of-CCJAP and partners 	<ul style="list-style-type: none"> Policy dialogue initiated to prepare for exit from sector after 2015 	<ul style="list-style-type: none">

DELIVERY STRATEGY MONITORING TABLES

Crime prevention for safer communities

Indicator	Baseline	2012	2013	2014	2015	Means of verification / source	Expected Australian aid contribution to outcome / milestone
1	Incidence of reported petty crime in targeted communes (n/100,000)	14.4				<i>Mol/CNP annual reports</i>	What would be the expected reduction in reported petty crime if AusAID did not continue support?
	<i>Target</i>	14.4	14.0	12.5	10.0	<i>source of target figure to be confirmed</i>	
2	% commune women and men participating in community forums for CPCS planning	0				MOI/NMB annual reporting	
	<i>Target</i>	0	10	15	20	<i>source of target figure to be confirmed</i>	
3	% CIP budget allocated to community safety	6.9				MOI/NCDDS	
	<i>Target</i>	6.9	7.0	7.5	8.0	<i>source of target figure to be confirmed</i>	
4	average no. of police in commune post	6					
	<i>Target</i>	6	6	6.5	7	<i>source of target figure to be confirmed</i>	
5	% districts and provinces providing on-time and on-quality crime data to CNP database	XXX				XXX	
	<i>Target</i>	XXX			30%	<i>source of target figure to be confirmed</i>	
ANNUAL MILESTONES		2012 2013 2014 2015					

Non-Custodial Sentencing Operations

Indicator	Baseline	2012	2013	2014	2015	Means of verification / source	Expected Australian aid contribution to outcome / milestone
1	No. of non-custodial sentences delivered in pilot courts for petty crime convictions (% of total)	0 (0%)				Mol Inspectorate annual reporting	Without Australian support there would likely be no non-custodial sentencing (to be confirmed)
	Target	0 (0%)		(5%)	(25%)	source of target figure to be confirmed	
2	Number of judges/courts participating in non-custodial sentencing pilots	0				Mol Inspectorate annual reporting	Without Australian support there would likely be no judges/courts piloting non-custodial sentencing (to be confirmed)
	Target	0					
3	% courts effectively using court register	XXX				XXX	
	Target	XXX			51%	source of target figure to be confirmed	
4	% CCJAP implementation budget sourced from RGC recurrent budget	XXX				XXX	
	Target	XXX			30%		
ANNUAL MILESTONES		2012 2013 2014 2015					

Annex 2

Risk management matrix

Annex 2 – Risk management matrix

Risk event	Impact on end-of-program outcomes	Mitigation measures
Transition		
Local advisers and staff with key institutional relationships do not remain with project during the proposed transition phase	Unable to maintain established relationships, and momentum of new and ongoing activities during early 2012	<ul style="list-style-type: none"> Identify positions to be retained, & activities to be undertaken during transition Revise Scope of Services and confirm individuals to be contracted
Delays in processing Community CCJAP and related agreements	<ul style="list-style-type: none"> Existing momentum is interrupted, which reduces opportunities to chase change and scale-up Delays threaten timely delivery of outputs and achievement of end-of-program outcomes 	<ul style="list-style-type: none"> Include procurement and desk staff in design team Pro-active shepherding of design through peer review and preparation process by AusAID Post and Desk Pro-active shepherding of SA through RGC processes by NMB Chair
Developmental/context		
New and emerging democratic systems and governance structures in a recent post-conflict environment.	Law & justice sector ability to absorb new concepts, processes and practices may be constrained by institutional and individual capacity	<ul style="list-style-type: none"> Absorptive capacity monitored and program activities balanced accordingly Activities selected through the annual planning process reflect law & justice sector capacity Program harmonises terminology and materials with other donors to ensure.
Inadequate budget allocations continue to create mistrust between ministries	Tension between agencies will inhibit capacity to mediate change and develop policies	<ul style="list-style-type: none"> Support MoJ to develop clear policy for law & justice sector that is reflected in Budget Strategic Plan and explained to MEF Use of TWGs for pilots to build relationships as well as policies for MEF review Provide support to weaker agencies to develop planning and budgeting capacity
Community continues to mistrust the formal criminal justice system	Attempts to engage the community in project supported activities will be less successful	<ul style="list-style-type: none"> Support community – police forums before CIP planning process Communicate processes and decisions to improve transparency and responsiveness Support community education and awareness programs to communicate laws and procedures
Low status of women within Cambodian society.	Limited engagement of women in project strategies and exclusion of women from meaningful law & justice roles	<ul style="list-style-type: none"> Pro-active inclusion of activities for women and youth in CPCS menu of options Build capacity of women's focal point in Commune Council and members of CCWC Build capacity of village and commune women to participate in advance of community forums Support selection of women for inclusion in skills enhancement programs Strengthen law & justice institutions skills in crime prevention, supporting victims of crime, reducing violence against women Mainstream gender equity in all strategic plans Develop & use Gender Mainstreaming Strategy Recruit more women in CCJAP officers
Program implementation		
Corruption and fraud in the procurement process: <ul style="list-style-type: none"> Collusion during bidding process Biased bid evaluation Suppliers/contractors offering incentives for favourable treatment 	<ul style="list-style-type: none"> Reduction in value for money outcomes from procurement Reduction in the International and local reputation of CCJAP for management of procurement 	<ul style="list-style-type: none"> Active implementation of Anti-Corruption Strategy Program activities focus on enhancing transparency and accountability of process and decisions Program implementation underpinned by an anti-corruption strategy Partnership Support Fund to support anti-corruption, strategies, projects and activities Use of NGOs to reduce risk
Fiduciary risk from using government public finance management systems	<ul style="list-style-type: none"> Reduction in value for money outcomes from procurement Reduction in the International and local reputation of CCJAP for management of procurement 	<ul style="list-style-type: none"> no direct use of RGC public finance management systems managing contractor is engaged by AusAID and RGC to control funds. The International Team leader engaged by the managing contractor oversees infrastructure procurement and small grant programs
Lack of support and engagement of provincial government officials	End-of-program outcomes not achieved	<ul style="list-style-type: none"> Establish and support Provincial Project Co-ordination Committees Appoint government official as Provincial Coordinator Appoint chair of Provincial PCCs as observers on NMB Establish link with provincial PCC and ISP Team
Weak coordination between agencies and committees responsible for design, authorisation and implementation of activities	Delay in gaining support and implementation of initiatives, reduced likelihood of achieving end-of-program outcomes	<ul style="list-style-type: none"> Active role for NMB in management Strong support to NMB by ISP Ongoing communication / consultation between committee members Inclusion of counterparts in design and implementation processes
CPCS activities identified in CIP plans take too long to execute	Commune Committee members, District Focal Points and Provincial Coordinators may not engage	<ul style="list-style-type: none"> Support strengthened community participation in CPCS planning, implementation & monitoring

Risk event	Impact on end-of-program outcomes	Mitigation measures
	in meetings and planning discussions. Stakeholder groups will lose interest in the program if plans and activities take too long to be financed	<ul style="list-style-type: none"> • Support sub-national officials to engage in CPCS philosophy • Support, strengthen and use IP3 processes for CPCS activities • Support NGOs to develop plans and proposals that meet the criteria for the Partnership Support Fund
Police may be reluctant to engage with the community on crime prevention /community safety	Lack of participation of police may result in lost opportunities for enhancing police/community relations	<ul style="list-style-type: none"> • Actively facilitate community-police forums each quarter to build relationships around CPCS activities • Ongoing exposure of police to international good practice CPCS • Highlight links between community participation and improved confidence with police re CPCS • Formal community policing training from ASEANAPOL partners through Police Academy for select commune police posts
Judges reluctant to accept reforms in judicial administration	Judges reluctance to change from current inefficient methods in which Justice is administered slow the legal and judicial reform process	<ul style="list-style-type: none"> • Active involvement of Court Presidents and RAJP/SCM in TWGs implementing approved pilots for reform • Active implementation of pilots using incremental change processes
Community perceives that court system is corrupt and inefficient	Community confidence in the decisions of courts will be difficult to change	<ul style="list-style-type: none"> • Support to the RAJP to engage with communities through forums • Feedback to communities on court changes and quantitative process data • Co-ordination with other donor activities to ensure a consistent approach to improvement of judiciary
Institutional/reputational		
Un-accountable behaviour, corruption and fraud in execution of CCJAP	<ul style="list-style-type: none"> • Program seen as unaccountable • AusAID capacity to manage public funds called into question • Corrupt interference in the operations of the program including commune CPCS planning processes, selection of locations for activities and staff and contractors to support implementation 	<ul style="list-style-type: none"> • Anti-Corruption Strategy modified to align with RGC Anti-Corruption Legislation, Policies and Guidelines • Procurement for infrastructure works, technical assistance and large pilots to be managed by contracted Implementation Services Provider • Partnership Support Fund, administered by RGC provincial systems, subject to community audit locally, RGC audit consistent with RGC Standard Operating Procedures for ODA Projects and by AusAID independent auditors • Actively manage and monitor fraud in PSF transactions

Annex 3
**Other support to the
Cambodia justice
sector**

Annex 3: Other support to the Cambodian justice sector

Other Australian support to the sector

There are a number of programs funded through the AusAID bilateral program in Cambodia and the AusAID East Asia Regional Program, which have the potential to complement, support and/or be strengthened by this delivery strategy. These include:

Demand For Good Governance (DFGG)

The World Bank DFGG project aims to foster citizen demand for good governance approaches by supporting social accountability, strengthening state institutions and supporting partnerships between government and non-state actors, including civil society, independent media and labour unions. The project is focused on four priority areas of reform: private sector development, management of natural resources, public financial management, and decentralisation and citizens' partnerships for better governance.

Under DFGG, AusAID supports the Australian Broadcasting Corporation to advise national radio stations on use of talk back programs to increase citizen engagement in issues of governance and service delivery. Topics for the once-a-day, one hour talkback shows in Battambang and Siem Reap have included law and justice issues. There is opportunity for further content to be aligned to delivery strategy objectives around legal dissemination, community awareness and attitude change towards non-custodial sentencing. The program could also run training for media professionals in fair media representation of people in conflict with the law.

Human Rights Small Grants Scheme

Since 1997, AusAID has administered the Human Rights Grants Scheme, a global scheme which provides funding of up to A\$100,000 over one year or up to A\$150,000 over two years for organisations to pursue human rights activities. Organisations in Cambodia have consistently received funding under the initiative to pursue activities that promote and protect human rights in Cambodia, including for gender based violence activities, protection for human rights defenders, citizen court case monitoring, and public interest litigation and advocacy focused on land rights.

The Scheme contributes to planned delivery strategy outcomes by funding advocacy for politically sensitive issues, raising awareness in the areas of law and human rights, strengthening national and regional human rights institutions and policies, and by directly benefiting marginalised groups through service delivery, including women, children, youth, people with disability, people living with HIV/AIDS and Indigenous Peoples.

Community Development Fund

AusAID administers the Community Development Fund from its Phnom Penh office. The Fund targets the most vulnerable communities, focusing on activities that reduce poverty through direct, tangible and sustainable ways. Law and justice is one of six focus sectors for support. Project funds are provided from US\$30,000 to US\$60,000 per year for proposals of 2 or 3 years duration. To be eligible activities must meet local priorities identified in Commune Investment Plans. Support includes contributions to Legal Aid Cambodia for prevention and protection for children in conflict with the law. Training is provided to Cambodian criminal justice officials on diversion of child offenders, children's rights, and national and international law. Detained children are also being trained to empower them to better understand their legal rights. AusAID is also supporting the This Life Beyond Bars initiative to support education and vocational training in Siem Reap prison, support children with parents in prison, and for community awareness activities. Previous support under the

Fund included support for legal protection to women and children victims of domestic violence and abuse, legal aid for women on pre-trial detention, legal training of prison officials and police and community awareness activities.

Like the Human Rights Small Grants Scheme, these grants contribute to delivery strategy outcomes, by providing direct support to vulnerable groups targeted by the delivery strategy, and by supporting innovative and pilot initiatives in the justice system. In this way, they can provide lessons learned, data, and provide activities that if successful, could be scaled up by CCJAP under the delivery strategy.

ECCC

Australia has provided \$16.7 million to the Extraordinary Chambers of the Courts of Cambodia to support the trial of former Khmer Rouge leaders for crimes against humanity. The ECCC is a hybrid court with a national Cambodia, and an international UN side. The ECCC has increased the capacity of local judicial officers involved and trained by the tribunals.

Mekong NGO Regional Program

AusAID is currently designing a new framework for NGO assistance in the Mekong. Funding is likely to be allocated in alignment to country priority sectors. NGO activities in the law and justice sector in Cambodia can complement delivery strategy activities and objectives. Focus should be on facilitating partnerships between NGO activities and CCJAP, promoting sharing of lessons and policy dialogue, as well as engaging with and strengthening the capacity of local civil society in the law and justice sector.

Cambodia Food Security Budget Measure – NGO Cooperation Agreements

AusAID is currently designing a new framework for NGO partnerships focused on food security and social protection in rural areas. There is an opportunity for these activities to complement the youth diversion and vocational training activities proposed under the delivery strategy. In particular there are opportunities to focus NGO activities in CCJAP partner provinces on micro-finance as well as value chain support to understand and access markets to contribute to food security. Effective results from this delivery strategy should also support food security and social protection measures by improving community safety and contributing to a business enabling environment.

ARTIP

The Asia Regional Trafficking in Persons Project (ARTIP) aims to contribute to the prevention of trafficking in persons by facilitation more effective and coordinated approaches to trafficking by national governments, including Cambodia. ARTIP has worked with Cambodian judges and police on trafficking issues.

HIV/AIDS Asia Regional Program (HAARP)

HAARP is an AusAID regional program that aims to strengthen the capacity and will of governments and communities in South East Asia and China to reduce HIV-related harm associated with drug use among men and women. In particular, the Cambodia Country Program of HAARP aims to reduce the spread of HIV associated with injecting drug use among men and women by supporting key enabling, and service delivery elements, of the National Strategic Plan for Illicit Drug Use Related HIV/AIDS 2008-2010. The program is supporting the scale up and expanded coverage of needle syringe programs in Phnom Penh and in up to four provincial 'hotspots'. It is also supports the establishment of opiate substitution treatment through providing procurement, technical and client support services for a methadone maintenance therapy program. HAARP is working through Family Health International to develop local data that could support program expansion and coverage, including population size estimates.

HAARP works with the National Authority for Combating Drugs in Cambodia to strengthen multi-sectoral responses to drug use, HIV/AIDS and harm reduction. These activities include a range of supply and demand reduction approaches: from intensive law enforcement countering the use and trafficking of drugs, to community-based prevention approaches and the provision of treatment and rehabilitation for drug users. This delivery strategy can link into the community based prevention approaches, and support rehabilitation or harm reduction for injecting drug users who have been incarcerated (as an alternative to the national drug treatment centres). Links between HAARP and this delivery strategy could also support HIV/AIDS treatment in prisons, and ensure transmission risks are minimised in overcrowded prisons.

Ending Violence Against Women Budget Measure

The Cambodia program is planning to program some of the Ending Violence Against Women Budget Measure 2011/12. At this stage, funding is being investigated to support the Cambodian Women's Crisis Centre (CWCC) to increase its service delivery to survivors of violence.

The CWCC operate across three components: protection, prevention and advocacy and has strong links with AusAID partners in the Cambodian Government, namely the Ministry of Women's Affairs. The Ministry of Women's Affairs is in the preparatory stages of determining to support 'One Stop Service Centres' – which at some stage AusAID may support during this strategy.

Women migrants often are emotionally and/or physically abused by their employers in host countries. AusAID may also consider how to better assist these women to be better prepared when travelling overseas for employment, and how to access justice when instances of violence occur in Cambodia

Whole of Government Initiatives

The delivery strategy also takes into account several initiatives managed by other Australian Government agencies in Cambodia's law and justice sector. This includes short technical assistance provided by the Attorney-General's Department on legislative drafting and the Australian Federal Police Law Enforcement Cooperation Program with Cambodia, focused on transnational crime activities. The delivery strategy ensures that there is complementarity between delivery strategy initiatives and activities and WOG initiatives, as well as regular communication and coordination through the AusAID post and Australian Embassy team.

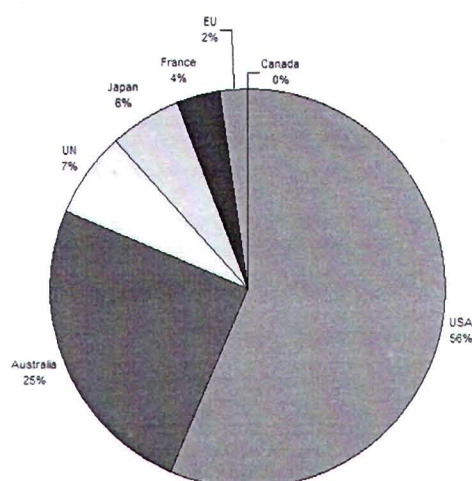
Development partner support to the sector

Development partners work with RGC to contribute towards changes in crime prevention, safety, and justice reform. As shown in Chart 3-1, besides AusAID support for CCJAP, several other donors have provided assistance to the Cambodian justice sector. For instance, DANIDA works with the Council for Legal and Judicial Reform; French and Japanese governments provide support for the drafting of the Criminal Code and Code of Criminal Procedures; the Civil Code and Code of Civil Procedures and also the Bar Association and the National Police; UNDP promotes access to justice at the local level; USAID supports the promotion of rule of law and the protection of human rights; and UNICEF provides support on child justice and juvenile crimes.

Existing strategies have focused on institutional strengthening (*e.g.* DANIDA worked with MoJ to pilot Model Courts, UNDP piloted alternative dispute resolution in 6 provinces) or system-wide approaches (*e.g.* CCJAP-III was designed to work across MoJ, MoI, GS-CLJR, CNP and GDoP to strengthen the criminal justice sector as a whole). These strategies have consistently faced two system-wide constraints: (1) limits to practical judicial reform that

undermine a more independent judiciary; and (2) institutional fragmentation of the law and justice sector.

Chart 3-1 : Donor support to law and justice in Cambodia 2010



As shown in Chart 3-2, the Council for Development of Cambodia (CDC) lists 38 law and justice projects in Cambodia financed by ODA, of which 18 are on-going. There are also 5 other activities listed under the 'Gender' subtopic on the CDC database which include legal and judicial support and 3 listed under 'Other' in the governance and administration sector list that also support the justice sector. Key donors include Australia, European Union, France, Japan, UNDP and USA. ODA investment in the sector was around A\$150 million over the past 6 years, of which Australia contributed in the order of 25%.

Chart 3-2 : Recent and on-going law and justice initiatives in Cambodia

1	Australia	Cambodia Criminal Justice Assistance Initiative Phase III	ING723	5-Feb-2007	31-Jan-2012	23,868,731 AUD	On-going
2	Australia	Law Enforcement Cooperation Program	AUCBR9	1-Jan-2008	31-Dec-2015	2,400,000 AUD	On-going
3	Australia	Support to Khmer Rouge Tribunal	INF671	24-Jun-2004	30-Dec-2010	10,883,596 AUD	On-going
4	Canada	Strengthening Access to Justice through Legal Sector Development	A-033925-PRG	12-Feb-2008	31-Mar-2010	202,595 CAD	On-going
5	EU/EC	Combating Torture Against Children and Improve the Conditions of Inmate Children in Prison	EIDRH/2010/255-504	1-Jan-2011	1-Jan-2013		On-going
6	EU/EC	Establishment of a Database of Legal and Regulation Texts and Dissemination of Thematic Reports for the Strengthening of the Rule of Law and Human Rights in Cambodia	EIDHR/2009/218717	18-Dec-2009	17-Dec-2013	197,751 EUR	On-going
7	EU/EC	Extraordinary Chambers of the Courts of Cambodia (ECCC) and International Criminal Court (ICC) Justice Project	DDH/2006/119913	13-Dec-2006	11-Apr-2010	950,000 EUR	On-going
8	EU/EC	Improved protection for children in conflict with the law	EIDHR/2010/248-095	1-Jan-2011	1-Jan-2014		On-going
9	EU/EC	Support to the Extraordinary Chambers of the Courts of Cambodia (ECCC) - National contribution	DCI-ASIE/2010/246-053 (EC)	23-Jul-2010	13-Oct-2011		On-going
10	EU/EC	Support to the Khmer Rouge Tribunal (KRT)- Cambodian budget share of KRT operations	DDH/2005/111692	1-Jan-2006	31-Dec-2010	995,100 EUR	On-going
11	EU/EC	Victim and Witness Protection Standards for the Khmer Rouge Tribunal and Beyond	DDH/2006/119842	1-Jan-2007	1-Jan-2010	400,000 EUR	On-going
12	France	Support to Khmer Rouge Tribunal		6-May-2005	31-Dec-2010	4,150,000 EUR	On-going
13	Japan	Legal and Judicial Development Project (Phase 3)		9-Apr-2008	31-Mar-2012	353,657,000 JPY	On-going
14	Japan	Project for Legal and Judicial Cooperation with the Bar Association of the Kingdom of Cambodia		1-Jun-2007	31-Mar-2010	140,576,000 JPY	On-going
15	Japan	The Project for the Improvement of the Training on Civil Matters at the Royal School for Judges and Prosecutors of the Royal Academy for Judicial Professions (Phase 2)		1-Apr-2008	31-Mar-2012	282,551,000 JPY	On-going
16	UNDP	GOV Legislature assistance project	00056936	1-Jun-2007	31-Dec-2010	1,896,838 USD	On-going
17	UNDP	GOV Strengthening Democracy and Electoral Processes in Cambodia	00048067	1-Jan-2006	31-Dec-2010	9,713,064 USD	On-going
18	USA	Improved Political and Economic Governance	442-012	13-Oct-2005	30-Sep-2011	92,203,000 USD	On-going

Source: <http://cdc.khmer.biz> accessed May 18, 2011