



USAID | **CAMBODIA**
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Evaluation of the Program on Rights and Justice (PRAJ)

FINAL REPORT

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The authors' views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

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ACRONYMS

ABA	American Bar Association
ADHOC	Cambodian Human Rights and Development Association
AJA	Access to Justice Advisor (PRAJ)
AusAID	Australian Agency for International Development
BAKC	Bar Association for the Kingdom of Cambodia
BFD	Buddhism for Development
CCD	Community Capacities for Development
CCHR	Cambodian Center for Human Rights
CDP	Cambodian Defenders Project
CHHRA	Cambodian Health and Human Rights Alliance
CHRAC	Cambodian Human Rights Action Committee
CLE	Continuing Legal Education”
CLEC	Community Legal Education Center
CLJR	Council for Legal and Judicial Reform
CSD	Center for Social Development
CWCC	Cambodian Women’s Crisis Center
DANIDA	Danish International Development Agency
EWMI	East-West Management Institute
GRC	USAID-PRAJ Grant Review Committee
HLWG	High Level Working Group
HR	Human Rights
HRCP	Human Rights Cambodia Project
ILF	Impact Litigation Foundation
JICA	Japan International Cooperation Agency
KKKHRO	Khmer Kampuchea Krom Human Rights Organization
KNKS	Kumar Ney Kdei Sangkheum
LAC	Legal Aid of Cambodia
LCO	Legal Consultation Office
LICADHO	Cambodian League for the Promotion and Defense of Human Rights
LSCW	Legal Services for Children and Women
LTC	Lawyers’ Training Center

MOU	Memorandum of Understanding
NGO	Non-Governmental Organization
PILAP	Public Interest Legal Advocacy Project (part of CLEC)
PINGO	Public Interest NGO
PRAJ	Program on Rights and Justice (EWMI)
PMP	Performance Monitoring Plan
RAJP	Royal Academy for Judicial Professions
RCG	Royal Cambodian Government
RFA	Request for applications
RULE	Royal University of Law and Economics
SCW	Save Cambodia's Wildlife
TA	Technical Assistance
TAF	The Asia Foundation
UNDP	United Nations Development Programme
UNTAC	United Nations Transitional Authority in Cambodia
WMC	Women's Media Center

EXECUTIVE SUMMARY

This evaluation report was commissioned by USAID Cambodia as part of a package of evaluation and design efforts that began in late 2007. The contract for this package was awarded to Checchi and Company Consulting, Inc. The purpose of this evaluation was to evaluate the USAID-funded Cambodian Program on Rights and Justice (PRAJ) project implemented by the East West Management Institute (EWMI). The project began in November 2003, and will end in 2008. This end of project evaluation also serves to inform a follow-on design effort for a new USAID program in the Human Rights and Rule of Law sector in Cambodia. Field research for the evaluation was conducted in November and December, 2007, and the draft final report was submitted to USAID on January 10, 2008.

The evaluation team consisted of two development professionals with considerable experience in the democracy, human rights and rule of law sectors. Using a mixed method approach, the team conducted interviews with Cambodian NGOs, government officials, legal educators, practicing lawyers, and a variety of beneficiaries who were assisted by PRAJ's Cambodian partners. A written questionnaire was completed by 31 of 37 grantee partners. Project documents and reports were sampled and synthesized, and project staff were interviewed at length, as were representatives of other donor countries active in the Human Rights and Rule of Law sector.

The project evolved and changed considerably between 2003 and 2007 in response to decisions made in the United States and by the Royal Cambodian Government and other institutions, so that by 2007, the project did not bear a close resemblance to the original winning proposal developed by EWMI. By 2007, the project had expended just over \$19 million dollars of the \$22.65 million obligated through June 30, 2007.

Through a combination of competitive and unsolicited (direct) grants, training, technical assistance, participant observation and some infrastructure rehabilitation, PRAJ supported human rights advocacy, direct legal representation, professional development for lawyers and magistrates and, since 2005, assistance to government judicial institutions. The largest and most durable component was the grant support for Human Rights NGOs, followed by the Public Interest Legal Advocacy Project (PILAP), support for 'legal defender' NGOs, legal training development in several venues and, after 2005, direct support for the Ministry of Justice, the Royal University for Law and Education, the Council on Legal and Judicial Reform and, most recently, the Ministry of Interior (not evaluated in this report.).

The report presents detailed findings, analysis and conclusions specific to each component of the PRAJ program. It also provides general conclusions and recommendations, which are presented here. The conclusions are organized in response to the questions posed in the USAID Statement of Work for this evaluation (see Annex C).

CONCLUSIONS

Relevance

“Are hypothesis and assumptions behind each program still valid?”

The answer to the questions about the validity of the hypotheses underlying each program is “partially”. The conclusions section of this report presents a detailed summary response to this question, which is developed in greater detail in the body of the report.

In general, we conclude that several of the hypotheses underlying the various programs were valid and were to a considerable extent realized. Others were unrealistic and based on too optimistic assumptions about the possibilities for change in the Cambodian judicial system, especially with regard to the ability to effect structural reform through advocacy and high visibility cases.

Effectiveness

How appropriate are implementation strategies in reaching the objectives of each program? What are the unintended consequences and effects of each program and how did they occur?

In general, we found very few instances where responsibilities and targets were not met, although a definitive answer is difficult to achieve over the entire time span because the targets set in PMP documents constantly changed, and appear to be more focused on outputs than on results and impact.

With respect to implementation strategies, adjustment to realities that might have been better anticipated has been a hallmark of the entire program. Examples include the bridge funding program in response to the failure to prepare a transition from TAF budget support to a competitive grant program in 2004, the shift from the Law Foundation concept to internalizing much of the grant making and training support in PRAJ, and the shift in the PILAP strategy from a legal precedent setting focus to a political advocacy approach. Nevertheless, PRAJ did adjust quickly and effectively to these roadblocks.

Unanticipated consequences include an exceptional heavy financial and project reporting requirement on a quarterly basis, along with annual and variable RFAs, which, for many NGOs, are deleterious to long range planning and strategy implementation. Another unanticipated consequence is the threat to the professional standing of lawyers who have chosen to work with NGOs such as CLEC and LICADHO. The attention paid to promoting political advocacy may have had the unanticipated consequence of refocusing the work of a major legal defense provider away from the courtroom toward the more high profile work of political (cum legal) advocacy.

Cost-Effectiveness

Are the results achieved being produced at an acceptable cost compared with alternative approaches? What alternative approaches exist which could achieve results with greater efficiency?

Because PRAJ is a collection of sub-projects, each with its own cost equation, it is impossible to generalize to PRAJ as a whole. To analyze cost effectiveness on a component by component basis would have required more and different data than the team was able to collect in the time available. Finally, in a program like this, it is extremely difficult to quantify the unit of output. If it is the number of cases undertaken, the PILAP program averages over \$200 000 per case. If the output is giving hope to large numbers of families engaged in land grabbing disputes, the number drops. If the unit of output is the acceptance and spread of the concept 'fair and just compensation', the cost cannot be calculated.

The single most costly program, the HR NGO component, is the most cost effective in one respect. The ratio of expatriate cost to overall program cost is very low compared to all the other components. On the other hand, the requirements of an annual competitive grant program with a quarterly reporting, quarterly budget projection and advance system raise operating costs for PRAJ and partners considerably.

Several PRAJ components are, at this point, very labor intensive, including the just developing array of activities with the RGC justice authorities. However, once it is determined precisely what role USAID is able to play in formal judicial reform, it should be possible to achieve some economies of scale.

Impact

What has been the impact of activities implemented on Cambodia? Beyond immediate stakeholders, has this project had an impact on civil society, government or the private sector?

In general, USAID support for human rights continues a tradition begun in the early 1990s when Cambodia was emerging from the nightmare of the Khmer Rouge and Vietnamese occupation. By continuing this support, while nudging the NGO establishment in the direction of improved professional competence, advocacy, and, especially, taking on the job of promoting, networking and empowering local people, PRAJ has helped to begin reversing a serious problem faced by all Cambodian civil society: the excessive but necessary reliance on foreign donors. This reliance undermines the legitimacy and the political power of the public interest section of civil society to advocate for the public interest. Whether Cambodian NGOs will be able to develop the skills and commitment to this kind of advocacy or not, legitimacy and roots in a constituency are necessary conditions for this to happen. More could be done to strengthen the process begun with PRAJ.

We also conclude that the HR NGO component shares many of the characteristics of USAID civil society programs in other countries, except for the emphasis on Rule of Law. From the beginning, USAID had conceived its support for human rights NGOs as a Public Interest NGO support program, to distinguish it from support for social service organizations. With PRAJ, this concept was narrowed to Human Rights and Law, while the very character of human rights violations was changing dramatically. Most issues in the Partner portfolio emerge from poverty, lack of clear title, dysfunctional and alcoholic husbands, sexual exploitation, and a bundle of lesser evils associated with a society struggling to cope with change, new found wealth, and a growing gap in power and affluence between the minority and majority.

The evaluation team believes that the effort to deal with these problems through the windows of human rights advocacy and law may simply be too **narrow** to change what has to occur through much broader policy and institutional changes in governance of the economy as well as the polity.

With respect to internal controls and monitoring, our review of the files, the risk assessment documents, and the systems put in place to insure that financial probity is achieved in all transactions leads us to conclude that PRAJ has a very tightly controlled grant administration system. When it comes to substantive monitoring and evaluation, our interviews with PRAJ's professional staff yielded the conclusion that each program manager was very much engaged with his/her clients, and had acquired detailed and intimate personal knowledge of each component. Monitoring in the informal but effective management sense has been excellent. However, the preparation and use of Performance Monitoring Plans (PMP) has suffered from constant changes and emphasis on detailed output measures which appear, from interviews with staff, to be of little real relevance to the management of PRAJ.

On the evaluation side, even though for a time there was a monitoring and evaluation officer, the files and interviews revealed only a few instances of efforts to undertake systematic evaluation of

the impact and results of funded programs. The two media organizations, WMC and Equal Access, do a better job than most, although the CSD Court Watch program is a form of systematic evaluation which has improved under PRAJ guidance.

Impact is difficult to measure in the government ROL sector; there has simply not been sufficient time for PRAJ to implement a full range of programs. It appears that the appropriate beneficiaries have been targeted, but there are questions as to whether there is sufficient “buy in” by counterparts. This can only be realized by counterpart activity that demonstrates a commitment to reform – strict timetables for implementation of a court model by the MOJ, incorporating training modules into a permanent curriculum by the RAJP and RULE with a sustainability strategy in place, etc. Moreover, the legal aid NGOs must develop mechanisms that measure effectiveness and these must be incorporated into PMP reporting. Though these organizations might be better administered and managed than in past years, if it does not translate into a more professional work product on behalf of clients, PRAJ’s input will be wasted.

Donor Coordination

To what extent has each program coordinated, supported or complemented other USAID projects or those of other donors in the same area?

Our conclusion addresses the ‘other donor in the same area?’ part of the SOW question. For historical reasons, USAID has enjoyed much greater freedom of action in supporting Human Rights NGOs even though these NGOs receive funds from diverse donor sources. NGOs have learned to manage multiple donors and their respective projects, and they do so with PRAJ as well. Coordination here is more a matter of information sharing than it is coordinated action, and Cambodia is replete with information forums, in which USAID and PRAJ participate. With respect to RCG legal and judicial institutions, the field is crowded and US support must be coordinated with other donors if it is to be effective. Up to now, the relatively small ROL program mounted by PRAJ has been opportunistic and niche filling, rather than comprehensive and strategic. PRAJ has demonstrated the ability to work in a coordinated fashion with the principal other donors, and is considered by them to be a valuable, if still uncertain, addition to the reform effort. Whether USAID can fashion a greater role for itself in the future will depend very much on defining a more focused strategic approach, as well as building on the working relationships that have already been established.

Sustainability

Based on result to date, are programs likely to engender sustainable development impacts after USAID funding has stopped?

Based on the evidence presented in the body of this report, we conclude that the sustainability of each of the various components will depend for the near future on whether USAID and other major donors choose to continue to provide support. On a case by case basis, NGOs participating in PRAJ are undoubtedly better equipped to compete for funds than before, according to their own assessment. However, their reliance on multiple donor support will continue for some time as there is little on the horizon that would suggest the development of an indigenous philanthropic giving program, especially for obstreperous public interest NGOs.

With respect to Access to Justice NGOs, the team concludes that this, along with the Court Watch program, is the one tool in the PRAJ kit that is using lawyers to do the daily, difficult job

of trying to defend poor and marginalized people. Providing legal defense for the poor is never the most attractive career for a lawyer, yet in a country like Cambodia, perhaps the most effective pressure that can be brought to bear for actual implementation of legal reform is the combination of professionally competent defense and consistent widely publicized monitoring of the performance of the judicial system.

Innovative educational programs in universities are notoriously difficult to sustain, as local counterparts often rely on donors to fund costs related to logistics and teaching fees. If the persons/institutions in charge of educational budgets do not support these innovations, these costs cannot be absorbed when the donor closes its program. PRAJ has just launched several training programs with RAJP and RULE. Close coordination with these counterparts in developing a sustainability strategy with educational budget authorities will have to be a priority.

RECOMMENDATIONS

The team is aware that a program design effort will soon be underway to assist USAID to develop the next generation of democracy, rule of law and civil society programs, as well as programs related to the economic and business policy enabling environment in Cambodia. Therefore our recommendations will be focused on what might be most helpful to those charged with these design efforts.

1. There are three types of NGOs operating under the HR banner: human rights advocacy NGOs which educate, monitor, and advocate; Rule of Law NGOs that provide legal services, and Public Service NGOs that seek to help poor and marginalized people in rural areas. Consider creating a separate program for the Human Rights NGO combined with one for the Public Service NGOs. Legal Aid NGOs should be included in a future Rule of Law program. To manage efficiently, this approach will require a combination of fewer grantees among the establishment NGOs in each category, but with greater flexibility to build local level constituencies and to fund investigations and promote activism. The key to long-term sustainability of Cambodian NGOs is their ability to build indigenous constituencies for their activities and objectives.
2. For current Public Service NGO partners that are essentially focused on mitigation, amelioration, mediation, rehabilitation and support for an array of issues and exploitation associated with poverty and powerlessness, establish a civil society program that would combine continued organizational strengthening with their capacity to do this kind of useful work.
3. For Human Rights Advocacy (HRA) NGO partners with a proven track record and good annual audits, consider longer-term grants and reduced frequency of reporting and financial project requirements.
4. Increase the emphasis on results rather than output reporting, including systematic impact evaluations by each partner at an appropriate stage in the relationship.
5. Encourage means by which advocacy can be strengthened by providing incentives for greater cooperation, better analysis and case documentation, and more persistent advocacy behavior among HRA NGOs. At the same time, develop incentives by which HRA NGOs learn to focus on policy constraints and alternatives, using the case by case approach to accumulate evidence for broader structural change.
6. For Legal Aid NGOs, begin to integrate the concept of 'high impact' cases into the dossier of all legal defense partners if feasible, but focus their primary effort on bringing cases to court,

again and again. Any advocacy work by legal aid NGOs should be closely monitored for possible unintended consequences.

7. Expand the Court Watch program to all 30 courts, while standardizing the performance data into five or six key indices on which data are consistently collected, analyzed and widely publicized. This will facilitate results measurement viz any Rule of Law institutional development program.

8. Engage the BAKC and creatively address their objections to lawyers working directly for PINGOs by, perhaps, exploring the idea already afloat about helping to establish public interest law firms, or by providing resources to PINGOs by which legal services could be retained and used on a contractual basis.

9. Continue to encourage the interaction between legal aid NGOs and human right NGOs, with the idea that legal aid NGOs can push for incremental change in the judicial sector followed by public interest advocacy campaigns by human rights NGOs.

10. Focus on changing the day-to-day operations of the courts in order to increase efficiency but push for reform “space” in the ROL sector through the model court program *only* if the CLJR and MOJ take concrete steps to advance an operational working model that can be expanded into other Cambodian courts within a strict timeframe.

11. Try to increase the interface of professionally trained judges and lawyers by focusing on training programs to the extent possible. However, engage the RAJP, LTC and RULE *only* if the training programs are incorporated into a sustainability strategy that is part of the ongoing operations of the targeted institutions.

12. Conduct an analysis of *any* further policy formulation or initiatives issued by the MOJ, CLJR and/or TWG to ensure that goals and objectives (described as *efficiency* and *transparency* in PRAJ quarterly reports) can be addressed by USAID project intervention within a reasonable period of time, and engage the government *only* if the policy formulation addresses structural or institutional changes to court activities.

13. Closely monitor legal aid NGOs for both quantitative and qualitative results that can be documented. PMP reporting must be “tightened” so that USAID can evaluate legal aid impact on the legal system. Monitoring of client satisfaction must be incorporated into reporting mechanisms.

I. BACKGROUND

Human Rights Cambodia Project (HRCP) 2003-2005

USAID support for Cambodian Human Rights non-governmental organizations (HR NGOs) began in 1994 with a Cooperative Agreement with The Asia Foundation (TAF). The first five grants of \$25,000 were made to five newly formed NGOs including LICADHO and ADHOC. In 2003, USAID came to the conclusion that the human rights situation had changed - that while Cambodian HR NGOs continued to do awareness raising, monitoring and reporting, they were not having much effect on government human rights 'policy' and institutional and judicial behaviors with regard to human political rights. Moreover, the rise of land and resource exploitation, trafficking and domestic violence incidents presented new challenges, which also required different skills and organizational strategies to combat. NGOs were still poorly organized in some cases, and not equipped to mount effective advocacy or provide sophisticated legal advice and services to victims of State or inter-personal abuse.

The extent to which the legal profession, from training to professional certification to career performance in various venues, was underdeveloped had been well documented as early as 1998 at a conference on legal and judicial reform in Cambodia supported by UNDP and AusAID. Cambodian speakers at this conference had already experienced the frustrations of a fragmented, short-term approach to developing Cambodia's legal system and professional and judicial institutions. Attention was focused on poorly informed consultants, one-off training programs, lack of coordination between donors, and other grievances on the Cambodian side about foreign assistance. On the donor side, there was recognition that the public budget for the judiciary was perhaps less than one percent of the total public budget, that judges were poorly paid, poorly trained, and very much under the control of the Cambodian Peoples Party, and that there were simply too few lawyers in the country to defend in criminal trials. Human rights violations were legion, corruption was growing, and there was little transparency, accountability or even predictability in the functioning of the Cambodian legal system.¹

By 2005, there were operating courts in all provinces, but the level of judicial skills and budget support remained very low. The third legal and judicial reform council had been formed and had produced a detailed reform plan, but implementation was 'glacial' as described by one long term advisor. The drafting of the criminal and civil codes and procedures, assisted by the French and Japanese, had not been completed, the Cambodian Bar was entering a period of disarray over leadership, and the record of poor performance in handling criminal trials was mounting, as the TAF-, then EWMI-sponsored Court Watch program demonstrated. Public confidence in the courts was abysmally low (and remains so). At the same time, the shift in the pattern of exploitation had accelerated, with more and more cases associated with land grabbing, sexual exploitation of women and children, and domestic violence. Other deprivations remained, such as police abuse and torture of those arrested, excessive pre-trial detention, incarceration of juveniles, and failure to provide legal defense to those accused of crimes.

Problem

USAID concluded that the gap between educating and monitoring on the one hand, and political and focused legal action on the other, had to be closed if there was to be a more structural and systematic - that is, judicial - protection of the human rights of Cambodian citizens. Effective

¹ International Conference on "Cambodian Legal and Judicial Reform in the Context of Sustainable Development"

advocacy and expanded legal engagement would, it was posited, put pressure on government to be more respectful of rights, and on the judiciary to become more independent, procedurally correct, and morally just in the conduct of criminal and civil ‘cases ‘ before the courts. Effective advocacy also meant the recognition that Phnom Penh NGOs had to find ways to promote and support local community activism and leadership outside of Phnom Penh, especially as the growth of land grabbing cases accelerated. By forging relationships at the local level, and by supporting networking activity among various local groups, the seeds of a ‘movement’ might be planted that would be more powerful than anything a Phnom Penh organization could mount by themselves. The Government’s dismissal of HR organizations as largely western ‘front organizations’ with out any Cambodian constituencies would become less true, and less damaging to their influence.

Project Implementation Overview

The East West Management Institute (EWMI) was selected to implement the Human Rights Cambodia Project (HRCP), beginning their work in November 2003. EWMI partnered in this endeavor with the American Bar Association, which had been active in helping the Cambodian legal profession since the 1990s. From 2003 to 2005, HRCP’s primary activity was four-fold. First, EWMI established a competitive grant making program based on annual requests for proposals. Second, EWMI initiated a program called the Public Interest Legal Advocacy Project (PILAP) funded by unsolicited direct grants. Third, EWMI worked to expand “access to justice” by supporting legal assistance NGOs staffed with trained and licensed lawyers who would represent poor people in court. The last component was a continuation and incorporation of work already begun by the American Bar Association, focused on improving advanced legal education at the Lawyers Training Center, a subsidiary of the Cambodian Bar Association.

EWMI’s winning proposal envisioned the establishment of a Cambodian foundation which would serve as a grant-making organization, as well as a support organization for undertaking potentially high impact cases that would engage and train lawyers to represent poor clients in ‘land grabbing’ cases. The foundation would also undertake to train other lawyers and NGOs in advocacy and in legal brief development subjects, thereby broadening knowledge and skills among other lawyers and NGOs operating in the Human Rights protection area. Within a few months of start-up, it became clear that no Cambodian organization was willing to take on these responsibilities. USAID and EWMI were forced to regroup to manage the grant-making component directly out of the HRCP office. By the end of 2007, the number of present and past grantee partners had grown to 37 in total, including many ‘old line’ Human Rights NGOs, and others whose origins grew out of a concern for various marginalized groups, such as street children or victims of domestic violence. At the same time, working with the Community Legal Education Center (CLEC), founded in the 1990s with assistance from USAID and the University of San Francisco Law School, HRCP found a partner willing to implement the Public Interest Legal Advocacy Program (PILAP) part of the program. The Access to Justice Component was to provide legal aid services to poor Cambodians through three Cambodian partners, including the Cambodian Defenders Project (CDP), Legal Aid of Cambodia (LAC), and Legal Support for Women and Children (LSWC). A cross-cutting theme with all three components was an emphasis on organizational strengthening and capacity building, with special attention paid to sustainability and advocacy strengthening.

The fourth component of the HRCP program continued the USAID relationship with the Bar Association of Cambodia, (BAKC), which was formally a non-governmental independent organization. BAKC oversaw the Lawyers Training Center (LTC), from which all university graduates who wished to become licensed lawyers had to graduate. Continuing a program begun with the American Bar Association, HRCP developed a supervised legal counseling office and an ‘internship’ program by which selected lawyers to be were placed as Fellows in Human Rights NGOs. This program ended in 2007 when the newly confirmed leader of the BAKC made a determination against the program, forcing USAID and HRCP to close down its assistance to the LTC.

2005-2007 Program on Rights and Justice (PRAJ): Inclusion of RCG Justice Institutions

In late 2005, when USAID was permitted to provide assistance to the Royal Government of Cambodia (RGC), the project began to explore the possibilities of working with government rule of law institutions, even though considerable assistance had already been provided by other donors.

Renamed PRAJ, the project sought to find ways to bring US resources and experience to the task of supporting the official judicial reform process. As can be seen in the list below, the various interventions included in-service legal training for magistrates, developing more interactive legal education programs at the Royal University of Law and Education (RULE), assisting in development of administrative procedures at the new “Model Court” in Kandal Province, and providing assistance as needed to the Cambodian Judicial Reform Council and the Ministry of Justice. Although these program elements were small by comparison to the cost of the original HRCP components, the activities were justified in part by the chance to gain experience with the official justice sector, to experiment and find opportunities for the future, and to establish relationships with Cambodian officials who were tasked with judicial reform responsibilities.

Throughout the HRCP and PRAJ period, EWMI employed an array of tactics to achieve its objectives, including providing a variety of training programs focused on organizational strengthening and advocacy, interactive training opportunities for law students and graduates, and in-service training for existing magistrates, as well as some observation trips to other countries. Another input that effected change was the process of competitive grant-making and closely monitored grant implementation and expenditures. These procedures were backed up with considerable personal interaction between EWMI staff and partner institutions. Other tools included both a Financial Risk Assessment and an Organizational Capacity Assessment, the latter which was voluntary but did engage a substantial number of partners in tutored ‘organizational self assessment’ dialogues with PRAJ. Although funding for infrastructure was not the rule, EWMI and its partner, ABA, did fund the rehabilitation of an auditorium at the Royal University of Law and Economics, which became the venue for the very well-attended Moot Court Competition, a first ever event in Cambodia.

Summary of Elements of the HRCP-PRAJ Program

Phase I 2003-2005 HRCP

The main elements of the HRCP which continued into PRAJ were:

- 1 Bridge financing for five major HR NGOs that had been receiving support from TAF. This was for 2003-2004 only.

- 2 The NGO Competitive and Directed Grant program. 2004 to present.
- 3 The Access to Justice Component. 2003 to present
- 4 The CLEC/PILAP program. 2004 to present
- 5 Lawyers Training Center. 2004 to July 2007

Phase II 2005-2007 PRAJ

In late 2005, the program was renamed PRAJ, with the following additional elements:

- 1 Legal Education
 - a Royal University of Law and Economics (RULE)
 - b Royal Academy of Judicial Professionals (RAJP)
- 1 Council on Legal and Judicial Reform (CLJR)
- 2 Kandal Province Model Court (with Ministry of Justice-MOJ)

At the request of the evaluation team, EWMI prepared a table (Table 1.A) setting out the level of financial resources dedicated to each of the PRAJ components through FY 2007.² This table does not include EWMI's indirect costs, but it does include an estimate of the distribution of costs of each professional officer's time associated with the relevant program component. As seen in this table, the NGO grants and associated technical advisory element represent the single most important component of the program. The PILAP and Access to Justice Programs together make up 26 %. PRAJ elements associated with assisting government Rule of Law development, items 4B – 7, represent a very small (less than 8%) and relatively recent part of the overall effort. However, it does represent the beginning of a relationship with the RCG.

In many ways, the evolution of PRAJ is a record of both continuity and adaptation to changing realities. From one perspective, the project appears to be a 'holding company' for eight different components, each with its own franchise and executive officer. From another view, there is a degree of continuity and convergence, especially with regard to the Human Rights NGO and Access to Justice components, as most of the core partners were well established by 2003. USAID hoped to gain greater convergence by focusing their partners to engage more directly with legal advocacy, either directly or indirectly. However, change and variability has also been a major feature of the program, including the introduction of more rigorous grant-making and financial accountability procedures, shifts in grant-making focus, the closing of the LCO and Fellows Program at the LTC program, and the somewhat experimental searching for a proper and useful role to play in the already crowded field of donor support for judicial system reform and development.

This diversity and variability make it difficult to come to 'general conclusions' about the effectiveness and impact of the program as a whole. Therefore we have chosen to present findings and conclusions for each major component, followed by an effort to more comprehensively answer the questions posed in the Scope of Work.

² For convenience, from this point forward in the evaluation report we will use the term "PRAJ" to refer to the HRCP-PRAJ project, unless reference to the earlier phase is necessary.

Table 1.A
Component Parts of HRCP-PRAJ showing costs of each component 2003-2007
 Source: Prepared by EWMI at request of Evaluation Team. December 2007

Component	Date started in work plans	Date ended	\$ LOE sub awards (sub-grants)	% total sub awards	Direct cost personnel, fringe, travel and consultants	\$ all costs associated with component	% all costs associated with component	Principal staff and advisors associated.
1. Grants for HR NGOs	Nov-03	present	\$6,525,012.52	72.56%	\$1,882,091.92	\$8,407,104.44	52.22%	Kim Sean
1A. Training and TA for NGO Capacity	Nov-03	present			785,309.52	785,309.52	4.88%	Terry Parnell
2. High Impact Advocacy on Land Rights (CLEC/PILAP)	Nov-03	present	1,191,283.72	13.25%	994,072.26	2,185,355.98	13.57%	Brian Rohan
3. Legal Aid and Access to Justice	Nov-03	present	1,276,378.95	14.19%	728,188.67	2,004,567.62	12.45%	Rajan Shah
4. Develop Legal Professionals								
4A. LTC related	Nov-03	Jul-07	0.00		1,438,178.54	1,438,178.54	8.93%	
4B. RULE	Oct-06	present	0.00		708,967.48	708,967.48	4.40%	Steve Austermler
5. Royal Academy of Judicial Professions	Oct-06	present	0.00		225,742.28	225,742.28	1.40%	Steve Austermler
6. Court Administration and Performance	Oct-06	present	0.00		310,574.20	310,574.20	1.93%	Rajan Shah
7. Other justice law development (Judicial Ethics Code development)	Oct-06	present	0.00		35,000.00	35,000.00	0.22%	Rajan Shah
TOTAL			\$8,992,675.19		\$7,108,124.86	\$16,100,800.05		

Notes:

CSD subgrant for court monitoring program Grants for Human Rights: 321,278.78

Consultancy TA for CSD court monitoring program is within TA for NGO Capacity: 36,000.00

357,278.78

The overall cost structure for the project, including indirect costs, is presented in Table 1.B.

Table 1.B
PRAJ Direct and Indirect Cost Structure – June 2007

Source: East-West Management Institute Quarterly Financial Report June 30, 2007

Category	Budget	Expended this Period	Total Expenses to Date	Remaining
Personnel	\$ 2,002,308	\$ 157,708.35	\$ 1,853,562.12	\$ 148,745.43
Fringe Benefits	\$ 416,625	\$ 24,829.13	\$ 364,523.12	\$ 52,101.93
Travel, Transp. & Per Diem	\$ 704,244	\$ 47,032.96	\$ 487,219.11	\$ 217,024.82
Equipment	\$ 77,987	\$ 13,000.00	\$ 123,800.50	\$ (45,813.50)
Supplies	\$ 110,756	\$ 15,359.28	\$ 180,506.61	\$ (69,750.61)
Consultants	\$ 658,109	\$ 37,750.00	\$ 320,660.77	\$ 337,448.36
Sub-awards	\$ 12,719,082	\$ 1,157,271.78	\$ 10,102,702.05	\$ 2,616,380.32
Other direct costs	\$ 1,180,016	\$ 67,541.51	\$ 1,045,704.43	\$ 134,312.06
TOTAL DIRECT COSTS	\$ 17,869,128	\$ 1,520,493.01	\$ 14,478,678.71	\$ 3,390,448.81
Indirect Costs 30.00%	\$ 1,527,763	\$ 109,912.69	\$ 1,283,731.67	\$ 244,031.60
Adjustments*		\$ -	\$ 95,321.03	\$ (95,321.03)
TOTAL USAID AMOUNT	\$ 19,396,891	\$ 1,630,405.70	\$ 15,857,731.41	\$ 3,539,159.39
Cost Share	\$ 1,029,584		\$ 3,262,714.25	
TOTAL AMOUNT	\$ 20,426,475	\$ 1,630,405.70	\$ 19,120,445.66	

II. PURPOSE, SCOPE OF WORK AND METHODOLOGY

Purpose

To conduct a combined summative/formative evaluation that would inform USAID as to lessons learned from PRAJ, as well as to make recommendations that will assist USAID in subsequent design of a follow on program.

Scope of Work

USAID's Scope of Work (SOW) poses the following major questions:

- **Relevance:** Are Hypothesis (sic) and assumptions behind each program still valid?
- **Effectiveness:** Are partners meeting their responsibilities under their contracts? How appropriate are implementation strategies in reaching the objectives? What are unintended consequences and effects?
- **Cost-Effectiveness** – Are the results being produced at an acceptable cost compared with alternatives? What alternatives exist?
- **Impact:** What has been the impact? Beyond the immediate stakeholders, has this project on civil society, government or the private sector? Have partners established quality internal and external monitoring, evaluation and reporting systems?
- **Donor/USAID coordination:** to what extend (sic) have each program coordinated, supported or complemented other USAID projects or those of other donors in the same areas?

Methodology

Team

The evaluation team consisted of two experienced development professionals, Dr. Richard N. Blue and Mr. Robert Underwood, J.D. Dr. Blue, an independent consultant, is a Senior Foreign Service Officer (retired) with fifteen years of experience with USAID, six years of democracy related grant-making experience as Representative for The Asia Foundation in mainland Southeast Asia, including Cambodia, and ten years as an evaluator of over thirty USAID programs, mostly in the Rule of Law and Civil Society sectors. While with The Asia Foundation, he developed and won USAID support for the first human rights programs in Cambodia in 1994. Mr. Underwood has been employed by Checchi and Company Consulting, Inc. since 2000. Prior to this he was a successful New York based international lawyer, who upon leaving his practice served as Checchi's Chief of Party for several USAID-funded Rule of Law programs in Central Asia and the Balkans.

Timing

The evaluation work began on November 17 with three days of preparatory readings in Washington, DC. Field work in Cambodia lasted from Nov. 26 to December 17, 2007.

Research Design/Methods

The team used a mixed method approach with the following elements:

1. Review of documents, especially EWMI Quarterly Reports, as well as EWMI assessment and reporting documents such as the Organizational Capacity Assessment, the Risk Assessment, and Monitoring and Evaluation reports completed by sub-grantees. Special commissioned studies such as the Judicial Training Needs assessment, the Golub paper, and various reports prepared by sub-grantees were also reviewed. A bibliography of documents read is included in Annex B. In several cases, statistical tables have been created from EWMI documents and those of NGO partners such as the Cambodia Defenders Project, LICADHO and the Court Monitoring Project.
2. A written questionnaire prepared in Khmer and English was completed by 31 sub-grantees (84%) in a single session on Friday, Dec. 7, 2007 (see Annex E). The questionnaire focused on capacity building and sub-grantees' perceptions of changes in the Cambodian human rights and justice situation.
3. Group discussions with local activists, network lawyers, law students. These groups were not technically focus groups, but an effort was made to structure questions in such a way that all members of the group's responses could be heard and counted.
4. Meetings with province-based NGOs and beneficiaries were held during field site visits to Pursat, Battambang, and Banteay Menchey provinces.
5. Meetings were held with key informants from stakeholder and implementing organizations, including RCG Judges, CLJR, RAJP, RULE, USAID, EWMI, TAF, JICA, AusAID, DANIDA, and Legal Defender and HR NGOs.

Threats to Validity

Initial efforts to develop random sampling of beneficiaries proved impossible given the distribution and variety of different components of the program. Lack of consistent and comprehensive time series data for court cases and other indicators of court performance thwarted systematic trend analysis with respect to effectiveness of Rule of Law developments. Legal aid providers such as CDP do keep good records, but of their own performance, which does not comprehend in the array of human rights violations nationwide. Court Watch data is useful, but limited to a few courts and has not yet settled on a sub-set of important pattern indicators. Analysis of USAID's required PMP indicators proved unproductive, either because most of the indicators and targets changed over time, or there was no baseline established against which to measure change, or the indicators were largely output indicators.

Therefore, findings, conclusions and recommendations presented herein necessarily reflect a blend of qualitative, opinion based data supported where possible by somewhat fragmentary statistical indices of change... extrapolations to the universe of human rights offenses or judicial improprieties should be treated very cautiously.

It is important to be aware that this evaluation focuses primarily on the effectiveness, impact and sustainability of the PRAJ program, rather than attempting to assess the implementation of the myriad activities undertaken by EWMI and its sub-grantees.

We are impressed with the dedication and commitment of the PRAJ staff, and their belief in the value of what they are doing. We are also cognizant of the fact that the ROL side of this

program is very new. No one with any experience in Rule of Law development, and in Cambodia especially, can expect rapid or clear cut progress in the short to medium term. The challenge is to have reliable and objective indicators to measure trends over time. This will require a much greater emphasis on the development and application of a data and indicator process by which internal and external analysts can measure change.

III. HUMAN RIGHTS NGO PROGRAM

The team's findings are presented for each of the major program components. We also note any 'unanticipated consequences' that came to our attention. Next, for each major component, our analysis and conclusions are stated. The report concludes with more general conclusions, recommendations, and lessons learned.

Human Rights NGO Program Hypotheses

There appear to have been three principal hypotheses underlying the initial program. The first had to do with the Human Rights NGO component. Recognizing both the potential of the Human Rights NGOs, as well as the need to move beyond awareness raising and monitoring, USAID had as its first central hypothesis:

If: HRCP-PRAJ supported HR NGOs became

- 1 More knowledgeable about law
- 2 Conducted effective legal advocacy
- 3 Effectively worked with community based organizations and activists and
- 4 More lawyers were engaged in providing legal services and representation to defendants

Then: the Government and Judiciary would become more just, responsive and effective in stopping or prosecuting human rights violations

Then: Observable progress toward the establishment of a Rule of Law regime would be made.

Additional hypotheses will be presented and discussed in subsequent sections on other components of the program.

Findings

The findings for the PRAJ Human Rights NGO program are based on in depth interviews with 13 sub-grantees, responses to a questionnaire given to representatives of 31 grantees, field visits to beneficiaries of four grantee programs, and review of the grantee files kept in the EWMI office.

Overall, the program has made grants to 37 grantees through various processes, mainly through an annual RFA. EWMI has developed a standard proposal format, and conducts a financial risk assessment that is reviewed at EWMI headquarters in New York before grants are awarded. While most grant funds are awarded through the competitive process, EWMI has also made grants called "unsolicited grants", usually in association with an initiative the project wishes to undertake. Because the shift to a competitive proposal process created such difficulty within the potential grantee community, USAID and EWMI agreed in 2003 to give one year 'bridging grants' to a selected number of well established NGOs. It was also recognized that unsolicited grants, or more properly non-competed grant awards, would have to be made to certain organizations, such as the Cambodian Legal Education Center (CLEC), if the objectives of the PILAP part of the program were to be realized.

There has been some variability in the kinds of issues USAID and EWMI have pursued through the RFA process. Funding for several major grantees, such as Friends and Buddhism for Development, was not continued into 2008, while funding for other grantees was substantially reduced. Overall, Table 2 presents the Rank Order of Grantees receiving \$100,000 or more since 2003 through the HRCP-PRAJ program. The table also shows whether the grantee had been a TAF grantee previously and had received ‘bridge funding’ during the first year of HRCP-PRAJ.

Table 2
Rank Order of HRCP-PRAJ Grantees by Amount Received
 Source: EWMI 3rd Quarterly Report 2007

Name/Initial of Grantee	Total \$ received	Percent of Total (rounded)	Previously Funded by TAF
1.LICADHO	1,214,369	15.5	yes
2.BFD	934,784	11.9	yes
3.CDP	811,567	10.4	yes
4.Equal Access	596,467	7.6	no
5.Friends	539,602	6.9	no
6.Women’s Media Center	279,574	3.6	yes
7.NGO Forum	277,862	3.5	no
8.CCD	266,315	3.4	yes
9.ADHO	260,663	3.3	yes
10.LAC	260,447	3.3	no
11.CCHHRA	228,904	2.9	yes
12.CHRAC	214,736	2.7	no
13.ACT	164,993	2.1	no
14.KKKHRA	161,141	2.0	no
15.CWCC	153,453	2.0	no
16.LSCW	146,866	1.9	no
17.CSD	116,718	1.5	no
18.SCW	105,708	1.3	no

This table does not include the \$1.3 million provided to CLEC for the PILAP program discussed in detail below. It does include funding to such NGOs as CDP and LAC that were major partners in the Access to Justice Component of the project.

It is worth noting that the top three grantees were well established prior to the advent of HRCP-PRAJ, and together garnered 37.8 percent of the grant funds. Other well established NGOs, such as the Women’s Media Center, are in the top ten and, with the top three, collectively make up over 47 percent of all grant awards.

General Objectives of the HR NGO and Access to Justice Grantee Component

The Human Rights NGO component of the HRCP/PRAJ program had a number of objectives³. Because organizational strengthening was also part of the Access to Justice Component, those grantees have been included in this discussion. However, the substantive impact of the Access to Justice Component will be discussed in depth in another section of this report.

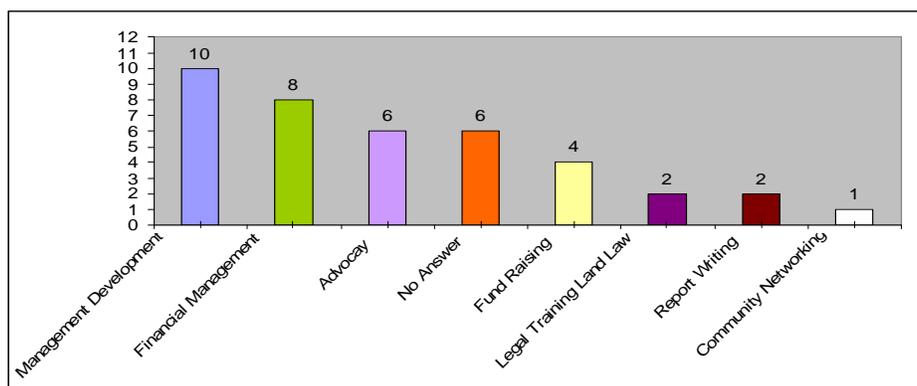
The expected developmental impacts for Human Rights and Access to Justice NGOs were:

1. Improve general organizational capacity
2. Improve budgeting and financial management
3. Introduce and improve NGO sustainability
4. Introduce, train, and encourage systematic advocacy
5. Improve legal understanding and capacity to use lawyers and legal system
6. Expand Human Rights NGO activities to rural areas outside Phnom Penh
7. Increase constructive interaction between HR NGOs and local activists
8. Improve coordination and cooperation through networking

Improvements in Organizational Capacity, Budgeting and Financial Management

NGO organizational leaders stated that, in general, EWMI's technical training and advisory services were valued and did result in improved capacity, especially with regard to general management, budgeting and financial management. Table 3 displays in rank order the organizational capacity dimensions where EWMI training input was most valued by HR NGO sub-grantees.

Table 3
EWMI Training Course Most Valued by Sub-grantees
Source: Grantee Questionnaire; N=31



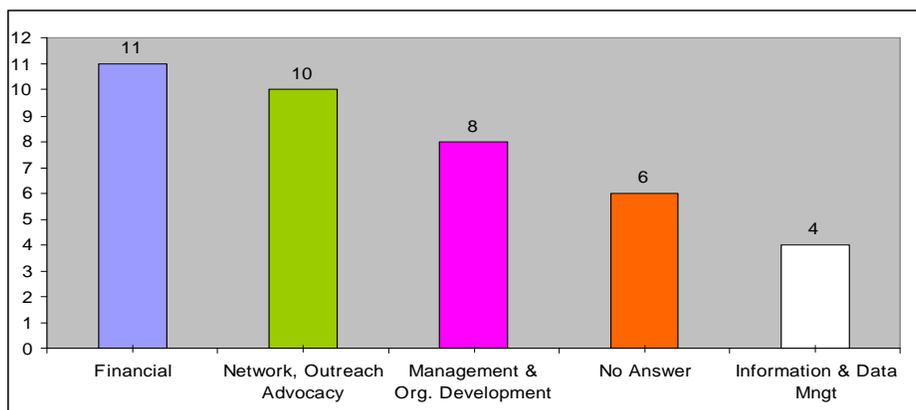
Note: The six “no answers” reflects the fact that some of the respondents are recent grantees.

EWMI's program did not depend on training courses alone to achieve results. EWMI also offered advisory services, analytic assessment tools, and follow up visits in response to request for assistance.

³ These objectives were extracted from a composite of program documents, such as various PMPs, training reports, and interviews with grants officers and capacity building experts associated with the HRCP/PRAJ.

Table 3 presents the rank order of ‘advisory services’ most valued by EWMI’s grantees.

Table 4
EWMI Advisory Services Most Valued by Sub-Grantees
 Source: Grantee Questionnaire; N=31



EWMI grantees valued the advisory services provided to them, especially in financial and general organizational management and development, but also in their efforts to improve networking, outreach and advocacy.

Grant Making and Management Issues

It should also be noted that EWMI’s requirement for quarterly reports and quarterly spending projections, combined with the one year duration of grants, is reported by sub-grantees as placing a very heavy burden on them, as well as a kind of ‘dependency’ relationship on EWMI’s grant management staff that has been, at times and for some, abrasive and characterized as ‘arrogant’. Seventy-five (75) percent of the grantees reported that they spend more of their time with EWMI on matters relating to financial reporting and projections than on other capacity building issues. Moreover, about one third of the NGOs reported that their treatment by EWMI staff on financial accountability issues had not been helpful and, by a few, was considered to be arrogant and “top down”. When asked whether the stringent reporting and financial management practices required by EWMI would be sustained after the grant period, forty-four (44) percent said they would be, but thirty-six (36) percent said they would not be sustained, and others did not know or were undecided.

Interviews and responses to the questionnaire also indicate that the one year grant period, combined with the high level of financial control and reporting requirements contribute to a short-term mentality that is inconsistent with the concept of having a longer-term vision and strategic planning process.

Sustainability

No specific survey question was asked about ‘sustainability’ in the questionnaire, but interviews with NGO leaders found that NGOs were divided between pessimists and guarded optimists about the long term future of their organizations. However, all agreed that Human Rights and other Public Interest NGOs (PINGOS) would continue to be dependent on foreign sources for

some time to come. Unlike developments in Eastern Europe, there is no evidence of attempts to develop a Cambodian source of funding for civil society. In lieu of an indigenous source, NGOs generally, and Public Interest NGOs, especially, are highly dependent on foreign support.

The impact of the EWMI program was primarily to sharpen grantees’ organizational, financial management and reporting skills, which would, they said, improve their ability to compete for grant funding from other foreign funding sources. A few leaders were pessimistic about the long term viability of their type of organization, stating that there would come a time when oil revenues and other Asian investments would be sufficient to allow the Cambodian Government to reduce its dependence on western foreign assistance. At that point, said one leader, the tolerance of the government for the activities of human rights and other public interest organizations would diminish considerably. If, at the same time, for reasons of foreign assistance fatigue or other national interest factors, western assistance diminished or was redirected toward developing government institutions, many in the current ranks of Public Interest NGOs would either transform themselves into social service organizations or go out of business.

The EWMI shift to a competitive bidding process for grant support was a major change from the previous period for many NGOs that had earlier received USAID support through the TAF program. NGO leaders testified that this shift was a big shock and that they were not well prepared for this process. However, after considerable effort by EWMI at the beginning, and continuing to this day, the finding is that NGOs have found this to be a positive experience, as seen in Table 5.

Table 5

Effect of EWMI Process of Proposal Writing and Competition

Source: Grantee Questionnaire; N = 31

No answer	1	3.23%
No change	2	6.45%
Positive	27	87.10%
Do not know	1	3.23%

The improvement in how to write proposals and compete for awards was reported to be important in personal interviews with leading NGO leaders, who depend heavily on foreign donor support for their continuance. While EWMI’s interest may have been to have proposals that would meet the stringent standards of USAID, the process may have contributed to the more general solution for most foreign donor-dependent NGOs to the problem of soliciting and winning continuous financial support for their programs. This, along with improved financial accountability and management, is clearly seen by the more sophisticated leaders as being a necessary, if not sufficient, condition for their sustainability.

Advocacy

While almost all USAID civil society programs stress good organizational and financial management, the EWMI program had a special interest in improving their grantees’ capacity to network, to interact with local level activists, and to advocate more effectively. PRAJ offered its grantees the opportunity to take part in an Organizational Capacity Assessment. Not

surprisingly, participating organizations were found lacking in areas of advocacy, and to a lesser extent financial management, including accounting and budgeting as well as organization of work. NGO leaders, especially from the larger NGOs, recognized that the Cambodian situation was changing, and that they would have to introduce structural and managerial changes to adjust. Working with local leaders and advocacy were identified as key areas where Phnom Penh-based NGOs were weak. Questionnaire respondents selected this category as the second most valued component of the EWMI program. This finding was reinforced by interviews with organization leaders, many of whom had been in operation from the 1992-93 UNTAC period. One leader said that they had tended to operate in a top down 'hub and spoke' type operation, without paying much attention to the need to interact with, and support, activists at the local level. This view was reinforced by a meeting with 13 local activists, part of a network assisted by EWMI. NGO leaders opined that, due in some measure to the efforts of EWMI, they are now more effective in working with local activists after learning to empower and support rather than lead and control.

Analysis of NGO proposals and types of issues reported shows that domestic violence and sexual exploitation of women and children are of greatest concern for grantees, followed by land grabs. Building of cooperative advocacy efforts has been hampered, according to NGO leaders, by two major factors. First, the Phnom Penh government has severely restricted issuance of licenses for peaceful assembly and protest, especially after the anti-Thai riots. This aspect of visible advocacy has been curtailed in Phnom Penh. Second, attempts to organize seminars and meetings bringing NGOs and the RCG together have had mixed success as reported by several Phnom Penh based organizations. One NGO leader described a situation where frustrated and angry NGO leaders, meeting with government for the first time, vented their anger in words deemed offensive to the government attendees. They left the meeting, not returning for the subsequent days of the seminar.

However, the efforts of HR NGOs to educate the public appear to be producing results, especially as 'rights' abuses cut closer to livelihood issues, such as land grabs, forest despoliation, and encroachment on artisanal fisheries. A substantial majority of NGO sub-grantees (26 of 31 polled) assert that local Cambodian people are now more willing to stand up for their rights than they were in 2003.

An un-anticipated consequence

The western model of advocacy may not completely apply to the Cambodian cultural and socio-political context. Advocacy posits an 'us versus them' confrontational style, at least in the initial stages, by which those in power become convinced that it is in their interest to respond positively. This model presumes that voters will, and can, 'throw the rascals out' if they do not respond to the public will. It is a process that tends to focus on rule-making bodies whose actions have broad consequences in the law and regulatory structure of the nation. In Cambodia, and probably in western democracies as well, the situation is more complicated. Cambodian NGOs seem to see advocacy as a much more personal, case-by-case issue, directed largely at getting someone in authority to 'do the right thing.' This is a beseeching and respectful process, by which the petitioner makes the best case and hopes that the authorities will respond. In this regard, 80% of the grantees polled agreed that "they have become more willing to work with justice officials to find solutions," and 16 of 28 respondents answering said the Cambodian government has become more willing to cooperate with them 'if asked', while two said the government is now taking active measures to prevent abuses. On the other hand, 12 NGOs (42

%) felt that the RCG had not changed or had gotten worse in their attitude and responsiveness to Human Rights NGOS efforts.

Those NGOs who perceive that they are receiving more attention and cooperation from government are also those active primarily in the women’s and children’s and domestic violence issue areas, and who are more likely to be headquartered in the provinces, rather than in Phnom Penh.

When asked whether the RCG is more willing today to take action to protect people’s rights, 22 respondents, or 70%, said either ‘no change’ or ‘less willing’ to take such action. In this finding, all of the long standing EWMI grantees sided with the majority view.

Use of Legal Knowledge and Profession

Based on the original hypothesis of this program, USAID and EWMI expected to significantly increase the willingness and capacity of Human Rights NGOs to move beyond education and monitoring to active engagement with the Cambodian legal system, indirectly through advocacy, and directly through increasing their use of lawyers and the judicial system. The findings are mixed.

As will be discussed in greater detail elsewhere, there is general consensus that the Cambodian judicial system is at best considered ineffective and/or incompetent with regard to procedural and human rights, or at worst perceived as utterly corrupt and an active instrument of powerful interests that would prefer to suppress any and all dissent, whether it be about land use or trafficking in women and children.

For these reasons, among the less affluent and poor citizens of Cambodia distrust of the judicial system (police, prosecutors, judges, courts, prisons) is very high, and most are extremely reluctant to engage with the official institutions in an effort to protect their rights or advance their interests. An interview with one group of six activists in a small, forest village found that when they tried to protect the forests from the activities of government granted concessionaires, charges (later dropped) of criminal trespass and other allegations were brought against them by the prosecutors.

Nevertheless, NGO leaders have, to some extent been willing to learn more about the ‘legal dimension’ and to make use of lawyers and the legal system. NGO respondents to the survey reported they had increased their use of “the rule of law” apparatus in so far as using lawyers was concerned.

Table 6
Have been able to use lawyers effectively
Source: Grantee Questionnaire

Response	N	Percent
Strong Disagree	3	10.00%
Disagree	5	16.67%
Don’t Know/NA	7	30.00%
Agree	10	33.33%
Strong Agree	3	10.00%

Thirteen, or 43%, of the respondents claimed that they had been able to employ lawyers and use them effectively. Respondents who did not agree represented 27 percent. Also, interviews with ‘Access to Justice’ partners LAC and CDP yielded evidence that HR NGOs such as LICADHO and ADHOC were more active in making referrals to them of human rights cases that they felt required the use of professional legal defense. Only two of the HR NGOs, LICADHO and ADHOC have developed a “litigation” unit within their organizations.

A review of the grant objectives of the grantees funded by EWMI, however, indicates that relatively few EWMI sub-grantees have “use of lawyers” or “legal defense” as part of their grant objectives, as demonstrated in Table 7 below.

Table 7
PRAJ NGO Human Right Grantee “Grant Objectives” in Approved Proposals
 Number of Objectives in each Category of all Objectives Stated
 Source: EWMI 4th Quarter Report 2007
 N=37 Grantees with multiple objectives

Objective Type	All Human Rights Issues	Land Rights/Issues	Women and Children Rights	Natural Resources (other than land)	Total Objectives Stated by Type
Engage Legal Defense	1	1	1	0	3
Use Lawyers to prepare case/positions	1	2	0	0	3
Advocate for issue	0	6	8	1	15
Mediate/Rehabilitate	1	4	6	0	11
Monitor/Promote awareness	4	4	9	2	19
Promote local empowerment/activism	0	3	5	2	10
Information Management/data base	1	0	2	0	3
Totals	8	20	31	5	64

Although a substantial minority of NGO grantees reported that they have been able to employ and use lawyers effectively for various purposes, this use does not appear to have been a major component of their grant funded activity as represented by stated grant objectives. Only six (6) of the 64 reported objectives had to do with use of the legal profession. The objective of mounting some form of advocacy was much more common, especially among Women and Children NGOs, and among those focusing on land issues.

Note, also, that grantees placed much more focus on Women and Children’s issues than any other type, and about one half of the objectives in this category had to do with promoting mediation, rehabilitation, and monitoring and awareness raising.

An analysis of the grantee “good and bad stories” found in the quarterly reports indicates that very few of the case studies reported by NGOs, either as their successes or failures, involve engagement with the Cambodian legal system. In a review of the EWMI 2005 1st Quarter Report, we analyzed how cases were resolved, or not, as presented in Table 8.

Table 8
Resolution of Human Rights Conflicts as Reported by EWMI NGOs
 Source: EWMI 2005 First Quarter Report to USAID
 N=42 disputes

Type Case	Court Decision	Negotiated/Mediated	Un-Resolved	Total
Land/Resource Grab	2	7	15	24
Domestic Violence	5	5		10
Trafficking	2	1	2	5
Police abuse			3	3
Totals	9	13	20	42

The data is not representative of the universe of interventions pursued by EWMI grantees, but it is consistent with the general view that land grabbing cases, followed by domestic violence, are the two most important and widespread sources of violation. What is interesting here is that domestic violence cases, as well as trafficking cases, are more likely to result in a court action, while in land cases the most likely outcome is that the issue is ‘unresolved’. The two cases that were decided in court were both reported by the Cambodian Defenders Project, an important sub-grantee under the Access to Justice Component of PRAJ.

Increase Constructive Interaction between Local ctivists and HR NGOs.

Another objective of PRAJ, promoting connectivity with local activists, was the fourth most stated objective, with ten mentions. It should be noted, however, that the most frequently stated objective was monitoring and promoting awareness, the traditional activities of most Cambodian Human Rights NGOs. Sub-grantees strongly assert that this is a major area of change for them, as indicated in Table 9.

Table 9
Respondents much better connected to grassroots organizations & networks
 Source: NGO Questionnaire
 N= 31

Response	N	Percent
Strong Disagree	0	0.00%
Disagree	0	0.00%
DK/NA	2	6.45%
Agree	15	48.39%
Strong Agree	14	45.16%

This impact was reinforced by interviews with prominent HR NGO leaders, who stated that their involvement with local activists had increased in some measure due to EWMI efforts. However, a group discussion with local activists showed that most local activists with whom EWMI worked had an eight- to ten-year history of local activism, dating back to 1998 and 2000, especially persons from Ton Le Sap fishing villages. The Ton Le Sap fight for protection of artisanal fisheries appears to have been a major event in the development of successful local activism, upon which EWMI has built.

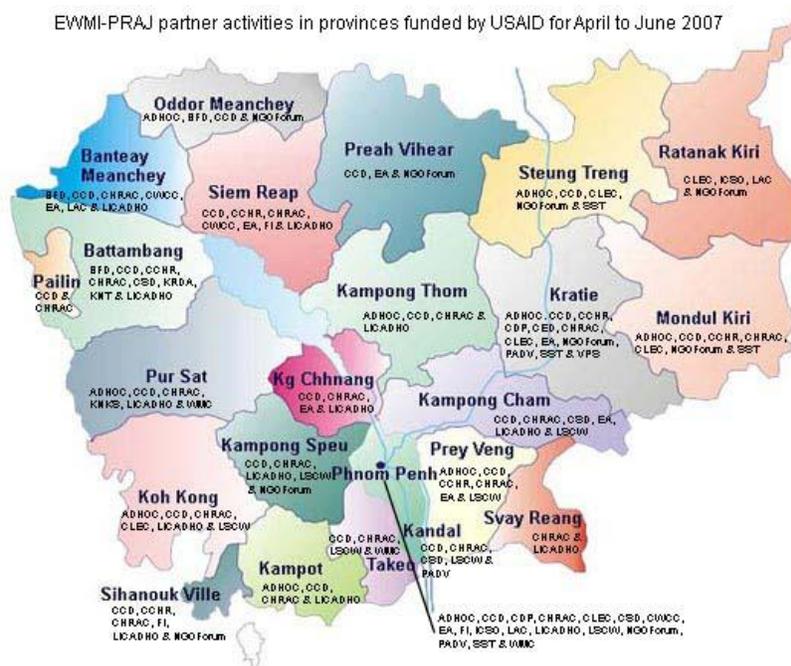
An un-anticipated consequence

The relationship between better educated NGO workers and local activists is complex. While meeting with forest activists supported by one of EWMI's grantees, we learned that their activism had led to criminal charges, putting several leaders in personal jeopardy. This finding raises the question of the moral responsibility of well-protected NGO organizations for the consequences of encouraging local level activism by extremely 'marginalized' and vulnerable, very poor people. The charges in this case were later dropped. Interviews with local activists indicated that they welcomed the support of more established NGOs, but they also noted that NGO representatives, especially lawyers, were sometimes dismissive of the local point of view.

Expansion beyond Phnom Penh

Most PRAJ grantees (19 of 31 or 61 %) agreed that they had been able to expand their activities into more geographic areas as a result of the PRAJ grants, although many were already active in the provinces prior to PRAJ. While many grantees (25 of 32 through 2007) are headquartered in Phnom Penh, PRAJ partners have a minimum of two activities in each of the 30 Cambodian provinces, as many as twelve grantees working in Kratie, and seven different organizations working in each of the populous provinces of Battambang and Pursat. However, with the exception of Buddhism for Development (BFD), organizations based outside of Phnom Penh did not become grantees until 2006. PRAJ has prepared a map showing the geographic distribution of projects funded under their various programs.

Figure 1
Map of Cambodian Provinces
 Source: PRAJ 2007 4th Quarter Report



Note: Each acronym identifies one of the PRAJ grantees with activities supported by the project in that province. Outside of Phnom Penh, Kratie Province leads with twelve grantee activities, while remote provinces like Ratanak Kiri and Oddor Meanchey have four each.

Media and Information Outreach

Two grantees, the Women’s Media Center and Equal Access, have been major grant recipients, each undertaking to use radio, and to some extent television and print formats, to expand and deepen Cambodian citizens’ knowledge of legal rights. The Women’s Media Center has produced a series of ‘legal’ spots for radio and television, and is now in the process of developing a ‘court drama’ along the lines of the famous American Perry Mason series. WMC leadership reports that initially the relationship with PRAJ was difficult, as both were new to each other and the PRAJ procedures for funding and reporting were not clearly understood. However, in 2006 and 2007, WMC began to work with PRAJ on capacity building and restructuring, a process which was timely as the Center had grown considerably over the decade of its existence. Equal Access, a San Francisco-based NGO, partners with WMC to take media messages to areas outside of Phnom Penh via a system of satellite radio FM stations, through which messages are broadcast and discussed with locally-facilitated discussion groups. The idea is to ‘localize the general message.’ Equal Access leadership states that their mission is to use ‘the message’ to catalyze and empower local capacity, contributing thereby to more effective advocacy at the local level. They draw their content through an advisory group which includes other PRAJ grantees such as LAC and CLEC. Both WMC and Equal Access recognize that

radio and TV are controlled by the state, and they must be cautious as to how far they can ‘push the envelope’ through media.

Impact on Beneficiaries

The team’s ability to gather direct information from beneficiaries was limited to discussions with local activists in the PRAJ Peace Building Network, meetings with 17 villagers on subjects of domestic violence, and with 11 forest dwellers supported by Kunare Ney Kday Sangkheum (KNKS), a partner since 2006. We met also with a group of BFD local Peace Mediators in Banteay Meanchey province, with a group of Battambang residents involved in land grab cases defended by the Cambodian Defenders Project, and with one LICADHO beneficiary, along with three local community activists from Battambang. In total, we met with 57 local beneficiaries and activists, as well as with seven local NGO workers supported by PRAJ⁴.

Discussions with beneficiaries yielded the following findings:

- 1 The support of the NGOs that work with them is highly valued. Village spokespeople take pride in their own accomplishments, and see the NGOs as supporters, not controllers. NGO support is also valued as a sign of recognition of the importance of the village (a kind of halo effect) as well as as a source of political support and protection.
- 2 All agreed that land, domestic violence, and arbitrary behavior on the part of authorities and “powerful people” were the major problems they faced. One group in a more prosperous riverside village stated their most important problem was domestic violence, citing several cases where they had received help from PRAJ NGOs.
- 3 Beneficiaries we spoke with were knowledgeable about their rights and, if they had been to court, knew the difference between good and bad legal protection in general terms.
- 4 With the exception of individual beneficiaries from CDP and other legal defense organizations, the strong preference is for local resolution of disputes outside the court system. Mediation, arbitration, and peace making roles appear to be well developed where NGOs such as BFD have been active. These forms of conflict resolution work when the disputants are all local people of relatively equal standing.
- 5 Courts are perceived as corrupt and as instruments of powerful people. Bringing a legal complaint is likely to end up with criminal charges being made against the complainant, it is widely asserted. Even in domestic violence cases where divorce seems the only answer, villagers assert that the “price” of getting a divorce is well known in advance. This “price” is allegedly paid to court clerk, who then “facilitates the procedure”.

⁴ These meetings were set up by NGO Partners and PRAJ staff on fairly short notice, so it is difficult to determine how representative the views reported here are. This was not a random sample of beneficiaries, which would have demanded much more time for advance planning than was available.

- 6 Beneficiaries of CDP's defense were appreciative of CDP assistance, especially in land cases where the case involved a relatively small holding where a landholder had written title, and a more "powerful" local person with some form of documentation.
- 7 In a case involving very large government land concessions to a private company, villagers had protested and succeeded in getting local government to force the company to break a dam that had been constructed illegally, and was preventing water from flowing to all downstream villagers. However, two of the local organizers faced criminal charges, later dropped.
- 8 In cases involving domestic violence and localized land disputes, NGOs and local activists assert they are able to work with local leaders and government authorities in a cooperative way to resolve disputes without going to court (with the exception of divorce).
- 9 In cases where very "powerful and wealthy" people from outside come in with government issued documents, villagers can organize and protest, but the best they can hope for is that the situation "remains unresolved", while they continue to live on their land as long as possible. There is little optimism or faith that "powerless" people can receive justice in the courts against more "powerful" investors. They also said that when very powerful outside interests are involved, local commune leadership is co-opted, threatened, or "bought" to insure cooperation with the investors.

Conclusions: Strengthening Human Rights

These conclusions apply to all grantees receiving training and technical assistance regarding organizational strengthening. With respect to advocacy and use of legal knowledge and professionals, these conclusions apply mainly to Human Rights NGOs. Access to Justice organizations are discussed in the next section of this report.

Organizational Strengthening

Human Rights NGOs and other grantees benefited from the PRAJ program in terms of strengthening organizational capacity, better financial management, and especially learning about advocacy and legal awareness associated with advocacy. This learning has been at some cost, as most also find the annual grant rounds inimical to long term planning. Moreover, the need to prepare quarterly reports and quarterly spending projections places a substantial burden on all partners, and leads to complaints about micro-management and "arrogant" behavior on the part of project grants staff.

Although workshops and seminars were seen as valuable for issues like general management, sustainability, and financial management, the case by case advisory approach was more highly valued with regard to advocacy, networking, and empowering local leadership. In these core objective areas, the project professional's personal touch was clearly appreciated.

The difference between the standard, "when in doubt, mount a training course" approach and the more personal advisory approach is that the latter is more demand driven, and is more responsive to the "unique" problems of the organization. In the latter the organizational leader feels he or she is the client, and the project the provider of services. This is a profound difference of

viewpoint, and one that is consistent with the USAID general objective of empowerment of local organizational partners.

Advocacy, Networking and Empowering

PRAJ has successfully enhanced, if not introduced, the concept of advocacy, and the need for well established Phnom Penh NGOs to shift their *modus operandi* away from a top down and hierarchical mode.

This process is still evolving, and will require more time to become a deeply-rooted way of doing business in a culture where everything else is hierarchical in nature. As the findings indicate, the process of “empowerment” is one that also carries with it responsibilities for continuing support for local activists. The Cambodian cultural and socio-political environment is not supportive of the idea that people at the bottom of the pyramid should be “empowered”, especially if that empowerment threatens more powerful interests.

It appears that “advocacy” takes on a different meaning for Cambodians than it does in a western democracy such as the US. First, there is question of “to whom does one advocate?” In a situation where power is highly concentrated in a relatively small number of people in Phnom Penh, and the legislature is relatively very weak, the idea of advocating to the local, state or national legislature is a waste of time. Second, most advocacy campaigns in a western democracy are based on two pillars, the strongest possible case based on “facts” (however bent to the purpose), and a constituency of supporters, whether rich, powerful, righteous or multitudinous. Third, advocacy is an enduring process...it is long term, consistent, and persistent. Fourth, although allowing for cooperation and compromise, advocacy is essentially a confrontational process. Finally, advocacy is respected...it is a legitimate part of the political process and the rights of advocates are recognized in law.

Few of these characteristics of western advocacy appear to apply to the Cambodian situation. In Cambodia, government restricts protests, does not want to be “embarrassed,” and is quite willing to take action against advocates who threaten stability, public peace, or any number of other regime interests. Media is controlled by government, as testified by both WMC and Equal Access, and the judicial system is perceived as weak, not independent, and corrupt. Moreover, the legislature is not a “rule making” deliberative body with independent stature, and government ministries seem free to issue interim regulations at will. To whom does one advocate?

The evidence is that Cambodians, especially in the countryside, advocate by trying to develop cooperative relationships with local leaders and authorities and hoping for the best. This is why mediation and conflict resolution skills taught by local NGOs are valued. The evidence presented above suggest that that is what most of the PRAJ-funded NGOs try to do. They seek “remedial justice” on a case by case basis through mediation, negotiation, and rehabilitation, and only rarely do they resort to the courts for resolution of disputes.

In Phnom Penh, where the possibilities of turning the spotlight of international concern and outrage are far greater, the possibilities for protest are greater, but even here, especially since the anti-Thai riots, the government has become much less willing to tolerate organized political opposition. And protest is only one part of a well-conceived advocacy campaign.

The conclusion is that Cambodians have taken the idea of advocacy and tailored it as best they can to their own circumstances. “Remedial justice” on a case by case basis is not a bad thing,

but it is a process that does not, necessarily, lead to the establishment of a policy or legal precedent binding on the courts, the government, or anywhere else.

Engagement with Law and Legal Professionals

The evidence suggests the following conclusion. Partner NGOs have become more aware of legal issues, legal rights, and the possibilities of defending rights through the court system. One has even established a legal outreach division within its organization. However, for the most part, and with the exception of those organizations such as CDP that are essentially legal defense organizations, the NGO grantees have avoided engagement with the Cambodian courts for the reasons enumerated above. Moreover, the majority of Partner NGOs have been more concerned with more traditional support activities such as awareness raising, negotiation, mediating, and cooperation than with encouraging their “beneficiaries” to engage with lawyers and the courts.

IV. HIGH IMPACT LEGAL ADVOCACY

Program Description

In 2003-2004 the PRAJ (“Project”) proposed the establishment of an “impact litigation foundation” (ILF). This foundation was to be set up as a sustainable local organization capable of implementing high profile advocacy initiatives that would bring legal resolution of cases that affected important public interest rights of individuals and communities. These cases were to have a “precedent” setting affect on the Cambodian system of justice and thus utilize the legal system as an instrument of broader change that could further the development of the rule of law. Although many Cambodian NGOs engage in advocacy work through media campaigning, lobbying and constituent building, the ILF's core mission was first and foremost to litigate cases in the Cambodian courts. The foundation was initially envisaged to have a grant-making function in order to foster other organizations engagement of the impact litigation strategy; however, it later became evident that this was not a viable option in Cambodia as there was simply not the proper institutional capacity in place or willingness to engage in such an activity. With this in mind, in January 2004 the Project entered into agreement with the Community Legal Education Center (CLEC) to oversee and manage the Public Interest Legal Advocacy Project (PILAP). CLEC is a Cambodian NGO that was established in cooperation with the University of San Francisco with funding from USAID, but in 2001 became a completely localized organization. CLEC was selected as the proper venue for the PILAP program in large part due to its reputation for professional competency as well as its extensive contacts within the legal and NGO communities, particularly in the land and natural resource sectors.

Hypothesis of Component

That the utilization of high impact legal advocacy would create positive institutional and structure changes in Cambodia by influencing the behavior of authorities, especially judicial actors in the enforcement of legal norms, and enhance broader public demand for government accountability and the protection of human rights.

Findings

Provision of Legal Services to Poor and Marginalized

PILAP has provided legal services to the poor and marginalized in Cambodia through the utilization of high impact advocacy since 2004. Due to the "class action" nature of these cases, PILAP's work has undoubtedly provided representation to thousands of individuals that would not have normally had the opportunity to fully pursue their legal claims. PILAP's innovative approach in pursuing these types of cases has allowed them to leverage their attorneys and personnel resources in a way that most Cambodian NGO's simply cannot. Considering that there are only six full-time attorneys working at PILAP, the ratio of clients per attorney demonstrates some quantitative value in a high impact approach. In addition to the high impact cases, PILAP has sought broader engagement of the poor and marginalized by rendering legal consultations and offering limited case "interventions" when necessary. These consultations and interventions are secondary to the high impact cases, but nevertheless provide a much needed service to those in need.

Results in High Impact Cases

Since 2004 the bulk of the work of PILAP has been with the high impact cases. It is through these cases that PILAP has sought change by demonstrating that the legal system can be effectively utilized to assert and protect citizen rights. The high impact cases also are designed to apply "demand" on the government and private sector for greater accountability and transparency. As of December 2007, PILAP has handled eight high impact cases: Phenom Penh Themei, Teun Village/Rantanakiri, Koh Pich, Group 78, Kong Yu, Srei Ambel case, Kratie Land Concessions and Reak Reay. To date, it can be said that PILAP obtained a favorable result for its "class" of clients in two of the eight cases, the Teun Village/Rantanakiri and Koh Pich cases. In both instances PILAP was representing communities that had seen their livelihoods jeopardized by powerful political and private interests through attempted land "grabs" or seizures. After long, protracted battles that involved PILAP pursuing both an advocacy and legal approach to the cases, settlements were eventually reached.

It is with the Koh Pich case that PILAP has truly demonstrated a "high impact" result. In Koh Pich, PILAP represented approximately 78 families that were threatened with eviction from an island directly offshore from downtown Phnom Penh. Evidently, the eviction notice that was sent to the community residing on the island was orchestrated by individuals with close ties to the upper levels of the Cambodian government acting on behalf of private developers. The PILAP team utilized a myriad of effective advocacy techniques in order to generate public and media interest in the case and to highlight the clear violations of the 2001 Land Law. This media interest in turn ensured that the case received a measure of transparency not typical of cases involving clashes with powerful private and government interests. PILAP attorneys very skillfully utilized the media and close coordination with the donor and NGO community to "block" nearly every illegal tactic of the developers.

Although the advocacy strategy implemented by PILAP proved to be a significant factor in the ultimate outcome, the heart of the Koh Pich case was based on a legal strategy. PILAP attorneys demonstrated their legal prowess throughout the case, filing appropriate motions, legal memos, and attending court hearings whenever relevant to reaching a successful outcome. It was here that the Project's intense training efforts of the PILAP attorneys paid dividends. The Koh Pich case was complex and required a high degree of expertise in order to mount a solid legal strategy. Without the advocacy training of PILAP lawyers in the first year of the Project, it is unlikely that the case could have been handled in the same manner. A review of the case reveals numerous times wherein the legal capabilities of the PILAP team came into play. Ultimately the basis for the settlement in the case hinged on a legal principle; "fair and just" compensation under the provisions of the Land Law. In this regard, "fair and just compensation" resulted in a settlement of approximately \$3 million on behalf of PILAP's clients. Considering that this same community was faced with a likely eviction only months before PILAP commenced its work, the Koh Pich case is an outstanding result.

It is with the "fair and just" principle that PILAP obtained the precedent-setting result that was the basis for the program at its founding in 2004. This evaluation team repeatedly heard from NGO lawyers of the precedent of the Koh Pich case and how this result impacted their own advocacy strategies in mounting a legal defense to a land grab or seizure by vested interests. One NGO lawyer stated:

“Without seeing the result in this case, I’m not sure if we would have thought it possible to try and confront the government in land cases. At least now we can argue fair and just compensation as the basis for our legal cases.”⁵

The fair and just principle that was established by the Koh Pich case was well exploited by the Project through various informational dissemination tools, including roundtable events, meetings of land law working groups and publicizing the precedent-setting results to the media as well as by conducting training programs that put PILAP lawyers in contact with the larger NGO community. One example is a January 2005 roundtable that PILAP convened on the issue that brought together key stakeholders in land policy formation. This roundtable allowed PILAP to educate the stakeholders on both the substantive and procedural aspects of fair and just compensation, and provided a forum in which to elicit ideas and generate follow-up activities.

Public Awareness and Demand

Interviews with NGOs, legal aid lawyers, and community activists consistently revealed that the PILAP cases have generated a heightened interest in the legal protections for poor and vulnerable communities. Public demand for government accountability seems to be broader and deeper than it was five years ago. NGO and legal aid lawyers disseminating information to the public on the results of the Koh Pich case of "fair and just compensation" report that there is an increased flow of "walk in" clients to NGOs. In many cases these individuals are village or community representatives that are interested pursuing legal representation due to land encroachment by private interests. The evaluation team witnessed this general trend toward increased citizen awareness and demand first-hand in speaking to the "Group 78" community. The leader of "Group 78" was well informed of the results of the Koh Pich case and was pressing the community's demands under the 2001 Land Law. The community had even posted an information board that contained relevant provisions of the Land Law as well as other important documents that pertained to Cambodian legal norms.

The increase in public awareness concerning land rights and the corresponding demand for legal representation to protect those rights can be attributed to both the high visibility and profile of the PILAP cases and to the organization’s close interaction with the NGO community. PILAP cases have drawn the close attention of the media. For example, the Group 78 case has been the subject of numerous newspaper articles and radio "spots" as well as TV broadcasting. The high visibility of the high impact cases has also come to the attention of the international community and therefore brought a scrutiny to land issues that was not previously seen in Cambodia. While coverage in the Khmer language media has certainly been less prominent in certain PILAP cases, the overall trend of increased media coverage is positive. Moreover, PILAP's work with the NGO community has been a tool in which to open a small advocacy "wedge" in the land rights arena. PILAP's approach has been to establish an NGO network on land rights advocacy with a focus on Kratie and Phnom Penh. These efforts have been reinforced by working with the NGO Forum to establish a land documentation center.

The increased public demand for enforcement of legal norms in land cases can also be attributed to PILAP's training programs on behalf of the NGO community. PILAP Progress Reports show a consistent effort to engage their colleagues in the NGO sector in an attempt to bring more

⁵ Interview with LAC attorney, December 6, 2007

organizations into an integrated approach to public interest work. In some cases, the PILAP model has been the impetus for other NGOs developing their own high-impact advocacy projects (i.e., LAC). PRAJ support through its Advocacy Advisor and a US short-term expert spearheaded the effort of imparting PILAP-style advocacy skills and procedures to other NGOs. Regardless of the focus area of a particular NGO, these skills will undoubtedly benefit an organization as it develops its core advocacy campaigns on behalf of its constituency. Additionally, the training programs on legal advocacy have allowed PILAP to "feed" the growing NGO network and strengthen ties between organizations. This factor is especially relevant due to the isolation that many provincial NGOs face in implementing their programs. Considering the difficult and often threatening work environment for many NGOs, anything that can encourage exchange and outreach within the NGO community is beneficial.

This integrated approach has paid off in recent months and can be seen in the Srei Ambel case. This case involves land concessions made to a high level politician and local tycoon, the resolution of which will potentially impact 466 families in three villages. In order to leverage their collective strength, CLEC, LICADHO and CCHR have taken a collaborative approach in addressing the myriad of issues surrounding the case, allowing each organization to utilize its resources to the greatest strategic advantage. As the government undoubtedly becomes more sophisticated in its response to perceived threats to political or private economic interests, this type of collaboration between the NGO communities will represent significant value to affected communities.

Impact of PILAP Program on Institutional Authority

Although the evaluation team clearly saw a favorable trend in the rise of public awareness and demand in the land rights arena through the PILAP cases, this demand has not yet resulted in broader institutional changes in the actions or behavior of authorities. In general, the institutional players, and in particular judicial authorities, continue to act in an arbitrary and capricious manner when handling land cases. Most every interviewee questioned in the evaluation process had favorable things to say about the PILAP effort and its willingness to tackle the high profile land cases.

Nevertheless, these same interviewees could see no discernible difference in the policies of the government regarding land rights in Cambodia. Some individuals interviewed felt that the PILAP cases were making it *less* likely that a particular client or community would obtain a favorable outcome due to the "face saving" nature of the Cambodian culture. That is, publicizing the land issue was likely to embarrass government officials, and thus result in a "digging in the heels" approach in order to avoid a perception of weakness. However, overall this response was not the prevalent one, and most seemed to draw the conclusion that although broader impact on institutions was simply not part of the current reform equation, the situation had not grown worse in recent years due to any NGO activity. One NGO lawyer interviewed stated:

"Everyone seems to focus on land now, and we are taking more of these cases. But I'm not sure if we will get good results, the government is still going to do what they've always done. Judges are just going to follow orders."⁶

⁶ Interview with CDP lawyer, December 6th, 2007

Even the director of CLEC was skeptical of being able to effectuate institutional changes and broader impact through the PILAP cases anytime in the foreseeable future. According to the director, trust of the court system is so low and the possibility of winning cases on a consistent basis is so unlikely that trying to establish momentum for an in-depth attack on government accountability and transparency is not relevant. In fact, the PILAP strategy often intentionally *avoids* the court system in order to attempt to get a just result. This is natural in a programming environment wherein trying to achieve a favorable result on behalf of a client is the primary objective; however, it makes it that much more difficult to achieve a continuum in which to build toward broader institutional change in the country. Though the precedent setting "fair and just" compensation case was laudable in opening a small "space" in the reform process, justice in the PILAP cases is piecemeal and not likely to be connected to a court decision.

It should be noted that some interviewees indicated that the judicial system does not want to be *perceived* to be acting in quite such an openly arbitrary manner as in the past. This is undoubtedly due to the impact of the broad array of advocacy tools that are being implemented by PILAP and other NGOs in regard to land disputes. This also fits in with the overall trend of more demand being placed on the system of interlocking government and private business interests. Nevertheless, it appears that this pressure has simply resulted in the government becoming more refined in its approach to land seizures. Authorities seem to recognize the potentially damaging effects of any adverse publicity that highlights clear violations of the 2001 Land Law, and thus attempt to legitimize their actions by way of obtaining their own legal "stamp of approval". This can often take the form of a so-called "sub-decree" that provides a basis for seizing a particular plot of land. It also can take the form of direct interference in the legal process. A more disturbing trend is the utilization of the judicial system as a means to criminally punish those that would challenge the authorities in land matters. If this trend continues it is inevitable that there will be fewer litigants willing to step forward and challenge land confiscations in the court system. The evaluation team encountered several examples of individuals being intimidated by local authorities and thus forced to drop what otherwise was a legitimate land claim:

"I can't go to the court because they will arrest me. The last time I went down there I took the entire village with me. That is the only way that I'm protected from the judge. I'm better off just staying away."⁷

The PILAP model of grouping entire communities together as litigants does counteract this growing trend of criminalization of land matters to a certain extent. The PILAP methodology engenders a cohesiveness and unity amongst the impacted group that cannot be generated by a piecemeal approach to litigating individual cases. The Group 78 case, which involves approximately 150 families in Phnom Penh, is an example of this approach. Still, the overall trend seems to be one of the Cambodian Government utilizing the judicial system as a tool of oppression in land cases and it is unlikely that even a "class action" approach will withstand this assault on citizen rights over the long term. And although it is not unusual in international development to encounter judicial systems that lack independence from the executive branch and suffer from judicial incompetence and wide scale corruption, it is atypical to see such an overt use of judicial power utilized against the public interest as seen in Cambodia. This factor could

⁷ Interview with citizen of the Battambang Province, December 4, 2007

make it very difficult for PILAP to mount an effective legal strategy on behalf of its clientele as it moves toward a resolution of its cases.

Impact of PILAP Model on the Role of the Legal Profession, Sustainability and Cost

The early emphasis of PILAP in bringing cases to court, i.e. “legal actions”, diminished relatively early in PILAP’s developmental process. Although PILAP has attempted to maintain a legal approach to its caseload throughout its operational existence, it became resoundingly clear by mid 2004 that a strategy based first and foremost on litigating cases in the Cambodian courts for a “precedent” type impact was going to be ineffective. Based on experience, PILAP lawyers considered a focus on the judicial process to be misplaced and advised against it. Structural reform of the legal system that could then regulate the conduct of government officials and private entities by imposition and monitoring of judicial decrees was deemed unrealistic. Although the PILAP approach was meant to incorporate a broader strategy that promoted the utilization of targeted advocacy campaigns, law and issue awareness outreach activities and close interaction with media outlets, it was clear that the overall strategy in the early development of the organization was to direct its activities to the court and judicial branch of government. This was the centerpiece of its strategy, and it plainly changed as the harsh realities of the judicial environment became obvious to the implementers. With these in mind, PILAP’s strategic emphasis became more advocacy-based, with the PILAP lawyers taking a lead role in publicizing their cases through the media and outreach activities. Generating publicity and debate was seen as the most efficient way of pursuing PILAP objectives.

Although the evaluation team had no way of measuring the extent of PILAP’s ongoing interaction with the media utilizing any hard data, it is clear that this interaction is extensive and growing in scope. On the one hand this is a natural result of the PILAP team trying to obtain the best results for their clients in a system that is clearly weighted against any type of broad institutional change. Circumstances have demanded that PILAP emphasize an advocacy approach in its work. However, there is some question as to whether this stronger advocacy based method on the part of lawyers is healthy to the long term development of the legal profession in Cambodia. This issue will be explored in greater detail in Section V. as it is with the legal NGOs that seek to ensure access to justice that the issue is of primary importance.

Another key issue that is linked with the impact of the PILAP model on the legal profession concerns the model’s sustainability in a weak reform environment such as exists in Cambodia. The PILAP lawyers take a very conspicuous public role in the process of opposing government and/or private interests. PILAP lawyers have often cultivated the high impact cases through press conferences, radio and television “spots” and, whenever possible, local newspapers. It is this very public role that led in part to the resignation of four PILAP lawyers in 2007. Evidently a criminal complaint was submitted by a prosecutor in the Rattanakiri Province against several PILAP employees that were pursuing one of the organization’s high impact cases. This criminal complaint was another indication of the government’s willingness to go to great lengths to ensure that its interests are protected. More importantly, it is a sign that NGO lawyers, and in particular PILAP lawyers, are vulnerable to intimidation and pressure by government authorities.

The loss of the PILAP lawyers can only have severe and detrimental consequences for the organization’s ability to properly represent its client base going forward. PILAP lost a cadre of experienced, public interest minded lawyers that had been trained by the Project over the course of several years. This type of experience cannot be easily replaced, especially with the confines

of a Project end date in 2008. PILAP cases require an inordinate amount of time devoted to mapping out appropriate legal and advocacy strategies compared to non high impact cases. In losing a significant part of its knowledge base and institutional memory, PILAP will likely struggle to complete its existing workload or take on new high impact matters. Moreover, a large question looms as to whether the government will essentially shut down a high impact case in the future by prosecuting PILAP representatives. The evaluation team received conflicting information in this regard. Many interviewees thought that the pressure exerted by the government on PILAP lawyers was a onetime occurrence, not likely to be repeated in the future. Other interviewees saw the government's aggressive pursuit of criminal prosecution as evidence that it would not permit PILAP's advocacy approach to go too far in opposing vested interests. Regardless, the result has certainly called into question the viability of PILAP to be able to attract and maintain a high level of legal expertise on staff.

PILAP cases are also time-consuming and require significant input of the Project's financial resources. To date the Project has expended approximately \$2.1 million on the utilization of the high impact legal advocacy strategy for land rights cases in Cambodia. This represents approximately 13.57% of costs associated with the various programming components, or the second highest expenditure category after the grants to Human Rights NGOs. Although this spending has encompassed more than just the eight high impact cases, and has included numerous case interventions and consultations, the primary purpose of PILAP has been the pursuit of these high impact matters. When costs are examined on a per case "basis", the high impact strategy has proven to be an expensive endeavor.

Conclusions

Hypothesis

That the utilization of high impact legal advocacy would create positive institutional and structure changes in Cambodia by influencing the behavior of authorities, especially judicial actors in the enforcement of legal norms, and enhance broader public demand for government accountability and the protection of human rights.

Conclusion

It is clear that PILAP's work has created a general awareness of land disputes in Cambodia that was not in place prior to the organization's legal and advocacy interventions. PILAP has effectively utilized a network of human right NGOs to its advantage and this in turn has created an informational network that has spread to legal NGOs, community and grassroots activists, and the international donor sector. This emphasis on the "demand" side of the equation was difficult and required a sustained effort over a period of time. Nearly every interviewee credited the PILAP cases for publicizing the ongoing battles for control of land and natural resources in Cambodia. Without raising awareness, and most importantly, *demand* for the enforcement of legal rights, it is highly unlikely that the issue of land rights would be as prominent as it is today in Cambodia. Moreover, PILAP firmly established the "fair and just" principle in land cases. This was truly a precedent of the sort envisioned by the Project, and has led to a "ripple" effect and wider discussion of land rights. This is a significant accomplishment as it has increased citizen expectations for government accountability and transparency.

Nevertheless, PILAP cannot be said to have created positive institutional and structure changes that influenced the behavior of authorities in Cambodia. Judicial actors still operate as they did prior to PILAP intervention. Interviewees almost uniformly agreed that the government, and in particular the judicial system, act with nearly total impunity when it comes to land disputes. Broad reform change on the part of the government does not seem to be viable in the foreseeable future, and especially when it touches on the important economic interests of the authorities or powerful private entities. There is little that PILAP can do in the context of a USAID sponsored program in this regard. The depth of the institutional problems in Cambodia as they relate to the independence of the judiciary are such that only a sustained, comprehensive and well financed effort over an extended period of time (i.e., certainly greater than five years) can be expected to generate results. In this regard it should be noted that it was somewhat unrealistic for PILAP to be able to have the type of broad institutional change sought at the outset of the Project. Reform of this sort was, and continues to be, unrealistic and improbable in the current legal environment.

V. ACCESS TO JUSTICE, INCLUDING LEGAL AID

Program Description

PRAJ assistance to the legal aid NGO community was limited through approximately 2004, with assistance primarily rendered to the Cambodia Defender's Project (CDP). In addition to receiving grant monies during this early period, CDP was the recipient of technical assistance that was designed to strengthen the capacity of CDP to manage its caseload and improve the delivery of legal services to the poor. It was not until the second Quarter of 2004- 2005 (January 05 – March 05) that PRAJ retained a Legal Aid Advisor in order to examine the needs of the larger legal aid NGO community. It was at this time that the PRAJ advisor developed an assessment of key legal aid providers, including CDP. Along with the assessment, a detailed work plan was developed that was to further donor coordination and utilize the Project's prior experience with CDP to continue to improve the delivery and quality of legal aid services to Cambodian citizens. Included in the assessment was a proposal to develop a national legal aid strategy and "plan of action".

Pursuant to the fourth contract modification in September 2005, the PRAJ revised its previous program description and updated its scope of work to reflect PRAJ's adoption of a rule of law program. This updated version of the SOW included a separate programmatic component designated as **Access to Justice, including Improving Legal Aid**. By the first Quarter for 2005-2006 (October 05 – December 05) PRAJ had developed a plan of technical assistance that was to focus on four key legal aid NGO partners/grantees: CDP; Legal Aid of Cambodia (LAC); Legal Services for Children and Women (LSCW); and Community Capacity Development (CCD). (In the interest of brevity, the evaluation team focused its review on the two main legal aid providers – CDP and LAC.) The new Access to Justice Component was to accomplish two primary goals: first; lay the groundwork for a national legal aid strategy which was to be built on a national survey of legal aid needs and resources and second; strengthen the capacity of Cambodia's existing legal aid NGO providers. This latter objective was to be achieved through targeted technical assistance that focused first and foremost on developing a standardized approach to delivering services to the poor and conducting ongoing monitoring and evaluation of such services.

Hypothesis of Component

That providing technical support and assistance to legal aid providers would strengthen their capacity to defend poor, vulnerable and marginalized citizens and thereby increase the number of cases that are both procedurally and substantively defended according to the law and result in the improved dispensation of justice in the Cambodian courts.

Findings

Evidence Points to Better Overall Management and Professionalism of Legal Aid NGOs

PRAJ spent considerable time and resources in building the management and technical capacities of the legal aid NGOs, and in particular, CDP. CDP has received grant monies from PRAJ since 2004. The grants were tied to work plan deliverables that required CDP to take steps to improve the management and administration of the organization. A PRAJ Legal Aid Advisor worked closely with CDP staff throughout 2004, conducting full reviews of all CDP cases and evaluating

the performance of their attorneys. Technical assistance to CDP developed over time to include support of regional offices to conduct networking and public outreach. Training of legal aid lawyers in practical skills, including trial techniques and legal research and writing, were also part of the assistance package rendered to CDP by the PRAJ Legal Aid Advisor. One of the most important pieces of PRAJ assistance to CDP was the development of a case management and tracking system. This tracking system was designed to help CDP better organize their case load, improving overall efficiency and internal coordination. By all accounts this tracking system was a significant boost to the CDP organization and is now an integral part of their day-to-day operations.

It should be noted that PRAJ's is now providing 16.3% of all CDP's funding, down from a peak of 66.6% in 2002. In 2002, CDP clearly did not have the ability to draw in as many international donors as it does today. It can be assumed that PRAJ's early technical assistance provided the organization with the base and profile upon which it could then develop and maximize its resources through the international donor community. It can also be assumed that the assistance rendered by PRAJ in terms of improving the management of the organization was a factor in CDP's ability to secure a steady stream of financing from donors. Although PRAJ will likely have less influence with CDP management going forward due to the reduced funding levels, CDP is a better overall organization than it was prior to PRAJ intervention.

LAC and LSCW have also received significant grant monies from PRAJ but for shorter period of time. It appears that neither organization was part of the PRAJ reform portfolio until the third Quarter 2005 wherein the Project commenced funding of both organizations. The focus on LAC was with the land unit division. Both organizations received technical assistance geared toward improving internal operating procedures. As with CDP, the focus was on the development of sound management practices, especially as they relate to ensuring that case files are properly handled and incorporate standardized procedures for administration. The introduction of a model file system and internal monitoring and evaluation tools were part of PRAJ's technical assistance to the organizations. Training programs to enhance the professional skills of the cadre of lawyers working with LAC and LSCW were also provided by PRAJ.

Nearly all of the interviewees mentioned that the training programs were beneficial to them in their professional practice. Likewise, interviewees cited PRAJ's targeted programming with improving their managerial and administrative capabilities. Pursuant to a focus group survey conducted on December 7th, legal aid NGO's cited "management development" as PRAJ's strongest contribution to their respective organizations, ranking it ahead of advocacy training, community networking and financial/budgeting planning.

Overall Effectiveness of CDP & LAC in Delivering Legal Services – Lack of Data

The major premise behind the Access to Justice Component is that the ability of the primary legal aid NGOs to deliver quality services to the poor can be improved by PRAJ technical assistance. The effectiveness of these organizations in this regard is difficult to evaluate however, as there is no comprehensive data or consistent record keeping that would allow for in-depth analysis. The evaluation team did receive some preliminary data from CDP that examines the intake of cases, caseload, disposition results and number of case referrals. However, a better indicator of the effectiveness of CDP and LAC would be surveys or focus group studies that examined the level of client satisfaction. The lack of evaluative data was one of the reasons that PRAJ retained a legal development consultant, Stephen Golub, during the third Quarter 2006-

2007 to assess the activities and effectiveness of the legal aid providers in Cambodia. Mr. Golub's analysis could only draw general conclusions about the capabilities of the legal aid NGOs. His report pointed to CDP as being the leading NGO in providing legal services for the disadvantaged in Cambodia, and fairly adept at providing a criminal defense in certain cases, but with some significant weaknesses. Both organizations were cited for a lack of commitment on the part of some staff lawyers.⁸

Cambodian Defenders Project: The organization employs 32 lawyers and 35 additional staff members. During its 14 years of operation it has handled 13,491 cases, of which more than 10,000 are criminal cases. Among the 2985 civil cases, CDP has represented clients in land disputes in 1477 cases, or roughly 49.5% of the total civil caseload. In examining its caseload, there is no discernable pattern that indicates that CDP is becoming more efficient at processing the cases. Its caseload peaked from 2000-2003 and experienced a steady decrease from 2005 through 2007. Likewise, there is no particular pattern from internal CDP statistics that demonstrates that the organization's ability to win cases in court is on an upward trend. In 1995, the acquittal rate for CDP clients in criminal cases was 32%, and in 2006 it was down to 23%. Although it is impossible to determine what would be considered a successful "rate" of wins in land cases in Cambodia, CDP did seem to do fairly well in this category; according to internal data, the organization won its land cases 41% of the time. The only other meaningful statistic found dealt with the conduit for CDP case referrals. In this regard, the data clearly indicates that CDP is receiving a higher percentage of its cases from direct "walk in" clients than it had in previous years. Moreover, the courts seem to be directing more and more cases to CDP, with an upswing in numbers both in 2005 and 2006. Though it is difficult to extrapolate evaluative determinations from such sparse data, it is encouraging that more cases are coming in via "walk ins" and the courts.

The evaluation team attempted to generate some anecdotal evidence about the proficiency of the CDP in delivering legal services to the poor and disadvantaged by way of interviews. However, as with the hard data, the evidence was inconclusive. Several clients of CDP praised its expertise and willingness to represent them in tough legal cases:

"They stepped in and really gave me a feeling of confidence. I think the judge would have sentenced me to jail if CDP would not have been there."⁹

One provincial court judge interviewed by the evaluation teams was also complimentary of the overall quality of legal services rendered by legal aid organizations in Cambodia:

"I think these organizations are getting better, especially in preparation for their cases. These NGO lawyers did not seem very professional in the past, but I think that is changing."¹⁰

PRAJ did gather some basic data back in the fourth Quarter 2004-2005 as it relates to client satisfaction with CDP services, but there has been no follow-up survey since this time. (The PRAJ survey indicated that approximately 75% of the clients interviewed were satisfied with

⁸ See *Review and Recommendations for Supporting Legal Services and Advocacy in Cambodia*, Stephen Golub, Boalt Hall School of Law

⁹ Interview with CDP client in Battambang Province, December 4, 2007

¹⁰ Interview with provincial court judge, December 4, 2007

CDP's representation.¹¹) In the context of Cambodia, wherein many poor and underprivileged citizens receive no legal representation at all in court, CDP is clearly providing a better than average service on behalf of its clientele. And although there is no hard statistical data that indicates that CDP is becoming a more efficient, professional organization in terms of its representation of clients, PRAJ technical assistance and funding has at least contributed to the NGO's viability as one of major legal aid providers in Cambodia. CDP is well known in the country and its visibility is in part due to the support rendered by PRAJ.

Legal Aid Cambodia: LAC was founded in 1995 after splitting off from CDP. It currently employs 32 lawyers and has seven field offices and a Phnom Penh headquarters. PRAJ funds the land law division of LAC. While dedicated to the same objectives as CDP, the organization clearly seems to take a different approach with its caseload than CDP. CDP primarily limits itself to the provision of a "technical" legal defense, utilizing both procedural and substantive means to provide its client the best possible representation under Cambodian law. Conversely, LAC has recently adopted the PILAP model of utilizing high impact cases to further broader institutional changes in the country. That is not to say that LAC does not provide the more "traditional" legal type defense that characterizes CDP cases, but it appears that LAC seems more willing than CDP to engage in an advocacy based approach to defending its clientele, utilizing media, community and interest group pressure to effectuate change and obtain a just result in court. This is of particular relevance with land cases, which will make up the vast majority of high impact matters that LAC will handle as it moves forward.

It should also be noted that PRAJ supports the CC2 unit of LAC. This program is designed to ensure prompt and appropriate access to legal aid for juveniles held in pre-trial detention in CC2 (Correction Center 2) prison. PRAJ also has engaged LAC to provide public defender services to the Kandal Court (see pg. 58) Reports from the field are that the CC2 work has been useful, and out of the LAC units, CC2 has been one of the more effective. Likewise, the public defender's project at the Kandal Court has also been well received. However, unlike the CC2 unit, it is a relatively new endeavor, and thus it is difficult to draw any significant evaluative conclusions.

If the ability of the evaluators to analyze the effectiveness of CDP was hampered by a lack of statistical data, it was crippled with regards to LAC. LAC did not present any internal data to the evaluators that would allow the team to adequately assess the quality of their legal services. PMP reporting is also sparse in this regard, and although PRAJ seems to have developed a working plan that incorporates technical assistance to implement client satisfaction assessments and updated performance evaluations, there is no available data contained in any PRAJ quarterly report. Obviously the Golub report was a positive step in analyzing the effectiveness of the legal aid organizations that are supported by PRAJ. However, the report does not contain any statistical data that demonstrates a discernable trend in either CDP or LAC effectiveness in the representation of their respective client bases.

Un-anticipated Consequence: LAC Adopting the PILAP Approach and Implications for the Legal Profession

In interviews with LAC personnel, it was pointed out by the director that the organization was moving toward a PILAP approach to rendering its legal services to the poor and marginalized. As described in detail below, this approach is to take large, class action style cases that focus on

¹¹ PRAJ 4th Quarterly Report for the period of July 1 – September 30, 2005

land law issues and attempt to utilize both legal and advocacy techniques to establish a precedent for broader institutional change in the country. This decision by LAC is critical, as it means that one of the two primary legal aid providers in the country will be moving further away from the more traditional legal methods employed by CDP in representing its client base. LAC is now combining public interest advocacy, which often includes community and interest group pressure, with the technical aspects of providing a legal defense that is primarily rendered in a court of law. As demonstrated by the outside pressure that was put on the PILAP lawyers, which led in part to their resignations, this mixing of advocacy and legal defense can present problems with respect to long-term sustainability. If in their advocacy and interaction with media representatives, lawyers are viewed as straying too close to what can be considered by the government as a “political” motive, there is a danger that the profession will come under hostile scrutiny by the authorities. This in turn could lead to a broader clamp-down on NGO lawyers and their activities. Though the evidence is unclear, there is some indication that the resignation by the PILAP lawyers has had a “chilling” effect on other NGO lawyers. One lawyer that was interviewed stated:

“I’m not sure if an NGO is the best place for me with everything going on now. These NGO lawyers might even get charged with crimes. There’s not much that can be done right now.”¹²

Other lawyers raised the issue of whether such a strong advocacy approach by the legal profession was advisable since it essentially added another layer of outside pressure on the judiciary. These lawyers argued that although there was certainly a place for advocacy on the part of NGO attorneys, getting too far away from strictly a legal defense was *detrimental to* judicial independence over the long term. Some NGO lawyers were of the opinion that it was best to allow the judiciary “space” to grow without undue media or public interest pressure applied by the legal profession, regardless of the potentially negative short-term consequences. One interviewee summarized this view:

“We are always talking about judicial independence. But what are we doing if we run to the media and international donors with our cases? As lawyers, we should stick to the legal process.”¹³

Although LAC’s legal advocacy approach *only* concerns land cases and not other more standard legal matters, the issue is significant due to the importance that these cases have on the overall ROL environment in Cambodia. The discussion of legal “rights” is dominated by the fight over land and natural resources in Cambodia, and thus LAC’s strategic turn will have obvious repercussions.

Legal Aid Survey Completed

In December 2006 PRAJ and the Council for Legal and Judicial Reform (CLJR) produced a study entitled *Legal Aid in Cambodia: Practices, Perceptions and Needs*. The purpose of the study was to assess the state of legal aid in the country and to equip the government and NGO community to make informed decisions about reform measures needed to improve services. In August 2006 a Dissemination and Feedback Workshop was conducted with the goal of sharing the findings of the survey and to elicit reactions from key stakeholders in the government, NGO

¹² Interview with NGO lawyer on December 6th, 2007

¹³ Interview with former NGO lawyer on December 9th, 2007

community and international donors. As the workshop represented the first time that all of the relevant parties came together to discuss the issue of legal aid, PRAJ can be credited with at least initiating a process intended to bring in the government on a critical reform issue. The CLJR has acted on several of the recommendations that were generated in the report, including sponsoring a legal aid directory and a public outreach radio program produced by PRAJ. Regardless, it is unlikely that the survey will result in a comprehensive implementation strategy on the part of the government. Government services are still viewed as overtly corrupt and simply unable to manage large scale reform of the legal aid sector. Allowing the government too much involvement with legal aid would likely be a setback for the proper development of the NGOs.

Reports of Modest Improvements in Procedural Justice in *Some* Cases

There is broad agreement among legal aid NGOs that when a particular case involves two parties of equal economic status, generally both poor and disadvantaged, there have been *slight procedural* improvements in the dispensation of justice in the courts. This is especially true of cases involving women and children. (Procedural justice encompasses a broad array of items - primarily abiding by rules governing timeliness of court proceedings, opportunity to present a legal defense, cross examine, question available witnesses, etc.) Although it is difficult to attribute this directly to PRAJ intervention, it seems fair that given the emphasis the Project has placed on training NGO lawyers, some credit must be given to PRAJ. This was confirmed by several lawyers during interviews with legal aid NGOs. Most felt that the close contact with an American lawyer had a beneficial impact on their professional approach to cases, and hence allowed them to better represent their clients in courts. Unlike in the past, judges are not as able to take advantage of unskilled NGO lawyers due to the overlapping and often contradictory laws and regulations that governed a particular case. This modest improvement in procedural justice was also attributable to the adoption of several codes that eliminated some of the confusion in the courts as to the proper application of the relevant law.

It should be noted, however, that when a legal case involves parties of unequal economic status, particularly when one party has political connections or business ties, and especially matters involving land and natural resources, there were no reports of improvements in the system of justice over the PRAJ intervention period. In these cases, procedures are routinely ignored at the expense of the disadvantaged party. During interviews, NGO legal aid lawyers repeatedly cited their frustration with a judicial system that was essentially “rigged” against their clients.

Lawyer Working Groups Strengthen Ties in the Legal Profession

PRAJ is responsible for establishing four working groups of legal aid lawyers that address land issues as well as women’s and children’s rights. PRAJ serves as secretariat for the working groups and provides basic research material including various laws and legal texts. More importantly, the working groups meet on a regular basis in order to discuss relevant legal issues and exchange views on topics of mutual concern. These informal meetings were reported to have had a very positive impact on creating a sense of unity within the working groups. This sort of “esprit de corps” can be a critical factor in ensuring that there is a sustainable class of qualified legal specialists available to meet the challenges of working in a very difficult environment. The evaluation team spoke to numerous members of a lawyer working group, and several made it quite clear that the working group meetings were important building blocks to creating a more

engaged, active legal aid organization It was reported is the first Quarterly Report for 2005-2006 that at “least 50% of Cambodia’s legal aid lawyers were members of the Working Groups.”¹⁴

Conclusions

Hypothesis

That providing technical support and assistance to legal aid providers would strengthen their professional capacity to defend poor, vulnerable and marginalized citizens and thereby increase the number of cases that are both procedurally and substantively defended according to the law and result in the improved dispensation of justice in the Cambodian courts.

Conclusion

PRAJ intervention did strengthen the professional capacity of legal aid NGOs. Legal aid NGOs report that PRAJ’s work in developing internal structures within the organizations, combined with periodic training of staff, improved their overall management capabilities. PRAJ’s assistance through training programs has also allowed the legal aid NGOs to build the technical capacity of their lawyers. Legal aid NGO lawyers report that they are better prepared and equipped to handle the rigors of trial practice in the Cambodian courts. Undoubtedly, the formation of lawyer working groups has also added to the professional competency of the legal aid NGOs and although there is no causal link, the perception that “procedural justice” has improved slightly in certain court cases could be a partial result of there being a more capable class of professionally trained lawyers available to the public.

Notwithstanding the improvement in the professional and technical capacities of the legal aid NGOs, there is no evidence to support the hypothesis that there has been a corresponding improvement in the dispensation of justice in the Cambodian courts for the poor and marginalized. There is simply no hard data to indicate that legal aid NGOs are becoming more effective in advocating on behalf of their clients in court. There are reports of better procedural justice in some cases, but there is no proof that the overall environment in the judicial system has improved for the disenfranchised due to PRAJ intervention. Considering the very serious institutional hurdles that are in place when a legal aid NGO initiates a legal action in Cambodia, this is not surprising. Clearly, representation by legal counsel is better than no representation at all. Nevertheless, the legal aid NGOs, and in particular CDP, should be able to demonstrate that the improved professional capacity within the organization is resulting in better outcomes for their clientele in the courts.

Given the judicial reform environment in Cambodia it is certainly understandable why PILAP and LAC would adopt advocacy campaigns to effectuate a desired outcome in what are essentially legal matters. In the Cambodian context, advocacy may be a legitimate mechanism to apply pressure to the court system to operate in a more transparent and accountable manner. Still, as LAC moves toward the PILAP high impact model, consideration must be given to the possibility that the interlocking advocacy and legal strategies is not healthy for the legal profession.

One alternative would be to allow legal aid lawyers to simply provide a technical service, pursuing all legal remedies the court system, and if necessary thereafter, have an appropriate human rights NGO follow-up with an advocacy campaign. PRAJ has done a very good job in

¹⁴ PRAJ 1st Quarterly Report for Award Year October 2005 – September 2006

connecting the legal aid and human rights NGO communities in such a way that this strategy could be viable in the future. Sequencing the NGO advocacy campaigns around persistent failures of the judicial system certainly has a significant downside, but it might allow for a certain professionalization of the legal class that can eventually pay dividends over the long term. Finally, this is not to say that lawyers should be discouraged from playing a significant role in human rights NGOs. There is a place within these organizations for lawyers to act as legal counsel, plotting strategy and advising on technical matters of law. Nevertheless, the question remains open as to whether *legal aid* NGOs should utilize their lawyer staff in advocacy campaigns to the extent currently contemplated by LAC.

VI. CLINICAL LEGAL EDUCATION & EDUCATING LEGAL AND JUDICIAL PROFESSIONALS

Program Description

Clinical Legal Education

PRAJ commenced work at the Lawyer Training Center (LTC) after entering into a memorandum of understanding and cooperative agreement with the Bar Association of the Kingdom of Cambodia (BAKC) in April 2004. The MOU and cooperative agreement, which included PRAJ's implementing partner, the ABA, spelled out the areas of cooperation and technical support that would be provided to the LTC. PRAJ assistance was comprehensive and included the provision of skills and methodology training to staff, capacity building of management, budgetary planning, information dissemination and public outreach, an assessment of training needs, development of internal administrative "precepts" and the establishment of a Legal Consultation Office (LCO) in the second Quarter 2004 - 2005. The LCO was to prepare student-lawyers for the practice of law while at the same time providing pro bono legal services. One of the major thrusts of the program was the development of the Law Fellows program in the first Quarter 2005 – 2006. The law fellows program was an innovative way to improve the training and development of new lawyers at the outset of their careers. Law fellows were to work closely with an experienced bar member during their mandatory year of supervised practice, while partnering with a provincial office of a NGO in order to deliver legal aid services.

Unfortunately, a dispute within the BAKC concerning the leadership of the organization posed an ongoing problem to PRAJ throughout the period of implementation. The leadership dispute was finally resolved in October 2006 at which time the President began to consolidate his power and control over PRAJ programming. By the third Quarter of 2006 – 2007, the BAKC leadership had seriously undermined both the law fellows program as well as the activities of the LCO. The law fellows were essentially forced to resign from their NGO placements under threat of not receiving bar membership. The BAKC also prevented the ABA Legal Professional Development Officer from working with the students in the LCO program, thereby ending the LCO activity. As the MOU with BAKC had already ended in September 2005, and with programming at a standstill, PRAJ elected not to continue its partnership with the organization.

Educating Legal and Judicial Professionals

As part of the new ROL SOW that was approved in July 2005, PRAJ added two significant technical programs to its reform portfolio: improving the basic legal education of students at Cambodia's main law school, the Royal University of Law and Economics (RULE); and providing training assistance to the Royal School of Judges and Prosecutors (RAJP). The SOW for these activities contemplated targeted assistance to these two institutions, as education was deemed a core element of justice sector reform. In particular, the lack of skilled professionals in the legal and judicial sectors was viewed as critical shortcoming and barrier to promoting rule of law reform in Cambodia.

Hypothesis of Component

That improving the quality of judicial, legal, clinical education and training would provide for a broader and more consistent interface between an efficient, capable and professional class of

judges and public interest oriented lawyers in Cambodia and lead to the increased likelihood of systematic, positive change in the rule of law sector.

Findings

Effectiveness of LCO & Law Fellows Program

The evaluation team found the PRAJ LCO and law fellows program to be very effective tools in providing a sound skills-based orientation to the legal profession, while also promoting practical “hands-on” work experience. Interviews revealed that the programs, and, in particular, the law fellows program, instilled a public interest “spirit” in young student-lawyers. The training at the LCO was multi-faceted and allowed the participants to render numerous legal consultations in everything from land disputes to serious criminal charges. Considering the limited number of cases that the legal aid NGOs can handle, the public certainly benefited from having this cadre of young professionals available to render legal advice. The law fellows program was particularly impressive, its first class having produced some of the better trained legal professionals encountered during the evaluation period. The evaluation team found those individuals who had participated in the first law fellows program to be very capable and engaged in the broader legal reform discussion taking place in Cambodia. The law fellows were very enthusiastic about the PRAJ sponsored program, and repeatedly cited it as the foundation for their career development.

“I think the law fellow program prepared me well for my job. I was so far ahead of my colleagues, even the ones that had been working for five years.”¹⁵

It is clear that had the LCO and the law fellows program been able to continue, legal aid and HR NGOs would have reaped an enormous benefit. The practical training and experience received through these programs would have allowed these talented young lawyers to take the lead in creating more effective NGO organizations. Both programs were having a slow, but steady impact on the direction of the legal profession.

Reestablishing Programming with BAKC

The PRAJ programs with the Bar Association were some of the most successful in its portfolio when ended in 2007. These programs formed the core of PRAJ activities with young student-lawyers and provided an opening to enlarge its scope of activities with public interest NGOs. Regardless of the legitimacy of its decision-making, the BAKC sees itself as the “protectors” of young lawyers that are entering the Bar Association. The leadership views the NGOs with some suspicion; primarily because it is concerned that its membership will become entangled with advocacy causes that stray too close to sensitive political issues. Likewise, it believes that its membership should first and foremost act under the guidance of the bar, as opposed to a NGO director under the normal employer-employee relationship. This is clearly an issue of the bar seeking to maintain its power through tight control of its membership. Nevertheless, there are reports of NGO lawyers being frustrated with their roles in the NGO organizations. They often feel that they are not given the professional responsibilities in accordance with their training and skills as lawyers. Several NGO lawyers complained of being underutilized, or not being permitted to conduct legal investigations in a manner befitting a professional advocate. In the Cambodian context, it is simply impossible to completely dismiss the strict oversight efforts by

¹⁵ Interview with law fellow from first class, December 9th, 2007

the BAKC as unwarranted. The BAKC will maintain its prominent supervisory role over young lawyer for the foreseeable future. And although relatively minor, the BAKC does play some role in the provision of legal aid services in the country. For this reason, USAID must do its best to reengage the BAKC and identify programmatic “wedges” in which to influence the direction of this critical institution. Young lawyers are the decisive pivot point in which a society based on the rule of law is built, and thus cannot be ignored in the implementation of a reform project.

Implementation of Recommendations from the Training Needs Assessment

The Training Needs Assessment for Cambodia’s Practicing Judges and Prosecutors provided 12 major recommendations. Although these recommendations depend at least in part on the government of Cambodia and RAJP making substantial investment of time and resources, the international donor community has been supportive of the recommendations to date. As of the first Quarter of 2007 – 2008 it appears that 50 percent of the training needs assessment recommendations have either been fully or partially implemented. Considering that the work with the RAJP did not commence until February 2006 and the first training module was not presented until the second Quarter of 2006 – 2007, the 50 percent implementation rate represents a notable PRAJ accomplishment.

Too Early To Accurately Evaluate RULE & RAJP Programming

The RULE and RAJP training programs have only been operational for two years. Much of PRAJ’s input during the first year was spent drafting appropriate MOUs, survey reports and assessments, timelines for implementation and negotiating with Project counterparts as to the appropriate scope of activities. Although both programs have included substantive technical assistance, it has been primarily limited to approximately the last 18 months. This is an extremely short period of time in which to evaluate the effectiveness of a training program, and in particular one that is conducted on behalf of the judiciary. For example, PRAJ presented six training modules at the RAJP with each lasting 2 ½ days per module for a total of 15 days of training. PRAJ also developed presented another eight days of training related to the intake of magistrate classes.

In one form or another, PRAJ trained all 275 judges in the country. . However, a proper evaluation of the effectiveness of the training program can only be demonstrated by having the judges go through a training module *several times over an extended period of time*. PRAJ has elected to do some general questionnaires for judges that have attended their programs in order to generate some basic data as to whether the modules are having an impact on the competency level of the judges. This is a good start to this evaluative process.

There are some general trends can be pointed out from the Project’s most recent engagement with RULE and RAJP. First, RULE students were pleased with the interactive teaching methodology and welcome this type of programming at the university. Interviews with eight RULE students that had participated in the program revealed that the group uniformly gave the Project high marks for introducing a system of topic presentation that allowed them to be active participants in the learning process. All of the students interviewed felt that they could benefit from more programming of the sort presented by the PRAJ Legal Education Advisor. Second, law students were very enthusiastic about the mock trial competition. Most felt that it gave them their first sense of what it would be like to be a practicing lawyer, and taught them the valuable skill of being able to function “on their feet” as a legal professional. The competition also

seemed to generate a level of intellectual engagement that was not seen at the university prior to PRAJ intervention. Third, the students provided mixed feedback concerning the advocacy skills clinic. All of the participants in this program felt that it could potentially be of assistance to the RULE student body if properly managed by both PRAJ and the NGO that was providing the internship for the student. The students did report occasional problems with their work at the NGOs. Many felt that they were underutilized and spent too much time simply waiting for an assignment. Often there was no work at all for a particular intern. And although there was some disagreement amongst the students as to wherein responsibility lay with this issue, several stated that PRAJ needed to closely monitor the NGOs in the future to ensure that the students are receiving the benefits of the program. Fourth, professors appreciated the PRAJ input and opined that the interactive teaching methodology that was introduced was a dynamic method of educating students and should be expanded into other topic areas. The intensive nature of the teaching methodology course, which lasted approximately six months, evidently paid a solid dividend with the Rector of the law school. In an interview with the Rector, he claimed that if properly incorporated into RULE's normal legal curriculum, both teachers' and students' skills would be greatly enhanced over the long term, and ultimately raise the overall quality of the legal profession.

Sustainability of RULE Program is Critical

The interactive teaching methodology that was introduced to the professors and students at RULE included several topic areas, some of which were novel to the university. (i.e., ethics) These courses were in great demand by students, and actually forced PRAJ to accept applications in order to limit the number of participants. There is one key issue that will determine whether the PRAJ program at RULE will be sustainable moving forward; the decision by the academic board at RULE as to whether the courses will be part of the official curriculum. If included as part of the official curriculum at the university, students would receive full academic credit. As it stands now, students are essentially attending these classes outside the normal academic framework. RULE does not provide any funding or resources for these courses. As such, there is no "buy in" by the counterpart, and this could greatly limit the impact of the program over time. If PRAJ is stuck with simply offering an academic alternative to the students to experience a series of interactive courses, without having it made part of the normal academic framework, the teaching body will eventually not have the motivation to organize and operate the courses properly. The Rector reports that "some" of the professors that were taught the interactive methodology have come to his office to discuss the development of additional materials for their courses. This is a good sign; however, sustainability of the program will depend not on the individual motivations of the professors to continue with the interactive courses but instead on the decisions of the upper level management of the university. While there appears to be an earnest attempt by the university to further PRAJ programming at RULE, it will wane over time without the courses being fully accredited.

RAJP "Ownership" of Programming

As with RULE, sustainability of PRAJ programming at RAJP will depend on the institution accepting the training modules as a part of their ongoing continuing legal education program. After one segment of the training modules has been presented at RAJP, the news is encouraging. In an interview with the President of RAJP it was clear that the academy had carefully considered the technical role of PRAJ and other international donors. PRAJ did an excellent job of coordinating the international donors in order to provide some cohesiveness to the

programming. Considering the competitiveness between donors when dealing with such an important counterpart, this is no small achievement. Moreover, the programming at RAJP has created a hunger on the part of judges for more training. The President of RAJP was also complimentary of PRAJ:

“Their (PRAJ) programs were quality. They were well organized and coordinated with us in a professional manner. Our cooperation with them was very good.”¹⁶

RAJP seems willing to engage PRAJ in such a way that the courses can be incorporated into a permanent curriculum both for new judges, and for those seeking a continuing legal education. RAJP representatives stated that judicial training is a priority of the government, and judges that do not attend training courses will be dismissed or “retired”. Although this is an unofficial policy and not part of the RAJP mandate, it does demonstrate the seriousness that the institution views judicial training. The institution seems to have the mandate, organizational structure and willingness to engage PRAJ in the judicial training arena. If PRAJ can continue to provide quality programming at RAJP, it is conceivable that the training modules will be sustainable *beyond* PRAJ engagement with the institution. This is the true mark of developmental sustainability and one that appears viable at RAJP.

Adult Learning Teaching Methods Must be Incorporated into Training Modules

The judicial training needs assessment that was completed in the fourth Quarter for 2005 – 2006 called for some very specific recommendations to be implemented in order to improve the professional capabilities of the Cambodian judiciary. Several of these related to the importance of incorporating adult teaching methods and learning practices into the training curriculum. The reasoning behind these recommendations are clear; judges will incorporate more of the information into their professional skill “set” if the courses are not simply lecture, but include a practical aspect. To date, this type of interactive teaching has not been part of the RAJP program. This is not attributable to any particular factor, the programs with RAJP have just been launched at it is understandable that the priority was not on the time-consuming process of “training the trainers” in the interactive methodology. Judges are also reluctant to try the interactive style of teaching, feeling more comfortable with a straight lecture type format. Nevertheless, the overall effectiveness of the program will depend in large part on the methodology that is utilized to present the information to judges. Regardless of the importance that RAJP attaches to the PRAJ sponsored courses, if the courses do not include an effective teaching methodology, the judges will not be able to efficiently assimilate the information into their day-to-day work. As PRAJ moves into its second training segment with RAJP, priority must be placed on ensuring that the trainers are properly prepared to present their training material to the target audience.

Conclusions

Hypothesis

That improving the quality of judicial, legal, clinical education and training would provide for a broader and more consistent interface between an efficient, capable and professional class of judges and public interest oriented lawyers in Cambodia and lead to the increased likelihood of incremental, systematic, and positive change in the rule of law sector.

¹⁶ Interview with the President of the Royal Academy For Judicial Professions on December 12th, 2007

Conclusion

Considering the limited timeframe in which the rule of law training programs have been in operation, it is too soon to determine if there are improvements in the competency and skill level of the judges and law students that were the recipients of the training. There has only been one series of training events from late 2006 through 2007, and there is simply not enough hard data to analyze the impact. However, there is reason to be encouraged. Both RULE and RAJP were satisfied with the implementation of the training programs. The relationships that were developed between PRAJ and RULE/RAJP over the past two years seem to be sound and the basis for continued implementation of programming. Both the Rector from RULE and the President from RAJP were encouraged by the level of cooperation between their respective institutions and PRAJ. And from the perspective of almost all interviewees, PRAJ delivered a solid work product that was beneficial to the professional development of the target audiences. As typical with training programs, there are issues concerning the ability of both institutions to effectively sustain the level of programming over an extended period of time. This can only take place if there is sufficient “buy in” on the part of the leadership of these institutions. In the case of RULE, it will depend on whether the academic board fully accredits the PRAJ courses and thus dedicate much needed resources to the programs. With RAJP, sustainability will depend on strong donor coordination and ensuring that judges have an ongoing commitment to the continuing judicial education process. This will in part rely on the quality of programs; interactive teaching and solid training materials will keep judges involved and interested.

The Bar Association’s obstruction and eventual interdiction in the LCO and law fellows program ceased all possibilities for institutionalizing clinical legal education in Cambodia. Moreover, BAKC’s actions damaged the Project’s opportunities for furthering the professional commitment to public service of members of the Cambodian bar. The LCO and law fellows program was the Project’s first point of programming contact with the legal profession, a considerable advantage when trying to generate reform momentum to feed into other Project components. Considering that the Bar Association is the “nexus” between training young legal professionals and stocking the legal aid and H.R. NGOs with talented, motivated, public interest-minded staff, it is hard to overestimate the harm done by BAKC to clinical legal education in Cambodia. It is for this reason that engagement of the Bar Association might be a necessity for PRAJ moving forward. If there is not at least some minimal presence at the LTC, PRAJ will be left without any influence or input with one of the most critical legal institutions in the country. Although engagement with the Bar Association will be an arduous endeavor considering the President’s negative views toward progressive oriented programming, some nominal presence will at least leave a crack for the expansion of programming if there is a change in leadership.

PRAJ’s clinical legal education component that was previously implemented through the LCO and law fellows programs was clearly making a positive contribution to improving the capabilities and skills of student-lawyers. Student-lawyers that took part in these programs were enthusiastic backers of the idea that their skills and knowledge could be put to good use in the public sphere. PRAJ engendered a public interest mentality in these young lawyers, and it was clearly having an impact on the NGO community. LCO student-lawyers and law fellows were well trained and engaged, and through time, it well could have increased the likelihood of

systematic change in the legal profession. Unfortunately the reform possibilities of the program made its closing down that much more damaging. Out of those programs that were nominally part of the rule of law portfolio, the clinical legal education seemed to have the most “traction” in terms of connecting a fairly large number of skilled, professionally trained lawyers to a public interest cause through the NGO community.

VII. SUPPORT TO THE MINISTRY OF JUSTICE (MOJ)

Program Description

Support to the Ministry of Justice has only been part of the PRAJ reform portfolio since approximately June 2006 when a MOU was submitted to the MOJ. When the MOU was finally signed in November 2006, it outlined target areas of cooperation between PRAJ and the MOJ with the focal point of the reform effort to be on the court in the Kandal province, which later became known as the Kandal Model Courthouse Project. The overall aim of the program was to improve the transparency and efficiency of the Kandal Court through a series of interventions designed to: improve case tracking and filing at the court; improve data collection; provide greater public access to court information; expand legal representation for the criminally accused; provide the court with greater access to relevant legal resources and; assist the court implement “Ministerial Instructions” on Juvenile Justice and better handle the special needs of juvenile offenders.¹⁷ In order to implement these programs, the PRAJ hired an experienced legal consultant that was well acquainted with Cambodian system of justice. In the second Quarter for October 2006 – 2007 PRAJ provided a modified grant to the legal aid NGO, LAC, to conduct a pilot program as public defenders at the Kandal courthouse. The program was meant to introduce “best practices” that could then be replicated in other courts while at the same time providing competent legal service and representation to indigent citizens, and in particular juveniles accused of crimes. In the fourth Quarter for 2006 – 2007 the Council for Legal and Judicial Reform (CLJR) established a High Level Working Group (HLWG) that was responsible for overseeing and providing guidance on the nationwide model court plan. To support the HLWG, a Technical Working Group (TWG) was also established that would provide more detailed support to the plan, including assistance in developing policies and standards for the model court. The CLJR requested that that PRAJ provide technical assistance through their legal consultant and to support the work of the HLWG. This technical assistance did not fully commence until the first Quarter for 2007 – 2008.

Hypothesis of Component

That engaging justice sector actors (MOJ and MOI) and institutions on substantive issues of legal and judicial reform can lead to policy “shifts” that provide “space” for the incremental growth in the rule of law sector - judicial independence, transparency, accountability and enforcement of rights. (Please note that PRAJ engagement with the MOI did not commence until September 2007, and as such this evaluation report will not address the Project’s work to date with this institution.)

Findings

Too Early To Evaluate Any Potential Policy “Shifts”

The problems encountered by the evaluation team in examining the RULE and RAJP programs are amplified with PRAJ’s engagement with the MOJ. The work with the MOJ did not commence in earnest until the third Quarter (April – June) for the period of 2006 – 2007. This evaluation occurred in December 2007. This is simply too short of a period of time to analyze whether the MOJ’s willingness to work with PRAJ is a sincere effort to initiate some small, incremental and progressive changes in the manner in which the courts conduct their business, or

¹⁷ PRAJ 2nd Quarterly Report for 2006-2007

alternatively, a relatively minor endeavor that will break down once the government is faced with the possibility of real reform. Clearly PRAJ needs to engage the government of Cambodia if it is to have a credible rule of law program. This will take time and a realistic understanding of what can be accomplished in the current environment. Regardless, it is only by working with government institutions can there be any sort of credible policy shifts of the type that represent *real and sustained* reform. PRAJ's engagement of the government is the first serious attempt by the Project to work directly with institutional actors on large policy questions that concern the Cambodian judiciary. This is certainly a worthy endeavor for a rule of law project, regardless of the ultimate outcome.

Kandal Model Court Project

The Kandal Model Court Project has several programming components which operate under the auspices of the court President. One of these components includes an effort by PRAJ to expand legal representation for the indigent through one of its legal aid NGO's – LAC. PRAJ has provided technical assistance to LAC lawyers that are responsible for many legal aid cases, primarily on behalf of juveniles, that are filed in the Kandal Court. To date this program seems to have generated some momentum for positive change in the court. LAC has handled 121 cases and the President of the court reports that the LAC lawyers are professional, well prepared, and have already reduced the burden of the court by clearing several cases off of the docket that were simply ignored by inept and corrupt court administrators. The President also reported that LAC services were improving communications between the court system and prison officials that are in charge of many of the defendants awaiting trial. Evidently prison officials are also pleased that there are steps being taken to reduce the overcrowding in the jails. It is apparent that LAC work in the Kandal Court has called attention to some of the most egregious instances of a misapplication of basic civil and due process rights.

Recent efforts to improve access to legal resources and case recording and archiving are also demonstrating some possibilities for the expansion of more serious undertakings in the area of court administration and management. PRAJ experts have focused on providing technical assistance to the court to catalogue and file existing records as well as to develop and implement a model exhibits management system. PRAJ is also assisting the court to provide the public with relevant information on court services, including citizen outreach bulletins on court fees that are posted on notice boards throughout the courthouse. Interviews revealed that the President of the court was very interested in more than superficial changes at the court; he was clearly committed to trying to improve the overall efficiency of the model court. The evaluation team views the President of the Kandal Court as one of the more "progressive" judges encountered during the interviewing process and he seems to have a strong working relationship with PRAJ representatives. This could allow PRAJ an opportunity to make the small, incremental changes that are necessary to build success and expand the model project into other Cambodian courts.

Model Court Policy Framework Not in Place

The expansion of the model court project will ultimately be determined by the standardized policies, principals and framework established by the TWG. It is this working group that will govern the type of technical assistance that is to be provided to the model court by various donors. As such, it is only through development of the framework can there be a solid understanding of the goals and objectives of the government for reforming the courts. To date, it appears that both PRAJ and the court President are well ahead of the TWG in terms of their

willingness to push forward with changes in the court administration and management structures. Although there is a timetable that was established by the TWG for implementation of a full range of programming at the model court, the timetable has not been adhered to by counterparts. Though the work on case recording and archiving and public outreach should be noted, systematic change will not take place until there are some firm policy decisions by the government. Unfortunately interviews seemed to indicate that the government does not view this reform process as urgent, and is quite comfortable moving very cautiously with any changes in the court system. The CLJR *seems* to genuinely want to move forward with the model court program; however, the CLJR representative repeatedly stated the need for comprehensive “analysis” and technical “review” before program launch.

Assuming the Ministry of Justice is seriously committed to developing a ‘model court’ program which would test out the best approaches to justice administration in Cambodia, it must be noted that MOJ is considered by many to a ‘weak ministry’. Moreover, the MOJ receives relatively little budget support from the government budget. Most observers estimate the amount is less than two percent of the government’s annual operating budget. This is low by any international standard.

Conclusions

Hypothesis

That engaging justice sector actors (MOJ and MOI) and institutions on substantive issues of legal and judicial reform can lead to policy “shifts” that provide “space” for the incremental growth in the rule of law sector - judicial independence, transparency, accountability and enforcement of rights.

Conclusion

At this time it is impossible to make a determination as to whether policies “shifts” by the government are viable in the rule of law sector. The Kandal Model Court Project is essentially the first time that high-level government structures such as the CLJR and MOJ have been engaged by PRAJ. It is encouraging that this process has been launched by the Project over the last several months. Moreover, the work of LAC seems to be appreciated by important judicial actors, and this could lead to further changes in the administration of legal aid in the Cambodian courts. Once the TWG has developed a model court policy framework, a determination can be made as to the seriousness of the government effort. In the meantime, progress at the model court will likely be extremely slow.

VIII. COORDINATION WITH OTHER DONORS

Unlike previous sections, there is no necessary hypothesis underlying PRAJ’s need to coordinate their programs with other donors, other than the obvious assumption that when there are many players on the field, coordination between them is more likely to produce positive development impacts than when there is no coordination.

Findings

In Cambodia, coordination among donors is well organized, institutionalized into a variety of working groups, and very time consuming, according to the testimony of USAID and other donor representatives. Concerning the major areas of PRAJ programming, USAID has been a major player in support of Cambodian Human Rights NGOs, especially LICADHO, AD HOC, the Women’s Media Center and others since their formation in the early 1990s. However, all Cambodian NGOs, including PRAJ partners, have attracted resources from other donors, so that no single donor dominates. PRAJ has taken an interest in the ‘global funding’ picture for each of its NGO Partners, an interest not always understood by the partners. The purpose of this interest is in part to make sure that PRAJ funding does not overlap with other donor support, and on the positive side, that PRAJ funding actually reinforces good programs that may receive diverse support from other donors.

The situation is somewhat different with CLEC and the PILAP program. CLEC receives more in grant funding than any other PRAJ partner, with the PILAP program exclusively funded by PRAJ. The PILAP strategy of taking on high impact cases is unique among donor supported activities, and does not require any coordination with other donors, except in so far as information sharing is concerned.

PRAJ’s emerging engagement with the legal and judicial establishment, whether with the LTC, RULE, the Council for Judicial and Legal Reform, the Royal Academy for Judicial Professions or the Ministry of Justice, confronts a number of well established donors as seen in Table 10.

Table 10
Estimated Distribution of Donor Support for RCG RoL Institutions
 Source: Interviews with USAID, EWMI and Donors

Institution	Japan	France	Denmark	Australia	USA	Others
RULE		XXX			XX	
LTC/Bar	XXX				XX (end 2007)	
RAJP	X	XXX		X	XX	
CLJR			XX	XX	X	
MOJ/Courts				XXX	X	
Civil Code	XXX					
Criminal Code		XXX				

Note: Number of X’s indicates level of current engagement and or/influence.

PRAJ staff have worked hard to develop good working relationships with the Japanese, Australians, Danes and the French to insure that its programs are complimentary to and coordinated with other donor efforts. A good example of real coordination has been the development of the first 'in service' training schedule for magistrates, involving cooperation from several major donors, but coordinated by PRAJ. For the Model Court program, PRAJ has had to find 'niches' where it could be useful, settling for the present on assisting with better court administration and service to the public.

IX. GENERAL CONCLUSIONS – ANSWERS TO SCOPE OF WORK QUESTIONS

Relevance

“Are hypothesis and assumptions behind each program still valid? Do the programs continue to respond to current needs? Does each program adapt to the changing needs of beneficiaries.” USAID SOW Question 1, Section C. p.9

The answer to the questions about the validity of the hypotheses underlying each program is “partially”. We summarize the degree of validity for each component from the previous sections in Table 11 below.

Table 11
Summary of Validity of Program Component Hypotheses
 Source: Evaluation Report Component Conclusions

Component	Hypotheses	Validity	Comment
HR NGO Strengthening	Organizational strengthening contributes to effectiveness and sustainability	Substantial validity	Sustainability of Cambodian NGOs will continue to be based on ability to attract donor support
HR NGO Advocacy, Networking, Localization	Development of these features leads to more legitimacy, connectivity and effectiveness	Some validity	Cambodian NGOs concept of advocacy is case by case efforts to find ‘remedial justice.’
HR NGO Legal Engagement	More knowledge and use of legal services leads to more cases in court and improved dispensation of justice	Very little validity	This applies to HR NGOs other than the legal aid providers supported under Access to Justice.
PILAP Advocacy	High Impact cases would gain wide publicity and establish political precedents	Substantial validity	This is probably the main benefit.
PILAP Legal Engagement	High Impact cases in court would effect structural change based on establishing precedent	Very little validity	Only one case actually decided in court. Little evidence of structural change.
Access to Justice	Expand/Improve competency and scope of legal defense community for poor and marginal peoples	Substantial validity	Case by case approach incrementally improves observation by courts of procedural justice rules.
Legal Education (LTC, RAJP, RULE)	Improved basic and in service training would increase interface between a competent judiciary and legal defenders,	Too early to tell	Optimism about the innovations being introduced by PRAJ may prove well founded with newer generation of persons entering the legal profession.

PRAJ programs with the Ministry of Justice, the Ministry of Interior and the Council on Legal and Judicial Reform are just underway and cannot be evaluated.

In general, we conclude that several of the hypotheses underlying the various programs were unrealistic and based on too optimistic assumptions about the possibilities of change in the Cambodian judicial system, especially with regard to the ability to effect structural reform through advocacy and high visibility cases.

PRAJ has adapted and shifted focus in response to both USAID and changing Cambodian circumstances. Evidence from some partners suggest that perhaps too much adaptation and change has occurred, making PRAJ a not very reliable partner for NGOs, which have found it difficult to fit the differing RFA requirements. Some of the adaptation has been of a negative type, as seen in the case of the BACK's closure of the PRAJ LTC programs. However, both USAID and PRAJ have been both creative and ingenious in finding ways to work in the crowded fields of legal education as well as the emerging field of judicial reform.

Effectiveness

Are the partners meeting their responsibilities under their contracts or grants? To date how well does each program meet their respective targets and the needs of the various beneficiaries? How appropriate are implementation strategies in reaching the objectives of each program? What are the unintended consequences and effects of each program and how did they occur?

These questions have been answered in detail in the previous sections on each of the PRAJ components. In general, we found very few instances where responsibilities and targets were not met, although a definitive answer is difficult to achieve over the entire time span because the targets set in PMP documents constantly changed, and appear to have been more focused on outputs than on results and impact. It should also be noted that quantitative measures in this, and other, USAID PMPs tend to be focused on output measures, rather than on more useful 'results indicators.'

With respect to implementation strategies, adjustment to realities that might have been better anticipated has been a hallmark of the entire program. Examples include the bridge funding program in response to the failure to prepare a transition from TAF budget support to a competitive grant program in 2003, the shift from the Law Foundation concept to internalizing much of the grant making and training support in PRAJ, and the shift in the PILAP strategy from a legal precedent setting focus to a political advocacy approach. Nevertheless, PRAJ did adjust quickly and effectively to these roadblocks.

Several unanticipated consequences have been identified above. These include an exceptional heavy financial and project reporting burden on a quarterly basis, along with annual and variable RFAs, which, for many NGOs, are deleterious to long range planning and strategy implementation. Another unanticipated consequence is the threat to the professional standing of lawyers who have chosen to work for NGOs such as CLEC and LICADHO. The attention paid to promoting political advocacy may have had the unanticipated consequence of refocusing the work of a major legal defense provider away from courtroom work toward the more high profile work of political (cum legal) advocacy.

Cost-Effectiveness

Are the results achieved being produced at an acceptable cost compared with alternative approaches? What alternative approaches exist which could achieve results with greater efficiency?

Because PRAJ is a collection of sub-projects, each with its own cost equation, it is impossible to generalize to PRAJ as a whole. To analyze cost effectiveness on a component by component basis would have required more and different data than the team was able to collect in the time available. Finally, in a program like this, it is extremely difficult to quantify the unit of output. Is it number of cases undertaken? In which case, the PILAP program averages over \$200 000 per case. If the output is giving hope to large numbers of families engaged in land grabbing disputes, the number drops. If the unit of output is the acceptance and spread of the concept 'fair and just compensation', the cost cannot be calculated.

If one examines the single most costly program, the HR NGO component is by far the winner. This program is cost effective in one respect. The ratio of expatriate cost to overall program cost is very low compared to all the other components. On the other hand, the requirements of an annual competitive grant program with a quarterly reporting, quarterly budget project and advance system raises operating costs considerably, and also increases the opportunity for discontent. An alternative approach might be considered which would include moving to a longer grant cycle, cutting down on reporting requirements, and putting more emphasis on results reporting by partners, especially for those partners that have demonstrated professional competence. Depending on the stability and clarity of the program's objectives, it should be possible to reduce the number of formal partners, while refocusing strategies toward building more local constituencies of activists and networks with those national partners. All of these changes would reduce administrative and supervisory costs. If there is a continuing need for organizational strengthening, it might be possible to provide direct line items in the grantee's budget for them to purchase advisory services, an approach used by USAID implementers in other countries.

Several of the PRAJ components are, at this point, very labor intensive, including the just developing array of activities with the RGC justice authorities. However, once it is determined precisely what role USAID is able to play in formal judicial reform, it should be possible to achieve some economies of scale.

Impact

What has been the impact of activities implemented on Cambodia? Beyond immediate stakeholders, has this project had an impact on civil society, government or the private sector? Have programs targeted the appropriate beneficiaries to ensure the greatest impact? Have partners established quality internal and external monitoring, evaluation and reporting systems?

The impact, both anticipated and unanticipated, of the various programs has been extensively discussed in the sections of this report dealing with each component. In general, the USAID support for Human Rights continues a tradition begun in the early 1990s when Cambodia was emerging from nightmare of the Khmer Rouge and Vietnamese occupation. By continuing their support, while nudging the NGO establishment in the direction of improved professional competence, advocacy, and especially, taking on the job of promoting, networking and

empowering local people, PRAJ has helped to begin the reversal of serious problem faced by all Cambodian civil society: the excessive but necessary reliance on foreign donors. This reliance undermines the legitimacy and the political power of the public interest section of civil society to advocate for the public interest. Whether Cambodian NGOs will be able to develop the skills and commitment to this kind of advocacy or not, legitimacy and roots in a constituency are necessary conditions for this to happen. More could be done to strengthen the process begun with PRAJ.

We also conclude that the HR NGO component shares many of the characteristics of USAID civil society programs in other countries, except for the emphasis on Rule of Law. From the beginning, USAID had conceived their support for human rights NGOs as a Public Interest NGO support program, to distinguish it from support for social service organizations. With PRAJ, this concept was narrowed to Human Rights and Law, while the very character of human rights violations was changing dramatically. Most issues in the Partner portfolio emerge from poverty, lack of clear title, dysfunctional and alcoholic husbands, sexual exploitation, and a bundle of lesser evils associated with a society struggling to cope with change, new found wealth, and a growing gap in power and affluence between the minority and majority.

The evaluation team believes that the effort to deal with these problems through the windows of human rights advocacy and law may simply be too **narrow** to change what has to occur through much broader policy and institutional changes in governance of the economy as well as the polity.

Otherwise, the concept of a Human Rights NGO gets lost in the struggle of most NGOs to ‘do good’ and stay alive through donor grants. Is an organization which provides shelter to victims of domestic violence a human rights advocacy NGO? Is one that teaches local leaders to mediate conflict and work together in harmony with local officials a human rights advocacy NGO? These organizations can make a contribution to the crying need for remedial justice, but it is unlikely that they will ever amass enough power to effect structural change.

With respect to internal controls and monitoring, our review of the files, the risk assessment documents, and the systems put in place to insure that financial probity is achieved in all transactions leads us to conclude that PRAJ has a very tightly controlled grant administration system. When it comes to substantive monitoring and evaluation, our interviews with PRAJ’s professional staff yielded the conclusion that each program manager was very much engaged with his/her clients, and had acquired detailed and intimate personal knowledge of each component. Monitoring in the informal but effective management sense has been excellent. However, the preparation and use of Performance Monitoring Plans (PMP) has **suffered from constant changes and emphasis on detailed output measures which** appear, from interviews with staff, to be of little real relevance to the management of PRAJ.

On the evaluation side, even though for a time there was a monitoring and evaluation officer, the files and interviews revealed only a few instances of efforts to undertake systematic evaluation of the impact and results of funded programs. The two media organizations, WMC and Equal Access do a better job than most, although the CSD Court Watch program is a form of systematic evaluation which has improved under PRAJ guidance.

Impact is difficult to measure in the ROL sector; there has simply not been sufficient time for PRAJ to implement a full range of programs. It appears that the appropriate beneficiaries have been targeted, but there are questions as to whether there is sufficient “buy in” by counterparts.

This can only be realized by counterpart activity that demonstrates a commitment to reform – strict timetables for implementation of a court model by the MOJ, incorporating training modules into a permanent curriculum by the RAJP and RULE with a sustainability strategy in place, etc. Moreover the legal aid NGOs must develop mechanisms that measure effectiveness and these must be incorporated into PMP reporting. Though these organizations might be better administered and managed than in past years, if it does not translate into a more professional work product on behalf of clients, PRAJ’s input will be wasted.

Donor Coordination

To what extent has (sic) each program coordinated, supported or complemented other USAID projects or those of other donors in the same area?

Our conclusion addresses the ‘other donor in the same area?’ part of the SOW question.

For historical reasons, USAID has enjoyed much greater freedom of action in supporting Human Rights NGOs even though these NGOs receive funds from diverse donor sources. NGOs have learned to manage multiple donors and their respective projects, and they do so with PRAJ as well. Coordination here is more a matter of information sharing than it is coordinated action, and Cambodia is replete with information forums, in which USAID and PRAJ participate. With respect to RCG legal and judicial institutions, the field is crowded and US support must be coordinated with other donors if it is to be effective. Up to now, the relatively small ROL program mounted by PRAJ has been opportunistic and niche filling, rather than comprehensive and strategic. PRAJ has demonstrated the ability to work in a coordinated fashion with the principal other donors, and is considered by them to be a valuable, if still uncertain, addition to the reform effort. Whether USAID can fashion a greater role for itself in the future will depend very much on defining a more focused strategic approach, as well as building on the working relationships that have already been established.

Sustainability

Based on result to date, are programs likely to engender sustainable development impacts after USAID funding has stopped? Are the programs designed for sustainability likely to achieve such sustainability as defined in the respective agreements? For those programs involving the RGC, what evidence suggests that the government has taken ownership of the activities?

Based on the evidence presented above, we conclude that the sustainability of each of the various components will depend for the near future on whether USAID and other major donors choose to continue to provide support. On a case by case basis, NGOs participating in PRAJ are undoubtedly better equipped to compete for funds than before, according to their own assessment. However, their reliance on donor support will continue for some time as there is little on the horizon that would suggest the development of an indigenous philanthropic giving program, especially for obstreperous public interest NGOs.

With respect to Access to Justice NGOs, the team concludes that this, along with the Court Watch program, is the one tool in the PRAJ kit that is using lawyers to do the daily, difficult job of trying to defend poor and marginalized people. Legal defense for the poor is never the most attractive career for a lawyer, yet in a country like Cambodia, perhaps the most effective pressure that can be brought to bear for actual implementation of legal reform is the combination of professionally competent defense, and consistent, widely-publicized monitoring of the performance of the judicial system.

Innovative educational programs in Universities are notoriously difficult to sustain as local counterparts often rely on donors to fund costs related to logistics and teaching fees. If the persons/institutions in charge of educational budgets do not support these innovations, these costs cannot be absorbed when the donor closes its program. PRAJ has just launched several training programs with RAJP and RULE. Close coordination with these counterparts in developing a sustainability strategy with educational budget authorities will have to be a priority.

Lessons Learned

The team suggests lessons which may be relevant to Human Rights and Rule of Law design efforts elsewhere.

1. Thoroughly test the assumptions that underlie key elements of a design, whether by USAID or by a winning partner. The reality faced by PRAJ within months after the project began did not correspond to the design assumptions in significant ways. Three examples stand out: No Cambodian NGO was willing to take on “Foundation” responsibilities, the objective of establishing ‘precedents’ was meaningless in the context of the many weaknesses of the Cambodian legal system in 2003, and Human Rights NGOs for the most part were unwilling and unable to undertake ‘advocacy’ in the way most western observers understand that term.
2. Avoid letting “the wish be the father of the thought”. Cambodia in 2003 was barely ten years past the UNTAC period and the previous twenty years of chaos, genocide, foreign occupation, and civil war. Now in 2007, a new generation is just beginning to emerge, but the political regime remains one that is only grudgingly committed to the rapid establishment of an effective Rule of Law regime. Under these kinds of circumstances, not unlike those found, say, in Liberia, the possibilities of rapid and wide ranging reform are very limited. The experience in Russia and the former Socialist republics is instructive. Even with the incentive of joining the European Union, the Bulgarian judiciary was, in 2006, at best marginally acceptable. In Bulgaria, USAID was able to mount a wide ranging and comprehensive judicial strengthening program with EWMI, yet progress was slow and difficult. Cambodia is not Bulgaria.
3. The most critical factor is “buy in” by the regime in power. Normally USAID talks of ‘political will’, and there is no doubt that is highly valued. But the powers that be can remain skeptical and cautious and still permit rule of law development to proceed, but if this minimal level of commitment is not found, there is little point in mounting a major Rule of Law program.
4. It is possible to develop practical, manageable and useful baseline and performance indicators for measuring progress, directly or indirectly, in a Human Rights and Rule of Law program. This effort has to start at the beginning, must be supported, and must be systematic in execution and relatively stable over time. There should also be an effort to monitor ‘comparison’ cases in some way, to insure that a rising (or falling) tide is not affecting all ships.

X. RECOMMENDATIONS

Given the analysis above, if the projects are extended, how should each be modified to enhance their effectiveness for each of the criteria above and what time period is required to meet the program objectives? What are the untapped synergies and opportunities for cross program collaboration that should be incorporated into future work plan?

The team is aware that a program design effort will soon be underway to assist USAID to develop the next generation of democracy, rule of law and civil society programs, as well as programs related to the economic and business policy enabling environment in Cambodia. Therefore our recommendations will be focused on what might be most helpful to those charged with these design efforts.

1. There are three types of NGOs operating under the HR banner: human rights advocacy NGOs which educate, monitor, and advocate; Rule of Law NGOs that provide legal services, and Public Service NGOs that seek to help poor and marginalized people in rural areas. Consider creating a separate program for the Human Rights NGO combined with one for the Public Service NGOs. Legal Aid NGOs should be included in a future Rule of Law program. To manage efficiently, this approach will require a combination of fewer grantees among the establishment NGOs in each category, but with greater flexibility to build local level constituencies and to fund investigations and promote activism. The key to long-term sustainability of Cambodian NGOs is their ability to build indigenous constituencies for their activities and objectives.
2. For current Public Service NGO partners that are essentially focused on mitigation, amelioration, mediation, rehabilitation and support for an array of issues and exploitation associated with poverty and powerlessness, establish a civil society program that would combine continued organizational strengthening with their capacity to do this kind of useful work.
3. For Human Rights Advocacy (HRA) NGO partners with a proven track record and good annual audits, consider longer-term grants and reduced frequency of reporting and financial project requirements.
4. Increase the emphasis on results rather than output reporting, including systematic impact evaluations by each partner at an appropriate stage in the relationship.
5. Encourage means by which advocacy can be strengthened by providing incentives for greater cooperation, better analysis and case documentation, and more persistent advocacy behavior among HRA NGOs. At the same time, develop incentives by which HRA NGOs learn to focus on policy constraints and alternatives, using the case by case approach to accumulate evidence for broader structural change.
6. For Legal Aid NGOs, begin to integrate the concept of ‘high impact’ cases into the dossier of all legal defense partners if feasible, but focus their primary effort on bringing cases to court, again and again. Any advocacy work by legal aid NGOs should be closely monitored for possible unintended consequences.
7. Expand the Court Watch program to all 30 courts, while standardizing the performance data into five or six key indices on which data are consistently collected, analyzed and widely publicized. This will facilitate results measurement viz any Rule of Law institutional development program.

8. Engage the BAKC and creatively address their objections to lawyers working directly for PINGOs by, perhaps, exploring the idea already afloat about helping to establish public interest law firms, or by providing resources to PINGOs by which legal services could be retained and used on a contractual basis.
9. Continue to encourage the interaction between legal aid NGOs and human right NGOs, with the idea that legal aid NGOs can push for incremental change in the judicial sector followed by public interest advocacy campaigns by human rights NGOs.
10. Focus on changing the day-to-day operations of the courts in order to increase efficiency but push for reform “space” in the ROL sector through the model court program *only* if the CLJR and MOJ take concrete steps to advance an operational working model that can be expanded into other Cambodian courts within a strict timeframe.
11. Try to increase the interface of professionally trained judges and lawyers by focusing on training programs to the extent possible. However, engage the RAJP, LTC and RULE *only* if the training programs are incorporated into a sustainability strategy that is part of the ongoing operations of the targeted institutions.
12. Conduct an analysis of *any* further policy formulation or initiatives issued by the MOJ, CLJR and/or TWG to ensure that goals and objectives (described as *efficiency* and *transparency* in PRAJ quarterly reports) can be addressed by USAID project intervention within a reasonable period of time, and engage the government *only* if the policy formulation addresses structural or institutional changes to court activities.
13. Closely monitor legal aid NGOs for both quantitative and qualitative results that can be documented. PMP reporting must be “tightened” so that USAID can evaluate legal aid impact on the legal system. Monitoring of client satisfaction must be incorporated into reporting mechanisms.

ANNEX A: LIST OF CONTACTS

USAID

EWMI

Other Donors

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Kathryn Elliott	Second Secretary, Development Cooperation, AusAID
Momoko Hotta	Assistant Resident Representative, Japan International Cooperation Agency, Cambodia Office
Michael Engquist	Governance Consultant, Royal Danish Embassy
Max Howlett	Counsel, Sciaroni & Associates

Cambodian NGO Leaders

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Heng Monychenda	Buddhism for Development
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Roth Dasydan	Community Legal Facilitator, Buddhism for Development
Men Vannara	Assistant Manager, Buddhism for Development
Chan Borin	Program Officer, Buddhism for Development
Oung Chhum	Community Legal Facilitator, Buddhism for Development
Sok Sam Oeun, Esq.	Executive Director, Cambodian Defenders Project
Bun Rethy	Lawyer, Cambodian Defenders Project
Poeung Kalyan	Lawyer, Cambodian Defenders Project
Neang Panha	Law Fellow, Cambodia Defenders Project
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Ms Nopsarinsrey Roth	Acting Director, CWCC
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Mark C. Turgesen	ChildSafe International Coordinator, Friends International
Sok Sothavy	Kumar Ney Khdey Sangkeum (KNKS)
Ny Chandy	Project Manager, Legal Aid of Cambodia
Peung Yok Hiep	Executive Director, Legal Aid of Cambodia
Lor Chunthy	Legal Vice-Director, Legal Aid of Cambodia
Ho Chheng On	Legal Assistant, Legal Aid of Cambodia
Lim Kuy Lam	Legal Aid of Cambodia
Kao Dyna	Project Manager, Prison Project, Legal Aid of Cambodia
Mr. Dun Vibol	Lawyer and Program Manager, Land Law, Legal Aid of Cambodia
Sao Kagna	Legal Aid of Cambodia
Miss Ek Mealea	Legal Aid of Cambodia
Ms. Ly Vichuta	Director/Legal Advisor, Legal Support for Women and Children
Mrs. San Soudalen	HR Lawyer, Licadho

Naly Pilorge	Director, Licadho
Heng Bon	Law Fellow, Licadho
Yat Kamsant	Educator and Monitor on Human Rights, Licadho
Im Phanna	Licadho
Kom San	Licadho
Kim San	Licadho
Poeung Thyda	LSCW
Ms. Vichuta Ly	Director, LSCW
Somaly Chan	Program Manager, LSCW

PILAP Attorneys and Staff

Nuon Sokchea
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Nov Piseth
Sek Sovanna
Yorth Bunny, Project Officer

Cambodian Officials

HE Suy Mong Leang	Director, Project Management Unit, Council of Legal and Judicial Reform (CLJR)
HE Khiev Sameth	President, Kandal Provincial Court; Member, Supreme Council of Magistracy
Tep Darong	President, Royal Academy for Judicial Professions
Koout Sekano	Secretary General, RAJP
Mr. Nil Nonn	President, Battambang Provincial Court

Activists and Beneficiaries

Mao Fy	District Governor; Beneficiary of Buddhism for Development
Khut Kheng	Community Peace Mediator; Beneficiary of Buddhism for Development
Mean Chhenh	Community Peace Mediator; Beneficiary of Buddhism for Development
Reung Chhum	Community Peace Mediator; Beneficiary of Buddhism for Development
Rin Ratha	Community Peace Mediator; Beneficiary of Buddhism for Development
Nou Bunny	Community Peace Mediator; Beneficiary of Buddhism for Development
Pik Rich	Beneficiary of Buddhism for Development
Kheng Sanith	Client, Cambodian Defenders Project
Khieu Mao	Client, Cambodian Defenders Project
Um SIhong	Client, Cambodian Defenders Project
Soy Saroeun	Client, Cambodian Defenders Project
Im Kanya	Client, Cambodian Defenders Project

Other Clients of Cambodian Defenders Project

Ly Phak	Chief of Community; Beneficiary of Forest People
Kem Chantha	Deputy Chief of Community; Beneficiary of Forest People
Long Samin	Secretary of Community; Beneficiary of Forest People
Hang Kie	Member of Peace Building Network; Beneficiary of Forest People
Dem Touch	Beneficiary of Forest People
Hem Nan	Beneficiary of Forest People
Duch Nan	Beneficiary of Forest People
Binh Theany	Beneficiary of Forest People
Sok Im	Beneficiary of Forest People

Meas Ke	Beneficiary of Forest People
Cheung Hozn	Beneficiary of Forest People
Him Ny	Beneficiary of Forest People
Kov Chhy	Beneficiary of Forest People
Leung Iv	Beneficiary of Forest People
Tun Press	Beneficiary of Forest People
Him Noy	Beneficiary of Forest People
Chhum Mun	KNKS community; Village Chief, Auto Village
Pich Sopheap	KNKS community; Deputy Village Chief, Auto Village
Chheun Da	KNKS community; Village member, Auto Village
Or Reun	KNKS community; Village member, Auto Village
Chhun Chet	Group Leader, KNKS community
Uk Sam Eang	KNKS community
Lang Eng	KNKS community
Mat Tay	KNKS community
Chozen Theun	KNKS community
Nal Sinan	KNKS community
Iv Nay	KNKS community
Moz Munny	KNKS community
Em Vanna	KNKS community
Oz Peov	KNKS community
May Leuk Sy	KNKS community
Som Peng	KNKS community
Sim Seang Hun	KNKS community
Chhim Reo & Seurn Mony	Clients of Legal Aid of Cambodia
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Hor Sam Ath	Community Activist; Beneficiary of Licadho
Kim Vuthy	Community Activist; Beneficiary of Licadho
Hang Chenda	Beneficiary of PRAJ
Neang Peng Dor	Beneficiary of PRAJ
Leang Rattanak Tevy	Beneficiary of PRAJ
Svag Phoeun	Beneficiary of PRAJ
Chhirn Chheang	Beneficiary of PRAJ
Yoo Tho	Beneficiary of PRAJ
Lor Chheang	Beneficiary of PRAJ
Heng Eang	Beneficiary of PRAJ
Sim Sean	Beneficiary of PRAJ
Hor Som At	Beneficiary of PRAJ
Khin Yoeun	Beneficiary of PRAJ
Sin Sot	Beneficiary of PRAJ
HDR Peng	Professor of Law, RULE

RULE Students

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Ung. Radsorin	Year 4
Roeung Rainsey	Year 4
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ANNEX B: LIST OF DOCUMENTS CONSULTED

- ADHOC. “Human Rights Situation Report 2004”. ADHOC, January 2005.
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Royal Academy for Judicial Professions. “Training Needs Assesment for Practicing Judges and Prosecutors”. Royal Academy for Judicial Professions: Phnom Phen,

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ANNEX C: STATEMENT OF WORK

Evaluation Component should address, at a minimum, each of the following factors and questions:

1. *Relevance* - Are hypothesis and assumptions behind each program still valid? Do the programs continue to respond to current needs? Does each program adapt to the changing needs of beneficiaries?
2. *Effectiveness* - Are the partners meeting their responsibilities under their contracts or grants? To date how well does each program meet their respective targets and the needs of the various beneficiaries? How appropriate are implementation strategies in reaching the objectives of each program? What are the unintended consequences and effects of each program and how did they occur?
3. *Cost-effectiveness* – Are the results achieved being produced at an acceptable cost compared with alternative approaches? What alternative approaches exist which could achieve results with greater efficiency?
4. *Impact* – What has been the impact of activities implemented on Cambodia? Beyond the immediate stakeholders, has this project had an impact on civil society, government or the private sector? Have programs targeted the appropriate beneficiaries to ensure the greatest impact? Have partners established quality internal and external monitoring, evaluation and reporting systems? In the case of IRI and NDI, the evaluation will have a greater emphasis on the sector-wide impact made by the combined efforts of both of these partners, rather than a specific project level evaluation.
5. *Donor / USAID Coordination* - To what extent have each program coordinated, supported or complemented other USAID projects or those of other donors in the same areas?
6. *Sustainability* - Based on results to date, are programs likely to engender sustainable development impacts after USAID funding has stopped? Are the programs designed for sustainability likely to achieve such sustainability as defined in the respective agreements? For those programs involving the RGC, what evidence suggests that the government has taken ownership of the activities?
7. *Lessons learned* – What are the key lessons learned from each program?

Recommendations – Given the analysis above, if the projects are extend, how should each be modified to enhance their effectiveness for each of the criteria above and what time period is required to meet the program objectives? What are the untapped synergies and opportunities for cross program collaboration that should be incorporated into future work plans?

ANNEX D: LIST OF GRANTEES

(1) Partners as of October 01, 2007

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Global Equal Access (Equal Access)	# 32 St 352 Beung Keng Kang Phnom Penh, Cambodia Office Phone: 023 996 828 Office Fax: 023 996 829 E-mail: info@equalaccess.org Mobile phone: 012 822 442/012 712 609	Name: Mr. Stephen Rahaim Position: Country Representative Email: SRahaim@equalaccess.org Mobile: 092 221 386

NGO Partner	Address	Contact Persons
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Cambodian League For the Promotion and Defense of Human Rights (LICADHO)	# 16, St 99, Phnom Penh , Cambodia P.O. Box: 499 Office Phone :023 360 965/364 901/012 803 650 Office Fax: 023 217 626 E-mail: contact@licadho.org	Name: Dr. Kek Galabru Position: President Email: licadho.President@everyday.com.kh Mobile: 012 940 645
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NGO Partner	Address	Contact Persons
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(2) Previous partners whose grants ended

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The Cambodian Center for the Protection of Children's Rights (CCPCR)	#22, St E, Group 8, Pong Piey Village, Phnom Penh Thmei, Khan Russei Keo. Phnom Penh, Cambodia Office Tel / Fax : (+855) 23- 880 690 Email : ccpcr@forum.org.kh	Name: Mr. Yim Po Position: Executive Director Email: ccpcr@camintel.com Tel:
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The Alliance for Conflict Transformation (ACT)	#69, Street Sothearos, Khan Chamkarmon Phnom Penh, Cambodia Office Tel/Fax: 023 217 830 E-mail: act@online.com.kh Mobile phone: 012 828 289	Name: Mr. Soth Plai Ngarm Position: Executive Director Email: plainingarm@online.com.kh Mobile: 012 718 857
Cambodian Health and Human Rights Alliance (CHHRA)	No. 28 BEO, St. 183 Pursat Province Office phone: 052 951 631 Email: chhra@forum.org.kh	Name: Mr. Sin Kim Horn Position: Executive Director Mobile phone: 012 944 515
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Save Cambodia's	No. 31, St. 388	Mr. Tep Bunny

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ANNEX E: NGO QUESTIONNAIRE

PRAJ Evaluation Questionnaire
December 7, 2007

This results of this questionnaire are intended for use by an evaluation team contracted by USAID to evaluate the USAID/EWMI Program for Rights and Justice, formerly called the HR.. This program has been in effect since October 2003. It will end September 30, 2008.

The questionnaire is designed to elicit information from NGO leaders and organizations which have received financial support, training and technical assistance from PRAJ.

No information provided through this questionnaire will be attributed to you or your organization. All responses will be aggregated and presented in statistical tables in the report.

In some cases, your responses to open ended questions may be used, but without attribution to you or your organization.

Your responses will in no way affect your organization's relationship with USAID or EWMI, or with any other donor or government agency.

We are requesting that you provide answers which reflect your honest and most thoughtful opinion and/or experience.

After everyone has completed the questionnaire, you will be formed into discussion groups to address several more general questions of interest to USAID.

Thank you for your cooperation.

1. Background

1.1 Name of the organization you represent

1.2 Your Title and or Job in the Organization

1.3 When was your organization established as an NGO?

1.4 When did you receive your first grant from EWMI? Year_____

1.5 Which other donors provide financial support your organization since 2004? (Please list names of organizations below.)

- a. _____
- b. _____
- c. _____
- d. _____
- e. _____
- f. _____

PRAJ supports Human Rights and Legal Aid NGOs with financial grants, training, and technical advice and assistance. Following a transition period, this component of the PRAJ program made its first grant awards in January 2004 and has continued through several rounds of grant competition since then. The period we are interested in begins January 2004 and ends in September 2007.

2. Financial Support

EWMI uses a competitive grant process (RFA) which requires potential grantees to prepare a proposal to submit to EWMI, which is then reviewed by a committee. Then EWMI and USAID decide on which NGOs will receive grant support for the coming year. Grants are made on a year by year basis. Before 2004, USAID grants to Human Rights NGOs were provided through The Asia Foundation on a non-competitive basis.

2.1 What effect has the EWMI process of proposal writing and competition had on your organization's ability to implement your programs?. (circle one only)

- a. Negative effect b. No Change c. Positive Effect d. Not sure/Don't know

2.2 Please look at the following statements and circle the letter next to the two (2) statements which are closest to your experience.

- a. We found EWMI proposal writing requirement very difficult at first, but now we are able to prepare acceptable proposals.
- b. Preparing proposals for EWMI has helped us to think more clearly about our program objectives and implementation strategies.

- c. We have had to hire outside consultants to help us prepare proposals to meet EWMI's requirements.
- d. The effort to prepare proposals for EWMI has been time consuming and not very productive for our organization
- e. We have learned to prepare proposals, but having to do it every year in addition to all the other reporting requirements required by EWMI is a very large burden for our organization.

Additional comments if any?

3. EWMI provides technical assistance and training to its grantees under the PRAJ project. This section asks questions about the effectiveness of EWMI's assistance to your organization. First, think about training programs.

3.1 EWMI training programs have been very useful in helping my organization become more effective.

- a. Strongly Disagree b. Disagree c. Don't Know d. Agree e. Strongly Agree

3.2 Thinking back over the last four years, do any EWMI trainings stand out in your mind as being especially useful? Please name the most useful as best you can remember.

a. _____

b. _____

c. _____

3.3 EWMI's Technical Advisors have been very useful in helping my organization expand our capacity and improve the effectiveness and impact of our programs (Circle the letter that best matches your opinion.).

- a. Strongly Disagree b. Disagree c. Don't Know d. Agree e. Strongly Agree

3.4 Thinking back of the last four years, are there any areas of your work where EWMI's advisors proved to be especially useful to your organization? Please tell us the most useful assistance and advice as best you can remember. (If you can't think of any area in which EWMI has proved to be especially useful, move on to the next question.)

a. _____

b. _____

c. _____

4. Since your organization began receiving financial, training and technical assistance from EWMI, what have been the most important changes that have occurred in your program since your first grant? For each statements listed below please circle the response that best reflects your organization's experience.

4.1 There has been very little real change in the nature of our programs since we began working with EWMI.

a. Strongly Disagree b. Disagree c. Don't Know d. Agree e. Strongly Agree

4.2 With EWMI we spend much more time on financial accounting, projections, work-plans and monitoring and reporting to EWMI.

a. Strongly Disagree b. Disagree c. Don't Know d. Agree e. Strongly Agree

4.3 We have been able to expand our program into more Cambodian provinces.

a. Strongly Disagree b. Disagree c. Don't Know d. Agree e. Strongly Agree

4.4 We have been able to employ lawyers and use them effectively in our Human Rights programs.

a. Strongly Disagree b. Disagree c. Don't Know d. Agree e. Strongly Agree

4.5 We have become much better connected to grass roots organizations and networks.

a. Strongly Disagree b. Disagree c. Don't Know d. Agree e. Strongly Agree

4.6 We have developed new programs to meet the changing problems of poor people.

a. Strongly Disagree b. Disagree c. Don't Know d. Agree e. Strongly Agree

4.7 We have become more willing to work with the Justice authorities to find solutions to people's problems.

a. Strongly Disagree b. Disagree c. Don't Know d. Agree e. Strongly Agree

5. USAID is interested in learning whether your organizations have been able to have a greater positive impact on the status of human rights observance by the Government of Cambodia since you began working with EWMI.
 - 5.1 Compared to the situation in 2003, how would you describe the human rights situation in Cambodia today?
 - a. Become worse b. No change c. Somewhat Better
 - 5.2 Compared to the situation in 2003, how would you describe the Cambodian people's level of understanding of their human rights today?
 - a. Less Understanding b. No change c. Somewhat Better
 - 5.3 Compared to the situation in 2003, how would you describe the effectiveness of your organization in solving human rights problems of the Cambodian people who come to you for assistance?.
 - a. We are less effective b. No Change c. We are more effective
 - 5.4 Compared to the situation in 2003, how would you describe the willingness of Cambodian people to stand up and fight for their rights today?
 - a. Less willing to fight b. No Change c. Somewhat more willing to fight for rights
 - 5.5 Compared to the situation in 2003, how would you describe the Government of Cambodia's willingness to take action to protect the rights of the Cambodian people?
 - a. Less willing to take action b. No Change c. Somewhat more willing to act
 - 5.6 Compared to the situation in 2003, how would you describe the attitude of government authorities toward the efforts of NGOs to protect the rights of local Cambodians? (circle one)
 - a. Authorities are more suspicious and less cooperative
 - b. There has been no real change.
 - c. Authorities are beginning to cooperate with NGOs when we request it.
 - d. Authorities are working more effectively to reduce the number of violations

Do you have any additional comments?

6. USAID is interested to learn whether you and your organizations are willing and able to SUSTAIN the kinds of management and program changes that you have made with support and encouragement from EWMI after the program ends in 2008.
- 6.1 Many of the financial accounting, budgeting, and reporting practices will not be sustained as they are unique to USAID/EWMI. (circle one)
- a. Strongly Disagree b. Disagree c. DK d. Agree e. Strongly Agree
- 6.2 We will continue to find ways to network and support local activists and community based organizations.
- a. Strongly Disagree b. Disagree c. DK d. Agree e. Strongly Agree
- 6.3 We will expand our efforts to integrate legal expertise and legal advocacy as a way to promote better protection of human rights.
- a. Strongly Disagree b. Disagree c. DK d. Agree e. Strongly Agree
- 6.4 In general, we believe that the changes we have made in partnership with EWMI will be sustained as long as resources and circumstances permit.
- a. Strongly Disagree b. Disagree c. DK d. Agree e. Strongly Agree

Are there other areas not covered above where you think PRAJ has been especially helpful to your organization? Please be specific.

Are there areas not covered above where you think PRAJ has been weak or not helpful to your organization? Please be specific.

This concludes the questionnaire. We thank you for your cooperation.