

ROYAL GOVERNMENT OF CAMBODIA

LEGAL AND JUDICIAL REFORM

(Adopted by the Council of Ministers on June 20, 2003)

Council for Legal and Judicial Reform

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Executive Summary

The present section summarises the current status and results of the work of the Royal Government of Cambodia in elaborating a strategy for managing the ongoing reform of the Legal and Judicial Sector in Cambodia. The section also outlines the way forward as envisaged.

The Royal Government has invested considerable effort in elaborating a comprehensive strategy for Legal and Judicial Reform. The political framework of this strategy is the Governance Action Plan with special focus on fulfilling the crosscutting National Poverty Reduction Strategy. In order to finalise the draft strategy, develop a Program of Action and enable implementation hereof the Royal Government has undertaken the task to develop its vision for the legal and judicial sector on basis of the fundamental concepts of the Cambodian Constitution in relation to the whole legal and judicial sector, i.e., individual rights liberal democracy, separation of powers and rule of law.

The vision

The vision of the Royal Government that has been drawn up has its foundation in the fundamental concepts and corresponding values of the Cambodian Legal and Judicial sector with poverty alleviation being the overall political focus (kindly consult the full list of concepts and values in Annex 3). From each value a set of criteria can be derived, the fulfillment of which is a precondition for the realisation of the value. Each of the criteria in turn has been broken down into a set of interventions/activities that must be carried out in order to fulfill the criteria and thus also to fulfill the values. Hence, if all the interventions identified are carried out, implementation of the vision for the legal and judicial sector has been accomplished.

The reasons for the Royal Government to undertake the vision exercise have been manifold. Primarily, the vision is an essential supporting theory to the elaboration of the Legal and Judicial Reform Strategy and develop its Action Plan. Secondly, the vision will provide the basis for finalising a comprehensive strategy on Legal and Judicial sector reform and a medium-term Program of Action in full consultation with development partners. Thirdly, as the vision comprises the whole Legal and Judicial sector, it enables the identification of the ideal structure of the sector and interface between the Legal and Judicial sector institutions thereby providing the guiding principles in terms of implementation. Thirdly, it will also strengthen the capacity to manage and coordinate reforms, including the mobilisation and coordination of the requisite partnerships and funding.

Legal and Judicial Sector Reform Strategy, strategic objectives of the Legal and Judicial sector and Program of Action

The fundamental concepts flowing from the Constitution in relation to the legal and judicial sector as such form, in conjunction with the goal stipulated in the National Poverty Reduction Strategy, the following common and comprehensive goal for the legal and judicial sector, i.e. the Legal and Judicial Sector Reform strategy goal:

“The establishment of a credible and stable legal and judicial sector upholding the principles of the rights of the individual, the rule of law and the separation of powers in a liberal democracy fostering private sector led economic growth”

This goal implies seven strategic objectives:

Strategic objective 1: Improve the protection of personal rights and freedoms

Strategic objective 2: Modernisation of the legislative framework

Strategic objective 3: Provide better access to legal and judicial information

Strategic objective 4: Enhance quality of legal processes and related services

Strategic objective 5: Strengthen judicial services, i.e. the judicial power and prosecutorial services

Strategic objective 6: Introduce alternative dispute resolution methods

Strategic objective 7: Strengthen legal and judicial sector institutions to fulfill their mandates

Based on the criteria deriving from the values of the legal and judicial sector and the strategic input from the National Poverty Reduction Strategy in relation to each of the strategic objectives have been defined. From the strategies the necessary interventions/activities forming the eventual Program of Action can be broken down.

By using this methodology a full overview of the reform of the legal and judicial sector and the possibility of coordination hereof has been provided, and the Royal Government has hereby also been enabled to manage the incremental reform process carefully, including its prioritisation.

Working Process

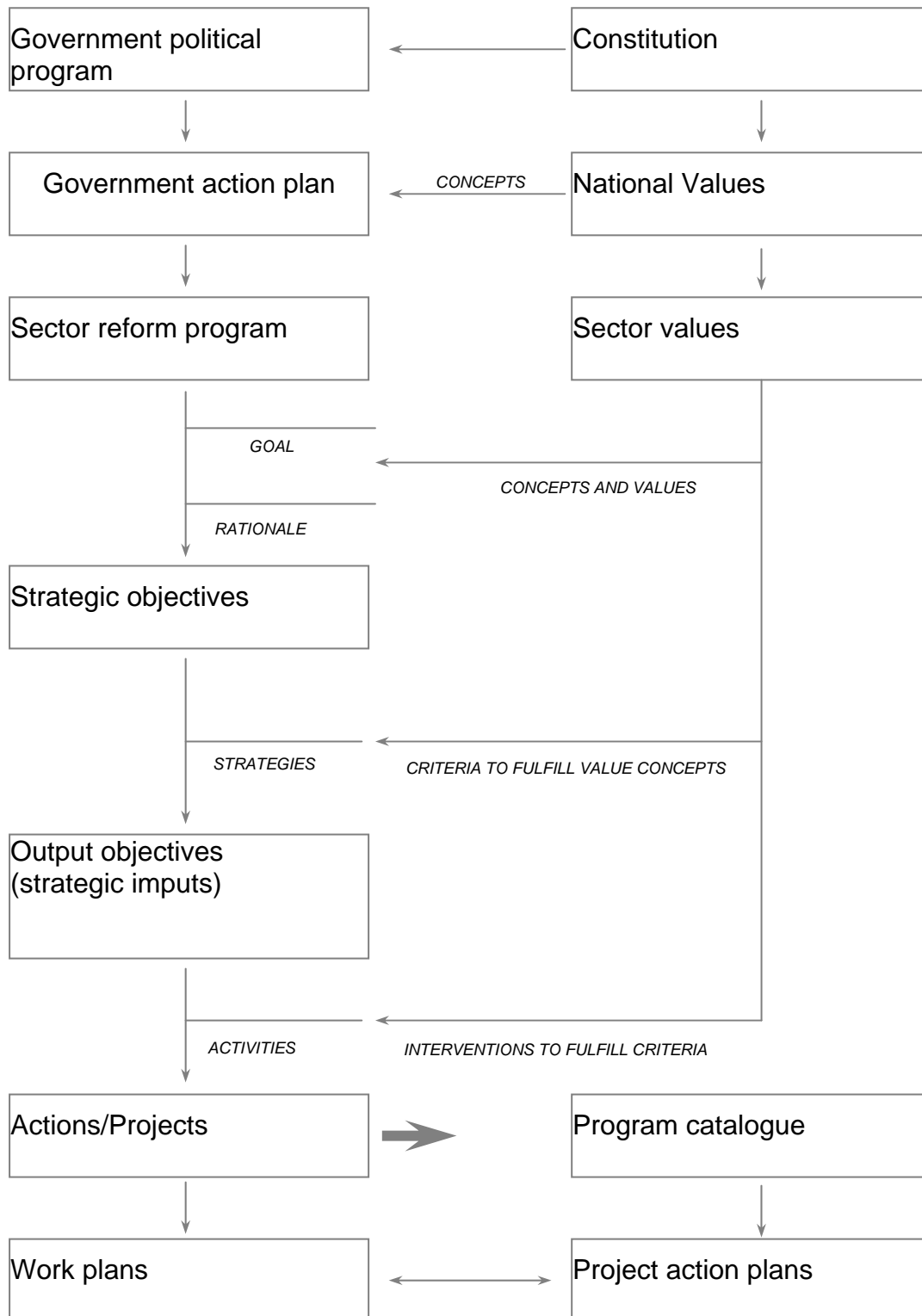
A draft Program of Action based upon the Legal and Judicial Reform Strategy can now be outlined thereby completing a draft of Action Plan for Legal and Judicial Reform with the aim to implement Legal and Judicial Reform.

Upon approval of this vision in principle by the Council for Legal and Judicial Reform (CLJR) on 27 January 2003 a consultative process involving all key institutions in relation to the Legal and Judicial system of Cambodia was initiated. The process was kicked off with a workshop on the draft Justice Sector Reform Program held on 12 February 2003 involving all relevant governmental institutions.

Compilation of comments by all key institutions and finalisation of the document taking the received comments into consideration, a draft project catalogue based upon the draft of Action Plan for Legal and Judicial Reform can be written up. Upon approval of the final draft of the Action Plan for Legal and Judicial Reform and its project catalogue by the Royal Government, a donor conference, during which the project catalogue will be presented to donors, can be held.

Hereafter project proposals can be written up with donors referring to the overall program in order to secure funds for implementation by the individual legal and judicial sector institutions thereby accelerating the reform. The Permanent Coordination Body of the Council for Legal and Judicial Reform (PCB) will manage the coordination hereof facilitated by the Project Management Unit (PMU).

The principle plan hierarchy



1. Introducing the Legal and Judicial Reform

The Legal and Judicial Reform contains the vision statement and related strategy for the Legal and Judicial sector of Cambodia. The document has been developed by the Royal Government in order to accelerate ongoing efforts in the area of Legal and Judicial reform, which is emphasized as a central element of the Royal Government's strategy to reduce poverty. The National Poverty Reduction Strategy identifies the reform of the Legal and Judicial Sector as one of the four initiatives to strengthen institutions and improve governance in support of poverty reduction. An extract from Chapter 4, Priority Poverty Actions, of the NPRS is attached as Annex 2.

The reasons for the Royal Government to undertake the task of developing a vision document for the Legal and Judicial sector are manifold. Primarily, the vision is an essential supporting theory to the elaboration of the Legal and Judicial Reform Strategy and develop its Action Plan. Secondly, the vision will provide the basis for finalising a comprehensive strategy on Legal and Judicial Sector Reform and a medium-term Program of Action in consultation with development partners. Thirdly, as the vision comprises the whole Legal and Judicial sector, it enables the identification of the ideal structure of the sector and interface between the Legal and Judicial sector institutions thereby providing the guiding principles in terms of implementation. Thirdly, it will also strengthen the capacity to manage and coordinate reforms, including the mobilisation and coordination of the requisite partnerships and funding.

The vision of the Royal Government for the Legal and Judicial Sector is anchored in the fundamental concepts and values of the Cambodian Legal and Judicial sector as enshrined in the Constitution with poverty alleviation being the overall focus. It comprises the whole sector and thus paves the way for a more integrated and comprehensive approach, which establishes the ideal interface between the institutions and secures the foundation for effective implementation and monitoring.

The strategic objectives of the Legal and Judicial Sector in accordance with the Constitutional values/principles and the overall goal of supporting development and poverty alleviation are identified as:

- 1: Improve the protection of personal rights and freedoms
- 2: Modernisation of the legislative framework
- 3: Provide better access to Legal and Judicial information
- 4: Enhance quality of legal processes and related services
- 5: Strengthen judicial services, i.e. the judicial power and the prosecutorial services
- 6: Introduce alternative dispute resolution methods
- 7: Strengthen Legal and Judicial sector institutions to fulfill their mandates

The Legal and Judicial Reform document encompasses the following sections:

- Vision statement for the Legal and Judicial Sector
- Basic concepts of the Legal and Judicial Sector
- Values of the Legal and Judicial Sector
- Criteria to fulfill values
- Interventions to fulfill values
- Strategic objectives for the Legal and Judicial Sector

From April and onwards:

Program Management Unit established and in operation (members appointed and offices and logistics allocated)

Writing up of Terms of Reference for each of activity in the Action Program

Write up of project proposals together with donors in order to secure funds for project implementation.

The Legal and Judicial sector institutions are meant to *implement* the Legal and Judicial sector reform strategy whereas the PCB will *coordinate* the implementation of the strategy. The PCB has established the PMU with a purpose to *facilitate* the implementation of the strategy. The development of project proposals should take place through a participatory process with the involvement of the relevant implementing institutions. The individual projects can be brought into effect once the project plans have been approved and project funds have been provided. Hence, the implementation will take place in succession.

2. Vision Statement for the Legal and Judicial Sector

The Legal and Judicial Sector of Cambodia

secures the personal freedom and rights, including property rights, of all individuals throughout country through the timely, effective and fair delivery of justice;

protects the existence of a liberal democracy within the sovereign Kingdom of Cambodia;

ensures a credible and stable legal and judicial framework within a system of Separation of Powers, including an independent and capable judiciary;

upholds the rule of law in a market-based economy;

relies on institutions that uphold principles of good governance;

ensures effective access to justice for all in the due process of law before a court or other conflict resolution mechanisms in all settlement of disputes between the State and individuals and between individuals;

ensures the timely and impartial enforcement of all legal decisions;

is transparent and promote awareness by citizens of their rights and obligations;

earns the confidence and respect of the citizens to the judiciary that is held to high standards of professionalism, ethics and accountability.

3. Basic concepts of the Legal and Judicial Sector

The Royal Government of Cambodia has identified guiding values for the Legal and Judicial sector based on the provisions of the Constitution of Cambodia and the principles of international law as adhered to by Cambodia supplemented by national policies and laws.

The identified values flow from four basic concepts of the Constitution of Cambodia, outlined below:

- 1. The rights of the individual.
- 2. The liberal democracy
- 3. The separation of state powers
- 4. The rule of law

1. The rights of the individual

Upholding the rights of the individual as they are enshrined in the Constitution and in the body of international laws is perceived as essential in enabling the citizens of Cambodia to act as agents of their economic, social, cultural and religious interests and to inspire in them the ability and confidence to use the opportunities available to them.

For the freedom and rights of individuals and the collective rights of minorities to be effective, the state promotes the awareness of the laws by all citizens. The aim is to enable them to act in the promotion of their rights, including the appeal against any decision affecting him or her, within a system based on the rule of law. In order to enable citizens to act in the protection of their rights the state emphasises to develop and sustain a system of transparent governance, so as to allow a free flow of information, and accountable governance, so as to allow citizens to censure and correct abuse through such institutions as have been established.

To the rights of the individual corresponds a set of responsibilities that each citizen is expected to observe. The citizens abide by the laws of the country and the legitimate decisions of the judicial and administrative bodies as part of a general notion of voluntary compliance. The state encourages the participation of its citizens in the lawful political life of the country whereby they make themselves heard to the extent that they wish to be active members of the society. Citizens are likewise expected to assume responsibility for developing their abilities and potential, and they must provide for themselves and their next of kin within the means of their ability.

2. The Liberal Democracy

The concept of liberal democracy embraces the choice that the people has made of a system of democratic governance, in which the citizens can freely articulate themselves in a peaceful manner, and in which the state has guaranteed the individual the opportunities to act freely within a society upholding the common values and heritage of the people and with a society and market economy bound by the rule of law. The freedom of the individual to act as an agent of his or her own interests within the context of traditions and the law ensures the best possible development of the economic, social, cultural, religious and political resources.

The system of liberal democracy as enshrined in the Constitution depends on the active participation of all citizens in the governance of the country through elected representation in governing bodies. The representational system of governance allows the various interest groups and voices in society to articulate themselves and to be heard. The democratic processes ensure that equitable and peaceful solutions are found that best represent the aspirations of the people, and without the risk of resorting to abuse of social groups or violent conflict. Each citizen has the right to freely run for and be elected to governing bodies and public office based on a system of universal suffrage.

The Constitutional system implies a social contract between the state and citizens that ensures the peaceful mediation between conflicting societal interests, and strengthens the capacity of society to sustain development, social justice and the reduction of poverty. Under this social contract the state ensures the safety and security of the population by maintaining law and order, by providing access to public services and promoting the rights and freedoms of the citizens in respect of the traditional values. In return, the citizens voluntarily respect and abide by the law of the country and fulfil their responsibilities as citizens and members of their communities.

The separation of powers

The separation of powers into three branches of government – the legislative, the executive and judicial - is the fundamental principle in the Constitution in regard to the establishment and execution of state power. The separation of powers ensures that no element or branch of government can assume absolute or dictatorial power, and it is a safeguard for the people against abuses of state power. State power and its exercise are defined by law in a democratic society. The laws and regulations of Cambodia are hierarchical, and each of these derives its validity and authority from a rule placed above it in the hierarchical structure of laws.

The rule of law

The rule of law constitutes the framework in which state powers are executed and the way in which interaction between state organs and the citizens and the relations between legal and physical individuals are regulated. The rule of law ensures the definition and existence of the basic functions of government. It ensures that each of these functions are defined by law, and that they are carried out under the ultimate control of the citizens through the processes of representational democracy. In the context of the rule of law, the state does not restrict the freedom of its citizens, nor accord favours to certain groups except by law. As such, the rule of law ensures that the relations between the state bodies and the citizens and between the legal and physical individuals are predictable and transparent, thus creating a stable and secure environment for the citizens freely to engage in all aspects of economic, social, cultural and religious activity on which the aggregate wealth of the country depends.

The system of liberal democracy implies that the political system is able to draft and pass adequate and relevant laws, to enforce them, and to uphold them effectively in the relations between the citizens or between the citizens and the state. The state perceives as a precondition for this that the citizens are made aware of the laws in an effective manner, and that they have access to Legal and Judicial to protect their rights.

The system of liberal democracy also presupposes that a basic measure of trust exists between the citizens and the state premised on the expectation that the state acts from a principle of fairness

and justice. In this situation the individuals feel confident that their basic interests are protected. Thus, it enables them to act with confidence and take responsibilities at all levels of economic and political life.

In the context of the rule of law, the state continuously works towards optimising and protecting the conditions that allow the individual to pursue the opportunities available to him or her. To facilitate access to justice, the state is introducing alternative conflict resolution and mediation mechanisms to complement the court system. To facilitate the resolution of conflicts in specialized areas such as commerce and trade, it is establishing new institutions. To promote further the access to justice, especially for the poor, the state emphasises a system of alternative dispute resolution through the provision of legal aid. The state in general perceives mediation as essential to bring about justice in a society, where peace and reconciliation prevails.

4. Values of the Legal and Judicial Sector

Deriving from each of the four basic concepts that flow from the Constitution, a corresponding set of values for the Legal and Judicial system are set out below. In the following, the concept of the rights of the individual will precede the other three to reflect the order of priority established in the Constitution whereby the authority of the government is derived from the will of the people.

The identified values are:

1. The rights of the individual:

- 1.1 Personal freedoms and rights
- 1.2 Property rights
- 1.3 Participation
- 1.4 Access to justice and the right of appeal
- 1.5 Access to information

2. Liberal democracy:

- 2.1 Principles of representation
- 2.2 Decentralisation of powers
- 2.3 Promoting a free market economy
- 2.4 Provision of public services

3. Separation of powers:

- 3.1 Division of functions between the three branches of government
- 3.2 Checks and balances
- 3.3 Independence of the judiciary

4. The rule of law:

- 4.1 The hierarchy of laws
- 4.2 Predictability
- 4.3 Transparency
- 4.4 Accountability
- 4.5 Due process

- 4.6 Enforcement

1. The rights of the individual

1.1. The freedoms and rights of the individual

The freedoms and rights of the individual are enshrined in the Constitution and the principles of international law adhered to by the state and upheld in the principles of the rule of law and the separation of powers. In all matters of lawmaking, in the use of executive authority and powers, and in the rendering of justice by courts of law, the state is determined to protect and observe these rights. A restriction of the freedoms and rights of the individual by any branch of government only takes place in accordance with the law and when this is deemed necessary in a democratic society. In any such interference with the freedoms and rights of the individual, the branches of government will be strictly guided by the principle by which the interference must be proportional to the desired purpose.

1.2 Property rights

The state is committed to protecting the property rights of individuals and legal persons as an intrinsic part of promoting a free market economy, and in the recognition that such property is the basis of the welfare of each individual and the basis for the creation of social welfare. The right to property is only restricted as an exception and in accordance with the law and when this is deemed necessary in a democratic society.

1.3 Participation

The state ensures the facilitation of the possibilities of all individuals to participate peacefully in the electoral and political processes of the country at national and local levels of government. This facilitation includes ensuring the exercise of the right of individuals to pursue their interests and convictions through means of expression, assembly or association at all times.

1.4 Access to Legal and Judicial and right of appeal

The state promotes the access to justice for all individuals and legal persons where they may seek the peaceful solution to disputes and the recognition and enforcement of their rights and entitlements. Particular attention in this regard is given to access to justice by the poor and vulnerable in society. The access to justice covers all aspects of administrative, criminal and civil matters, including the opportunity to challenge acts of government and administrative bodies. All individuals enjoy the right of appeal against any decision brought against him or her.

1.5 Access to information

The state appreciates free access to information and the right to impart information as a fundamental prerequisite for the functioning of a liberal democracy. The state promotes access to information, including the ability to understand the information, in order to raise awareness, to increase the accumulation of knowledge and skills, to enable individuals to act in their own best interest, to promote fair competition in the marketplace and to enable the citizens - if necessary -

to challenge the actions of government. Access to information is only restricted in accordance with the law and when it is deemed necessary in a democratic society.

2. Liberal democracy

2.1 The principles of representation

The people freely elect the representatives of their choice to the elected assemblies at all levels of government in a state that at all times defines its role as the government of the people . All citizens above a certain age are eligible to present their candidacy for public office. The electoral processes and the functioning of elected assemblies ensure that the voices of political, confessional, social and ethnic minorities are heard. The lawmaking process ensures that representatives of affected groups, associations, other governmental bodies and independent experts are consulted in an adequate manner.

2.2 Decentralisation of powers

The decentralisation of powers to local governments is pursued with the view to increase the participation of the population in matters affecting their lives, to promote local ownership to governance, to increase the effectiveness of public administration and service deliveries, and to increase the efficiency of public resource allocations.

2.3 Promoting a free market economy

As a part of the effort to realise a free market economy the state promotes an adequate legislative framework and the establishment of regulatory institutions that are essential to the functioning of a free market economy. An independent judiciary with the necessary skills to enforce legislation and create a judicial environment conducive of private entrepreneurship is an essential objective.

2.4 Provision of public services

The state provides such public services as deemed necessary and affordable with the view to alleviate poverty and increase the human welfare of the people. The state provides services to ensure the safety and security of its people, and it provides opportunities for the citizens to develop their abilities and knowledge and to promote the flow of goods, people and information across its borders. The state provides and ensures an independent and effective judiciary and the presence of a professional and effective prosecution, police force and penitentiary system that is equipped to perform its function in the strict observance of the laws of the country.

3. Separation of powers

3.1 The division of functions between three branches of government

The division of powers between the legislative, the executive and the judiciary in Cambodia is maintained as a fundamental principle of the exercise of state power thereby safeguarding that no branch of government attempts to define or assume the functions of any other branch.

3.2 Checks and balances

The state institutes and continuously maintains checks and balances between the branches of government to prevent that any branch becomes predominant over the others or assumes complete control over specific functions of government.

3.3 The independence of the judiciary

The independence of the judiciary is a fundamental cornerstone in the Constitution. It is essential that the courts and its officials may at all times exercise their powers without any undue outside influence or threatened by any institution or individual. The state is committed to take all appropriate steps to ensure that the decisions of the judiciary are carried out in a timely and correct manner.

4. The rule of law

4.1 The hierarchy of laws

The rule of law is premised on the hierarchy of laws, whereby all authority vested in government flows from the Constitution, including the authority to pass laws and regulations. Therefore, any law, regulation or administrative act passed in the country is derived either from the constitution or a law or regulation above in the hierarchy of laws. If a law or regulation cannot derive its authority in this way it can be found unconstitutional or without legal validity in a court of law, respectively by the Constitutional Council. At all times the state is dedicated to upholding the hierarchy of laws as the guarantee that all authority in the country is ultimately derived from the people through its elected representatives.

4.2 Predictability

The lawmaking institutions of the state continuously elaborate the laws of the country with the view that they are consistent, adequate and relevant to the conditions of the society. This ensures that laws and the consequences of abiding by and violating them are predictable to the citizens. It thereby also promotes an environment of voluntary compliance with the law and a stable legal environment that is conducive to a market economy, that is cost-effective to the citizens and which improves their lives.

4.3 Transparency

The state promotes transparency at all levels of government in order to ensure the free flow of information, to enhance the quality of lawmaking, to enhance the quality of decision-making in all functions of government, and to enable the citizens to participate in social and political life and if need be to effectively challenge any decision brought against him or her. Transparency in public administration is provided for by law and is always to be considered a principle of good governance.

4.4 Accountability

The state and all branches and functions of public administration can be made publicly accountable for its actions and its use of resources. Accountability is enforced by law, through institutions established for that purpose, and through the initiative of its citizens. Sanctions for not complying with a legitimate demand for accountability are stipulated by law.

4.5 Due process

The state ensures its citizens Legal and Judicial for all through due process in a court of law and in their interaction with public authorities. Due process is stipulated by law and ensures that an individual or a legal person is accorded all legal safeguards necessary. These safeguards include the presumption of innocence, the possibility of presenting an adequate defence, the right to present any evidence and statements, the right to be judged by an independent and impartial judge, and the right to access to appeal against a decision. Public administrations scrupulously uphold the law and allow for adequate hearing of the parties to a case. The state emphasises the enabling of citizens to approach any public authority in the pursuit of their legitimate business without fear or favour.

4.6 Enforcement

The state enforces all duly made decisions of a court and of any government body in a timely and impartial manner through the proper authority.

5. Criteria to fulfill values

The four basic concepts can each be divided into values, which in conjunction represent the overall content of the individual concept. The meaning of each value in relation to the Legal and Judicial sector can be expressed through criteria, the fulfillment of which would constitute a realisation of the specific value involved.

The criteria have been identified as to make sure that the necessary requirements to fulfill the value in relation to the Legal and Judicial sector are in place with regard to the legislative, institutional, and procedural aspects of the value. The criteria thus indicate the set of preconditions for fulfillment of the value involved.

Kindly refer to Annex 3 for a complete list of concepts, values and criteria and their inter linkages.

6. Interventions to fulfil values

A range of interventions have been identified with a view to fulfil each criteria listed in Annex 3. Through this process it is possible to list all the interventions, which have a bearing on each value. The individual interventions are related to a number of values. Hence, the successful execution of one intervention will influence on the implementation of several values.

In consequence of this the overall set of values can only be realised through a comprehensive and integrated program, the implementation of which will take place in a broad and gradual manner compared to working with one value at a time.

The inter-related interventions identified in relation to the values are listed below. Implementation of all interventions a long-term task. The priority of the individual interventions will take place as an integrated part of the annual update of the Legal and Judicial Sector Reform Action Plan:

1. Administrative code
2. Administrative procedural code, including rules for Court of Appeal
3. Civil, possibly including administrative matters, and criminal procedural codes and/or general Procedural Code for court system
4. Civil and Criminal Procedure Code in coherence with the procedural codes
5. Development of a service indicator system and the establishment of a function within the Ministry of justice to monitor indicators
6. Systematic education and training of all role players in the Legal and Judicial system, including civil society
7. Systematic review of existing laws and law reform program
8. Law on NGOs (safeguarding civil society)
9. Law on Media (ensuring freedom of the press)
10. Policy and legal provisions on legal representation and legal aid
11. Measures to establish Commercial Court (and possibly other specialised courts/court chambers), including commercial court proceedings
12. Specialist training in commercial law
13. Law on Arbitration
14. Establishment of a system of cadastres / notaries, etc. including law on notaries
15. Implementation of legal reform program with a sectoral approach (Master List)
16. Organic Law on the Organisation of Courts (business plan for the administration of courts)
17. Law on Administration of Courts (business plan for administration of courts)
18. Law on the Police (business plan for the Police)
19. Legislative provisions to ensure the independence of prosecutorial Services (business plan for the Prosecution)
20. Law on the Penitentiary System and Correctional Services (corresponding business plans)
21. Establishment of an Ombudsman Office
22. Policy on dissemination of information in relation to the Legal and Judicial sector
23. Establishment of a law gazette and a periodic legal digest, and establishment of a legal information database for the Legal and Judicial sector, and a library and reference system for the courts
24. Law on access to information
25. Public reception (desk) and information functions in the courts
26. Law / procedures /guidelines for lawmaking, including ensuring effective participation
27. Anti-corruption measures, including a law on anti-corruption
28. On-going training programs (basic, specialised and issue-training) focusing on the target groups of
the schools within the Legal and Judicial system (rolling 3-year business plan for each school)
29. State policies on budget allocations to the judiciary (fixed percentage of the governmental budget)

30. The establishment of functioning Supreme Council of Magistracy
31. Law and judges and on prosecutors
32. Legal provisions and guidelines on conflicts of interests
33. Code of Ethics / Conduct for judges
34. Code of Ethics / Conduct for prosecutors
35. Code of Ethics / Conduct for police officers
36. Code of Ethics / Conduct for penitentiary officers
37. Code of Ethics / conduct for civil servants
38. School of Magistrates (business plan)
39. Council of Judicial Service
40. Model Court approach
41. Measures to ensure Juvenile Justice
42. Revisions on the Law on Bar and Council of Ethics within the Bar Association
43. Legal provision on the elaboration of annual reports for the services within the Legal and Judicial sector
44. Centre for training of lawyers.
45. Establishment of School of Police (curriculum, business plan)
46. Establishment of School for the Penitentiary System
47. Sufficient / up-to-date court facilities including relevant IT equipment
48. Establishment of a School for judicial officers
49. Code of ethics / conduct for judicial officers
50. Establishing minimum standards for obtaining a degree in law or public administration
51. Procedures for ensuring the effective exercise of the role and competencies of the Constitutional Council
52. The establishment of a council of discipline for police officers
53. The strengthening of a council of discipline for civil servants
54. The establishment of an institution for execution of judgments (bailiff/ enforcement tribunal – bankruptcy court)
55. The establishment of a school for basic education for civil servants
56. A systematic information, public of folders on basic rights and procedures etc. by the involved ministries within their jurisdiction
57. Program of raising awareness, through education, training etc. regarding basic rights on community level, including on reporting mechanisms
58. Organic law on provinces, municipalities, districts etc.
59. Ensuring a consistent law formulation, including the provision of a trilingual lexicon
60. Statute on clerks
61. Mediation and other alternative dispute resolution methods, including for solving commercial disputes
62. Establishment of Legal Unit within each ministry
63. Improve the mechanisms to facilitate civil society contributions to the Legal and Judicial sector.

Kindly refer to Annex 3 for an overview of interventions and their progress.

7. Strategic objectives of the Legal and Judicial Sector

The Legal and Judicial Vision outlines four concepts flowing from the Constitution, which are fundamental as regards the Legal and Judicial sector in Cambodia. They are as follows:

The rights of the individual
Liberal democracy
Separation of powers
Rule of Law

These concepts form in conjunction with the goal stipulated in the Poverty Reduction Strategy the following overall goal for legal and judicial reform.

“The establishment of a credible and stable legal and judicial sector upholding the principles of the rights of the individual, the rule of law and the separation of powers in a liberal democracy fostering private sector led economic growth”.

From this the following seven strategic objectives on how to achieve the goal can be established:

- 1. Improve the protection of fundamental rights and freedoms*
- 2. Modernisation of the legislative framework*
- 3. Provide better access to legal and judicial information*
- 4. Enhance quality of legal processes and related services*
- 5. Strengthen judicial services, i.e. the judicial power and the prosecutorial services*
- 6. Introduce alternative dispute resolution mechanisms*
- 7. Strengthen Legal and Judicial sector institutions to fulfil their mandates*

To achieve this goal it is pertinent to address the following key areas of reform and development:

- Improved access to justice
- A modernised legislative framework
- An independent and well functioning judiciary
- A coordinated and well functioning Legal and Judicial sector

These four key areas in conjunction form the basis of ensuring that a comprehensive Legal and Judicial system is established ensuring that Legal and Judicial is done and also seen to be done.

Access to Justice is aimed at any individual or legal entity and concerns any aspect of life. it includes upholding of basic and human rights through both reporting system and the court system, it applies to disputes at the community level through both formal and informal systems, and it renders protection to contractual and commercial rights through different channels. Access to justice also implies that the vulnerability of certain groups will be taken into account.

It presupposes the publication and accessibility of legal and judicial knowledge and the promotion of legal awareness. It ensures that legal advice and representation is available for anyone.

It ensures the safety and security of the individual thereby reducing the amount of complaints and court cases and it provides an environment of opportunities that stimulates growth.

A **modernised legislative framework** will derive from and build upon a streamlined, standardised and participatory lawmaking process that is well-coordinated within the government and through a formalised scheme enables the inclusion of all relevant interests and the necessary information and know-how in a transparent manner, including the assessment of all political, administrative, economic and social implications of a law.

The lawmaking process will include a technical review to ensure consistency between laws and between laws and the Constitution, to ensure a standardised law-drafting technique and to assess whether a draft law complies with the obligations of Cambodia according to international law.

The lawmaking process will provide the necessary information for political debate about the law also through indication of the background for the law and its provisions and the intended interpretation of the individual provisions of a law.

The set of laws will provide a comprehensive and coherent framework for the general application of the rules in the private and public sector, including the judicial system, and it will ensure that administration of Legal and Judicial and eventual enforcement by all state institutions is done according to promulgated laws that are clearly formulated and easy accessible. The legislative framework will be established via a sector approach taking crosscutting issues into careful consideration. It will also contain all laws prescribed by the Constitution.

An **independent and well functioning judiciary** will fulfil its role set out in the Constitution and the laws within the frame of the Constitution thereby supporting the principles of a liberal democracy in general and protecting the rights and freedoms of any individual or legal entity as laid down in the Constitution, laws and other regulations of the country.

The judiciary will consist of capable personnel that have the necessary means and tools and independence safeguards and impartial status to be able to carry out Legal and Judicial in any case only according to the laws and regulations in force, including international standards, without any kind of interference or threats, and which acts up to the highest level of ethical standards.

It will ensure due process in every aspect and every stage of the process, including in terms of enforcement, which includes independence in every aspect ensured through the structure and appeal system of the judiciary and presupposes a strict division of roles and duties between the independent professional actors of the Legal and Judicial system.

A **coordinated and well functioning Legal and Judicial sector** consists of a range of institutions with precisely defined mandates and duties in accordance with the principle of separation of powers and which in conjunction form a comprehensive and coherent Legal and Judicial sector that is able to deliver all the services required in a liberal democracy with rights of the individual.

It presupposes an inner consistency in which justice depends upon the ability of each and every of the institutions to perform in accordance with its mandate, and which is underpinned by the necessary checks and balances between the various institutions of the sector.

It encompasses a common system of planning and budgeting and the requisite means, tools and mechanisms for monitoring and reporting ensuring that the service deliveries of the sector are in accordance with the mandates and political priorities and that the requisite resources are available and allocated accordingly.

Management systems, including human resources, according to policies and stipulated through precise guidelines will be put in place.

The rationale behind the four key areas can be fulfilled through the following 7 strategic objectives:

Strategic objective 1: Improve the protection of personal rights and freedoms

Strategic objective 2: Modernisation of the legislative framework

Strategic objective 3: Provide better access to legal and judicial information

Strategic objective 4: Enhance quality of legal processes and related services

Strategic objective 5: Strengthen judicial services, i.e. the judicial power and the prosecutorial services

Strategic objective 6: Introduce alternative dispute resolution methods

Strategic objective 7: Strengthen Legal and Judicial sector institutions to fulfill their mandates

The interventions derived from the values can be related to these strategic objectives and the strategic inputs outlined in the draft Strategy on Legal and Judicial Reform can likewise be related. The following strategies can be defined in relation to each of the strategic objectives:

Strategic objective 1

Improve the protection of personal rights and freedoms

Outcome: Personal rights and freedoms promoted and enabled

Strategies

1. Provide training and awareness programs on human rights and fundamental rights, including basic civil rights, primarily at the community level, taking women, children, minorities and disadvantaged people into special consideration, including establishment of and awareness on registration of rights and complaint mechanisms.

2. Provide training and awareness to officials in law enforcement agencies on fundamental rights, including basic civil rights, and human rights as provided for by the Constitution, including the ability to apply international standards in the absence of national laws or in case of conflicting rules.

3. Establishment of guidelines and standard procedures to ensure the promotion of individual rights by law enforcement agencies.

4. Enact and review legislation to safeguard the rights of the individual to organise, associate, express an opinion, and receive information, ensure that the media, research institutions, and civil society are enabled to exercise effective monitoring of the state apparatus, and to report on it, including to provide input to the political processes, and provide knowledge by law enforcement officers to safeguard the protection of these rights.
5. The existence of procedures within an effective and independent institutional framework for the registration of property rights.
6. The existence of the function of an ombudsman.

Strategic objective 2

Modernisation of the legislative framework

Outcome: The lawmaking process and legislative framework modernized with the purpose of implementing the rule of law based upon a hierarchical system of laws and regulations

Strategies

1. Complete the legislative framework pertaining to the Legal and Judicial sector, including organic laws for the Legal and Judicial sector institutions and laws provided for in the Constitution, thereby implementing a division of functions between distinct government branches.
2. Finalise pending legislation and - by using a participatory methodology and a sector approach - identify gaps in the legislative framework and fill such gaps with the purpose of implementing the rule of law.
3. Provide an effective, coherent, and participatory lawmaking process founded in the hierarchy of laws with specified law formulation guidelines and a standardised technical review, including with regard to implementation of international standards, and strengthen the entities involved in passing of new laws and amendments to laws, including the provision of training in legislative drafting to officials involved in such activities throughout the government.
4. The existence of legislation to ensure that court proceedings as well as information on government administration is publicly accessible, unless clearly defined by a law that stipulates well-founded exceptions.

Strategic objective 3

Provide better access to legal and judicial information

Outcome: Public awareness promoted and knowledge about and access to legal and judicial information enhanced

Strategies

1. Publish existing laws, all subsidiary legislation, including guidelines and common practices in Khmer, establish the comprehensive, timely, official publication of all new laws and subsidiary

legislation, e.g. official gazette, and ensure the availability of any legislative enactment to judges, lawyers, law students, government officials, the private sector, civil society and any other interested party.

2. Publish existing judgments and establish a case law digest for the printing and dissemination of verdicts, decisions and rulings of the courts and ensure that court judgments are available upon request.

3. Promote provision of relevant information and guidance to the public and users of as well the courts as administrative bodies by the respective institutions.

4. Ensure that the professional role players of the courts have adequate access to the laws of the country, the body of international law, professional literature and precedence.

Strategic objective 4

Enhance quality of legal processes and related services

Outcome: Due processes before administrative bodies and the courts of law and the right of appeal of all persons ensured

Strategies

1. Provide high quality and easily accessible legal aid services according to the needs of the people.

2. Increase number of lawyers according to established criteria to provide legal advice and other services to litigants and other clients covering the total population of the country and foreigners involved – or involving - in Cambodia, including the provision of efficient training to law students as well as continuing professional development programs to ensure highest possible quality of legal advice is provided to clients.

3. Ensure that due process is defined by law and followed by judges, lawyers, court staff and other law enforcement officials and that the involved are sufficiently informed on how due process is conducted.

Strategic objective 5

Strengthen judicial services, i.e. the judicial power and the prosecutorial services

Outcome: A well-functioning and independent judiciary ensured

Strategies

1. Promote a credible and independent Judiciary, which has well-defined functions and duties in accordance with its Constitutional mandate and is protected by law from interference (organisational, functional, personal) from other branches, including ensuring well-defined roles between the individual actors within the Judiciary, and which is enabled to conduct their judicial duties on a high professional level in accordance with a comprehensive set of laws.

2. Establish accountability by ensuring access to reasoned judgments with reference to relevant laws that can be appealed and ensuring a transparent system on appointment, promotion,

renumeration of judges, prosecutors and other court staff and disciplinary action against prosecutors and judges and other court staff based on rules and criteria stipulated by law and carried out through an independent body with adequate resources, including establish codes of ethics and rules on conflicts of interests for all judges, prosecutors and other court staff coupled with related disciplinary actions.

3. Introduce uniform case management and court management techniques to ensure timely and transparent processing, including streamlined appeal mechanisms.

4. Provide sufficient means to make the judicial system accessible to the people of Cambodia, including ensuring an adequate remuneration of all court staff, providing a quality education and necessary additional training, making sufficient courthouses with basic facilities and adequately manning throughout the country available, and establishing of special courts with the necessary specialist knowledge.

5. Ensure enforcement of court decisions and of the independence of the judiciary by providing the legal and institutional framework supplemented by necessary resources and training to enforce judgments, and enforcement mechanisms to sanction lack of enforcement as well as sanction interference with the duties of individual actors in the Legal and Judicial system.

Strategic objective 6

Introduce alternative dispute resolution methods

Outcome: Well-functioning alternative dispute resolution and mediation mechanisms established with regard to commercial disputes and minor disputes on community level

Strategies

1. Introduce commercial arbitration and other alternative resolution methods, including mediation, to solve commercial disputes
2. Streamline mechanisms for resolving minor disputes through mediation

Strategic objective 7

Strengthen Legal and Judicial sector institutions to fulfill their mandates

Outcome: Capacity and means provided in fields of planning and budgeting, monitoring and reporting in order to ensure effective, efficient and accountable enforcement

Strategies

The aim of the Legal and Judicial sector is to provide accessible and timely Legal and Judicial for all. This can only be done if all Legal and Judicial institutions are capable of fulfilling their mandate. If just one institution does not perform, the Legal and Judicial aim cannot be reached and the individual citizen will perceive that justice is not done.

1. To establish a legislative framework defining the Legal and Judicial sector institutions and structures and the exact mandates and responsibilities of each institution by carefully avoiding any overlap herein has to be enacted. The sector has to coordinate in regard to and in accordance

with the individual mandates. The mandates and structures should fully comply with the Legal and Judicial sector values.

2. To provide the legislative framework to ensure that the procedures, decisions and appeal mechanisms of the Legal and Judicial sector institutions are public and transparent. Further, institutions ensuring independent scrutinisation should be established by law and have adequate mandates and resources.

3. Ensure enforcement of the law, subsidiary legislation and court decisions by all Legal and Judicial sector institutions according to their legal mandates and duties through providing the legal and institutional framework supplemented with necessary resources and training . Further, enforcement mechanisms to sanction lack of enforcement, including sanctioning a violation of the relevant code of ethics or the rules on conflicts on interests should be established .

4. The sector should develop a monitoring system that can measure how justice is done (including by which rules, processes, institutions and enforcement mechanisms justice is done) and at the same time the system should identify problems and bottlenecks in the administration of justice.

5. The sector should develop and maintain a common planning, budgetary and auditing system, monitoring and reporting system and methodology, including a system of rolling three year business plans, that links to and is in compliance with the governmental planning and medium term expenditure framework-system. Such a common management language will support the cooperation between sector institutions and enable the sector to decide on priorities without jeopardizing the independence of the individual institution in accordance with the sector values and institutional mandate.

6. The Legal and Judicial sector institutions should be structured and organised with focus on core businesses and related processes . Each Legal and Judicial institution should build the necessary capacity to enable the institution to provide the services outlined in its mandate with a quality that fulfils the Legal and Judicial sector values. The capacity building strategies should link up to the administrative reform program, and give special attention to enabling human resource development and training and monitoring (including through external feedback) with the purpose of receiving performance feed back on all management levels and proper conduct of discipline.

7. Development of a human resource management policy that should outline a recruitment and career policy and related guidelines and criteria for appointment, promotion, transfer, disciplinary actions, a training policy and related systematic needs assessment and training programs within the following areas: introduction of new employees, training of newly promoted employees, professional and technical skills training, management and leadership skills training and general awareness and implementation of code of ethics. Finally the policy should include a transparent system to conduct discipline, hereunder how the institution fights corruption and promotes non-corrupt work ethics.

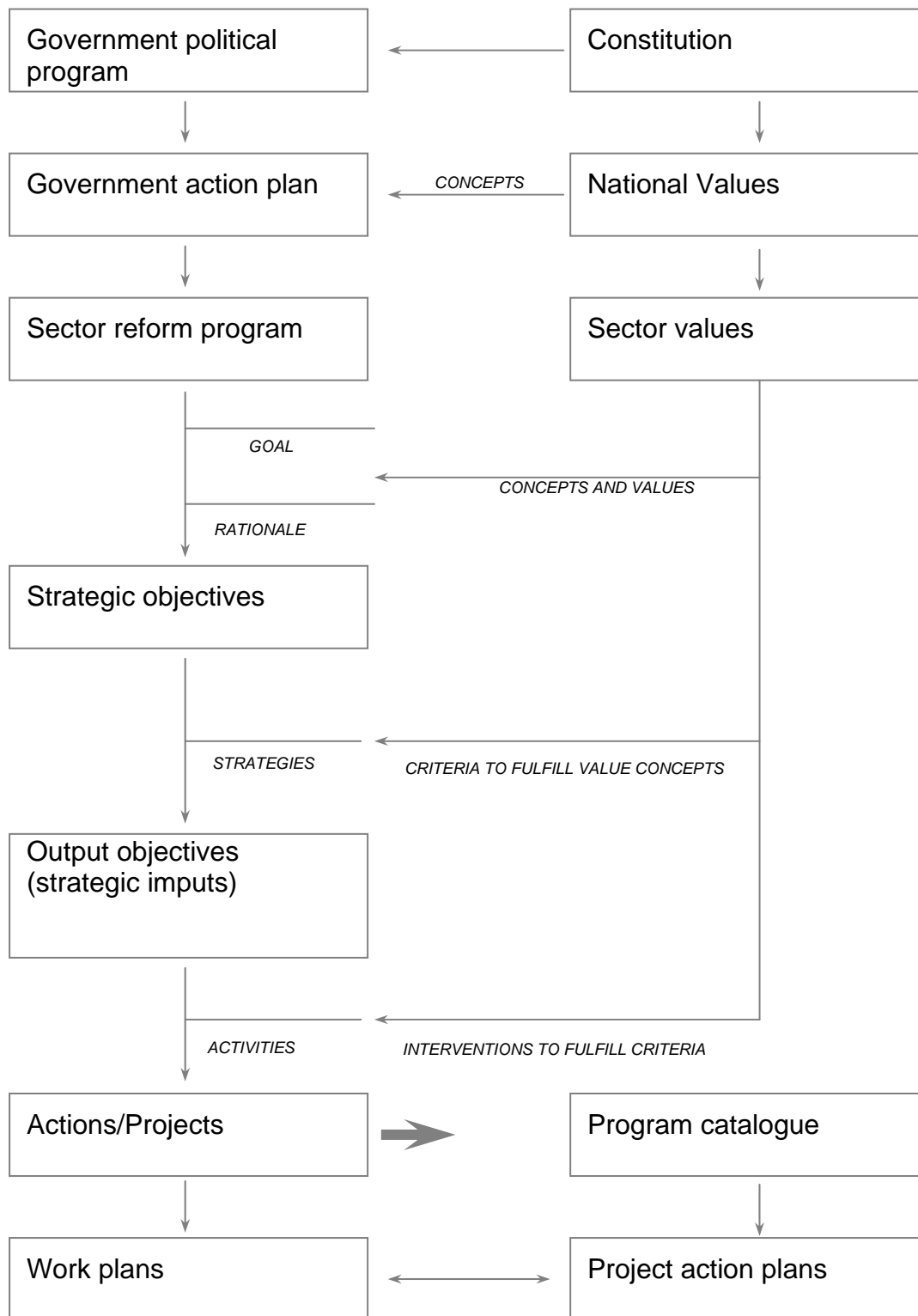
8. Provide the legislative framework for and develop and maintain a performance management system where the institution every year will monitor its performance and update its three year strategic plan and work out an annual service improvement plan.

The strategic plan should, based on the mandates, identified clients and related services, define the necessary processes (workflow) to provide services followed by an assessment of technical needs, needs for systems and finally personnel needs. The plan should outline how to develop and maintain the processes and how to fulfill the needs.

The elements and workflow of the performance management system can be indicated as follows:

- Review of performance in the previous period
- Current strategic outlook for the institution
- Objectives, policies and strategies
- Priorities (priority areas for the institution)
- Strategic objectives (outcomes)
- Performance targets (outputs, that is what the institution has to deliver)
- Inputs needed to be able to deliver (that is resource and budget frames)
- Implementing structure
- Monitoring and reporting mechanisms.

The principle plan hierarchy



2. National Poverty Reduction Strategy

(Extract from Chapter 4: Poverty Reduction Actions, Section 4.4: Strengthening Institutions and Improving Governance)

4.4.4 Reforming the Justice Sector

The Khmer Rouge regime was particularly harsh on the country's legal and judicial systems and ruthless with the men and women who operated them. With peace, security and stability restored, the Legal and Judicial Reform takes central stage as a critical element of the Royal Government change agenda. The ultimate objective is to provide the conditions necessary for the promotion of personal and property rights and a robust private sector as agent of growth. Reforming Justice is an ongoing and incremental process that must be sustainable. It therefore must be firmly anchored into such values and principles as a liberal democracy, separated state powers, the rule of law and the rights of citizens.

The Royal Government has undertaken will becomes a broad-based participatory process to prioritize initiatives and mobilize necessary resources. The Justice sector is a cohesive whole of legal texts, institutions, people and processes glued by widely shared values and principles. It covers a wide front from processes and practices to develop laws and regulations, to implementing them in cooperation with other sectors of society. Studies have been completed and resources are being mobilized. Management and coordination mechanisms are being strengthened.

By the end of these upcoming consultations, the Royal Government will commit even further to a strategy and program of action to accelerate the reform of the legal and judiciary systems. It will set a clear vision of values and priorities and how best to uphold them and monitor progress. Already, partnerships are in place and others are being concluded.

The current situation

For a variety of reasons, progress has not been as rapid as was desired. Yet, with limited resources, there has been, nonetheless significant achievement. On the legal side, important laws were enacted from laws relating to investment, trade and commerce to a law on land management and laws on basic rights. Numerous decrees and sub-decrees have been promulgated in support of due process and effective implementation. The Land Law itself is a significant achievement of participatory democracy to address a core cause of poverty: landlines. Laws governing broad sectors of society and to curtail trafficking and family violence were adopted. The Penal Code and Procedures are being readied for presentation to the Council of Ministers and referral to the Legislative Branch early in 2003, with the Civil Code and Procedures following within a matter of months. Processes and practices to formulate legal texts are being revamped to favor participation. All State institutions, the Royal Government, the National Assembly and Senate, together with the Judiciary, the private sector, civil society and development partners will need to work closely to accelerate the pace.

There is also important progress in reforming the Judiciary. Foremost, the Statute of the Magistracy is reaching the final stages of approval; the remuneration of key court officials has been increased to levels commensurate with that of most senior officials in the Civil

Service. The Supreme Council of the Magistracy is being strengthened to reinforce due process, behavior and discipline and to build capacity. The Royal School of Magistracy has been established to train and develop magistrates and their staff. Law enforcement officers and lawyers are being trained at the School for Lawyers. Budgets for the Judiciary are being reviewed and, starting in 2003, will be separated from that of the Executive. Ways and means to improve access such as circuit courts or tribunals and specialized courts are under investigation. Resources are being mobilized to undertake projects that would strengthen the capacity of institutions and staff with a view to accelerate pace significantly.

The Council for Legal and Judicial Reform (CLJR) was established by Royal Decree to direct and coordinate efforts to reform Justice. The Council will do so in full collaboration between the three branches of the State and willing development partners.

The strategy

For GAP purposes, the reform of Justice was articulated along two major thrusts: 1) completing the legal framework to sustain rapid development and to promote and protect rights; and , ii) strengthening the Judiciary to ensure transparent and equitable justice for all. Immediate policy priorities are to align the Justice Sector to poverty alleviation efforts, to complete the work relating to both the Civil Code and the Penal Code and to facilitate Cambodia's integration in the world economy. Immediate operational priorities are to strengthen capacity to manage the reform, to mobilize requisite partnerships and to secure required financing.

The strategy and program being articulated are anchored into the values and principles enshrined in the Constitution. They are targeted at seven primary strategic objectives:

- 1 : Improve the protection of personal rights and freedoms
- 2 : Modernisation of the legislative framework
- 3 : Provide better access to legal and judicial information
- 4 : Enhance quality of legal processes and related services
- 5 : Strengthen judicial services, i.e. the judicial power and the prosecutorial services
- 6 : Introduce alternative dispute resolution methods
- 7: Strengthen justice sector institutions to fulfill their mandates

The approach is comprehensive and participative. It is long-term, but the action plan being prepared focuses on the first three years to 2005. The Legal and Judicial sections of the Governance Action Plan now being updated will provide the framework. Early next steps are to strengthen the capacity to plan and manage the reform, to launch extensive consultations before finalising the strategy and work program and to secure required financing.

As for other reforms to strengthen governance and institutions, it is not yet possible to specify expected results, when and at what cost. Much depends on individual partnerships yet to be put in place.

Early initiatives target the following:

- Implement the Reform Strategy and Program in full consultations with partners;

- Strengthening institutions such as the Supreme Council for the Magistracy and the Ministry of Justice including the approval of the Statute for the Magistracy and a Code of Ethics.
- Building the capacity of support institutions such as the Secretariat to the CLJR;
- Making the law formulation process a participative, predictable and effective process;
- Completing fundamental and urgent elements of the legal framework such as the civil and criminal codes and laws and regulations relating to investment, commerce and trade;
- Strengthening mechanisms to promote access to and understanding of legal and judicial information;
- Building capacity of the Judiciary (HRD, motivation and discipline)
- Implementing a participative program in support of human rights.

In the medium-term, attention will turn to

- Ensuring that the legal framework and conflict resolution mechanisms meet the needs of the poor and standards for full involvement in international fora such as WTO and ASEAN;
- Implementing the Civil and criminal codes and their procedures;
- Strengthening the Justice Sector through improving community confidence and the development of alternative conflict resolution mechanisms e.g. Ombudsman Office;
- Establishing new courts and tribunals to improve access and to enhance conflict resolution in specialized areas (commerce, administration);
- Publishing a “Bench Book” to ensure uniform legal practice and due process including an electronic data base on texts and decisions;
- Assuring the broad dissemination and understanding of laws and legal texts including the establishment of a justice knowledge center;
- Strengthening capacity of the judicial police; and
- Strengthening the management and independence of the Judiciary including the provision of adequate means.

Value Implementation Plan I

CONCEPTS	VALUES	CRITERIA FOR THE LEGAL AND JUDICIAL SYSTEM	STRATEGIC OBJECTIVES	INTERVENTIONS(intv.)	ON-GOING	TO BE REVISED	TO BE INITATED	PRIORITY of intv.
1. The rights of the individual	1.1 Personal freedoms and rights	Existence of an administrative code regulating procedures within non-judicial functions of government. Intv.: 1,37	2,4	1. Administrative code			X	MT
		Elaboration of a code of procedure for bringing administrative decisions before a court of law. Intv. :2	2,4	2. Administrative procedural code, Incl. rules for court appeal			X	MT
		Existence of specialised procedural codes (Civil and criminal) for the courts and/or the elaboration of a general procedural code for court proceedings. Intv.: 3,16	2,4	3. Civil, possibly including administrative matters, and criminal procedure codes	X	X		MT
		Existence of a code of ethics for judges, prosecutors, other judicial staff, law enforcement officers and other civil servants. Intv.: 33,34,35,36,37,49	5,7	4. Civil and Criminal Code in coherence with the procedural codes	X			ST
		Self-monitoring for the purpose of optimising performance and sanctioning the violation of procedures. Intv. : 5	7	5. Development of a service indicator system and the establishment of a function within the Ministry of Justice to monitor indicators			X	MT
		Knowledge and awareness of basic individual rights, including procedural rules, and ability to apply applicable international standards in the absence of national law or in case of conflicting rules. Intv.: 6	1	6. Systematic education and training of all role players in the justice system, including civil society	X		X	LT

CONCEPTS	VALUES	CRITERIA FOR THE LEGAL AND JUDICIAL SYSTEM	STRATEGIC OBJECTIVES	INTERVENTIONS	ON-GOING	TO BE REVISED	TO BE INITATED	PRIORITY of intv.
		Review of the implementation of international human rights standards in national law. Int.v.: 7, 15, 41, 63	2	7. Systematic review of existing laws and law reform program.	X	X		MT
		Review of legislation to ensure that it enables media, research institutions and civil society to exercise effective monitoring of the justice system and the ability to report on it. Intv.: 8, 9	1	8. Law on NGOS (safeguarding civil society).	X	X		MT
		Existence of a catalogue of basic rights and raising broad awareness among the people about their rights. Intv.: 4, 56, 57	1	9. Law on Media (ensuring freedom of the press)		X		MT
		The existence and implementation of the right to effective legal representation Intv.: 10, 44	4	10. Policy and legal provisions on legal representation and on legal aid			X	MT
		The existence of a function of an ombudsman. Intv. : 21	1, 4, 7	11. Measures to establish Commercial Court (and possibly other specialised Courts/court chambers) including commercial court proceedings.	X			MT
		Adoption of Anti-corruption measures. Intv.: 27, 30, 32, 33, 34, 35, 36, 37, 49, 52, 53	2, 5, 7	12. Specialist training in commercial law			X	MT

CONCEPTS	VALUES	CRITERIA FOR THE LEGAL AND JUDICIAL SYSTEM	STRATEGIC OBJECTIVES	INTERVENTIONS	ON-GOING	TO BE REVISED	TO BE INITATED	PRIORITY of ntv.
	1.2 Property rights	The implementation of a Commercial Court (and other specialised Courts/chambers of the courts) and the provision of adequate adjudicating capacity at the lower levels of the court system. Int.v: 11, 12	5	13. Law on Arbitration			X	MT
		The existence of a system of arbitration. Intv. : 13	6	14. Establishment of a system of cadastres/notaries, etc.	X	X		MT
		The existence of an institutional framework and procedures for the registration of property rights. Intv. : 14	1	15. Implementation of legal reform programme with a sector approach (Master List)	X	X		MT
		Passing of an adequate legislative framework (Master List), Intv.: 15	2	16. Organic Law on the Organisation of Courts (business plan for the administration of courts)	X	X		MT
		Judges and lawyers have adequate and specialised knowledge. Intv.: 6, 28, 38, 44	4	17. Law on Administration of Courts (business plan for administration of courts)			X	LT
	1.3 Participation	Knowledge by judges and civil servants of the rights of individuals to organise and associate and to express an opinion, and the ability to protect the civil society under the law. Intv.: 6, 8, 9,28	1	18. Law on the Police (business plan for the Police)	X		X	MT

CONCEPTS	VALUES	CRITERIA FOR THE LEGAL AND JUDICIAL SYSTEM	STRATEGIC OBJECTIVES	INTERVENTIONS	ON-GOING	TO BE REVISED	TO BE INITATED	PRIORITY of intv.
		Ensure effective mechanisms to facilitate civil society contributions to the justice sector. Intv.: 8, 64	1, 2, 4	19. Legislative provisions to ensure the independence of the prosecutorial services (business plan for the prosecution)	X			MT
	1.4 Access to justice and the right of appeal	The existence of specialised procedural Codes for the courts/or and the elaboration of a general procedural Code for court proceedings. Intv.: 3, 16	6	19. Legislative provisions to ensure the independence of the prosecutorial services (business plan for the Prosecution)			X	MT
		The existence of an adequate and even distribution of courts and prosecutorial offices throughout the country. Intv.: 16, 17	5	20. Law on the Penitentiary System and Correctional Services (corresponding business plans)			X	LT
		The adequate and even deployment of police forces throughout the country for purposes of enforcement and prevention. Intv.: 18	7	21. Establishment of an Ombudsman office	X			MT
		The existence of a hierarchical structure of courts to ensure consistency of verdicts and practice, and to ensure a clear route of appeal. Intv.:3, 16	4	22. Policy on dissemination of information in relation to the Legal and judicial sector			X	ST
		Legislative provisions for the handling and solution of complaints from the public in administrative procedures, that can be appealed to the courts and/or the Constitutional Council according to law. Intv.: 2, 3, 35, 36, 37, 52	2, 4	23. Establishment of a Law Gazette and a periodic legal digest, and establishment of a legal information database for the whole Legal and Judicial sector, and library and reference system for the courts.	X		X	MT

CONCEPTS	VALUES	CRITERIA FOR THE LEGAL AND JUDICIAL SYSTEM	STRATEGIC OBJECTIVES	INTERVENTIONS	ON-GOING	TO BE REVISE	TO BE INITATED	PRIORITY of intv.
		Elaboration of a code of procedure for bringing administrative decisions before a court of law. Intv.:2	2,4	24. Law on Access to information			X	MT
		The existence and implementation of the rights to effective legal representation and the existence of a system of alternative dispute resolution. Intv.: 10, 44, 61	4, 6	25. Public reception (desk) and information functions in the courts			X	MT
		The existence of the function of an Ombudsman Intv.: 21	1, 4, 7	26. Law/procedures/guidelines for law-making, including ensuring participation	X			MT
		Adoption of Anti-corruption measures. Intv.: 27, 30, 32, 33, 34, 35, 36, 37, 49, 52, 53	2, 5, 7	27. Anti-corruption measures, including a law on anti-corruption	X	X		ST
	1.5 Access to information	The public shall have access to all laws, procedures and codes. Intv.: 10, 22, 23, 24, 25	3	28. On-going training programmes (basic specialised and issue-training) focusing on the target groups of the schools within the justice system (rolling 3-year business plan for each school)	X	X		MT
		The existence of rules to ensure public access to information on government administration, and which clearly defines exceptions to this access. Intv.: 1, 22, 24	2, 4	29. State policies on budget allocations to the judiciary (fixed percentage of the governmental budget)			X	ST

CONCEPTS	VALUES	CRITERIA FOR THE LEGAL AND JUDICIAL SYSTEM	STRATEGIC OBJECTIVES	INTERVENTIONS	ON-GOING	TO BE REVISE	TO BE INITATED	PRIORITY of intv.
		The courts shall regularly publish their verdicts, decisions and rulings, or digests of the same. Intv.: 23	3	30. The establishment of a functioning Supreme Council of Magistracy	X	X		MT
		Courts shall provide information and guidance to the public and users of the courts. Intv.: 25	3	31. Law on judges and on prosecutors	X	X		MT
		The legislation shall ensure that court proceedings are public, unless otherwise restricted by law. Intv.: 3, 25	2	32. Legal provisions and guidelines on conflicts of interests	X	X		MT

CONCEPTS	VALUES	CRITERIA FOR THE LEGAL AND JUDICIAL SYSTEM	STRATEGIC OBJECTIVES	INTERVENTIONS	ON-GOING	TO BE REVISE	TO BE INITATED	PRIORITY of intv.
2. Liberal democracy	2.1 Principles of representation	A legislative framework/guidelines on law-drafting and the legislative process ensuring a consistent law formulation and the participation of relevant stakeholders. Intv.: 26, 79	2	33. Code of Ethics / Conduct for judges	X	X		MT
		Safeguarding under law the rights of individuals to organise and associate and to express an opinion, including the functioning of the National Congress. Intv.: 8, 9, 62	2	34. Code of Ethics / Conduct for prosecutors	X	X		MT
		Ensuring that the judiciary can enforce the hierarchy of laws. Intv.: 3, 16, 17, 19, 23, 29, 30, 31, 32, 33, 34, 38, 39, 48, 49, 51, 60	2, 5	35. Code of Ethics / Conduct for police officers	X	X		MT
	2.2. Decentralisation of powers	Ensure that the legal framework that enables full implementation of decentralisation is enacted. Intv.: 58	2	36. Code of Ethics / Conduct for penitentiary officers	X	X		MT
	2.3 Promoting a free market economy	Passing of an adequate legislative framework (Master List and sectoral law reform approach). Intv.: 15, 63	2	37. Code of Ethics / Conduct for civil servants	X	X		MT
		Establishment of a commercial court and other specialised courts. Intv.: 11	2, 5	38. School of Magistrates (business plan)	X			ST
		Ensuring that judges have adequate specialist knowledge at the lower levels of the court system. Intv.: 6, 12, 38	5	39. Council of judicial Service			X	LT

CONCEPTS	VALUES	CRITERIA FOR THE LEGAL AND JUDICIAL SYSTEM	STRATEGIC OBJECTIVES	INTERVENTIONS	ON-GOING	TO BE REVISE	TO BE INITATED	PRIORITY of intv.
		Establishing a system of arbitration. Intv.: 13	6	40. Model Court approach	X			ST
		Establishing a system of alternative dispute resolution. Intv.: 61	6	41. Measures to ensure Juvenile Justice	X	X		MT
		Promoting specialised knowledge for lawyers and other advisors. Intv.: 42, 44	4	42. Revisions on the law on Bar and Council of Ethics within the Bar Association	X	X		MT
	2.4 Provision of public services	An effective and independent judiciary, accessible to the people of Cambodia. Intv.: 2, 3, 4, 5, 10, 14, 16, 17, 19, 23, 25, 28, 29, 30, 31, 32, 33, 34, 38, 39, 40, 42, 43, 47, 48, 49, 54, 60,	2, 5	43. Legal provision on the elaboration of annual reports for the services within the justice sector			X	MT
		An effective, independent and adequate prosecution, police and penitentiary system. Intv.: 3, 4, 5, 16, 17, 18, 19, 20, 23, 25, 28, 29, 30, 32, 34, 35, 36, 38, 39, 40, 41, 42, 43, 45, 46, 48, 49, 52, 60	2, 5, 7	44. Center for training of lawyers	X			ST
		An effective and adequate system of legal aid. Intv.: 6, 8, 10, 22, 23, 24, 25, 32, 42, 44	4	45. School of Police (curriculum, business Plan)	X	X		MT

CONCEPTS	VALUES	CRITERIA FOR THE LEGAL AND JUDICIAL SYSTEM	STRATEGIC OBJECTIVES	INTERVENTIONS	ON-GOING	TO BE REVISE	TO BE INITATED	PRIORITY of intv.
		Educational facilities to ensure the functioning of a justice system (School of Magistrates, school of lawyers, school of police and a school for the penitentiary system) and the existence of a national formalised curriculum for the obtaining of a law degree and public administration. Intv.: 6, 23, 28, 29, 38, 44, 45, 46, 50	5, 7	46. Establishment of School for the Penitentiary System			X	MT
		Adoption of Anti-corruption measures. Intv.: 27, 30, 32, 33, 34, 35, 36, 37, 49, 52, 53	2, 5, 7	47. Sufficient / up-to-date court facilities, including relevant IT equipment	X		X	LT

CONCEPTS	VALUES	CRITERIA FOR THE LEGAL AND JUDICIAL SYSTEM	STRATEGIC OBJECTIVES	INTERVENTIONS	ON-GOING	TO BE REVISE	TO BE INITATED	PRIORITY of intv.
3. Separation of powers	3.1 Division of functions between the 3 branches of government	Implementation of a division of functions and duties between distinct government branches (the passing of organic laws for the judiciary, the police, the prosecution and the penitentiary system, including correctional services). Intv.: 16, 17, 18, 19, 20, 30, 31, 32	2	48. Establishment of a school for judicial officers			X	MT
		Uphold a principle of no personal identity between the judicial personnel and other government branches, unless justifiable for obvious reasons. Intv.: 16, 17, 32, 33, 34, 35, 36, 37	2, 5	49. Code of ethics / conduct for judicial officers			X	MT
		The existence of legislation and regulations for the solution of conflicts of interests for all civil servants and office bearers. Intv.: 32, 33, 34, 35, 36, 37	7	50. Establishment of minimum standards for obtaining a degree in law or public administration	X	X		MT
	3.2 Checks and balances	To ensure an independent and professional judiciary and the existence of an independent body charged with recruitment, education, career- pathing, promotion and disciplining of judges. Intv.: 29, 30, 31, 33, 34, 38, 39, 49	5	51. Procedures for ensuring the effective exercise of the role and competencies of the Constitutional Council			X	MT
	3.3 Independence of the judiciary	To ensure the independence of the judges and prosecutors in the exercise of their functions. Intv.: 16, 17, 19, 30, 31, 32, 33, 34, 37, 53, 55	5	52. The establishment of a council of discipline for police officers	X		X	MT

CONCEPTS	VALUES	CRITERIA FOR THE LEGAL AND JUDICIAL SYSTEM	STRATEGIC OBJECTIVES	INTERVENTIONS	ON-GOING	TO BE REVISE	TO BE INITATED	PRIORITY of intv.
		To ensure the personal independence of judges (To establish and enforce an independent body responsible for the recruitment of judges, their career pathing and promotion based on merit, and disciplinary action). Intv.: 30, 31, 33	5	53. The strengthening of a council of discipline for civil servants	X		X	MT
		To ensure quality education of judges that enables them to exercise their powers at a high level of professionalism. Intv.: 28, 38	5	54. The establishment of an institution for execution of judgements (bailiff/ tribunal for enforcement – bankruptcy court)			X	MT
		To ensure that judges in the exercise of their powers have adequate access to laws of the country and the body of international law, professional literature and decisions of the court system. Intv.: 16, 23, 29, 40, 47	3	55. The establishment of a school for basic education for civil servants			X	MT
		To establish and enforce recruitment, training career- pathing, promotion and disciplinary action for judicial officers. Intv.: 29, 39, 48, 49, 60	5	56. A systematic information, publication of folders on basic rights and procedures etc. by the involved ministries within their jurisdictions			X	MT
		To ensure access to justice through the even distribution of court facilities throughout the country that are adequately staffed and equipped based on basic minimum standards for each type of court. Intv.: 16, 29, 47	5	57. Program of raising awareness through education, training etc. regarding basic rights on community level, including on reporting mechanisms	X	X		MT
		The existence of a hierarchical structure of courts to ensure consistency of verdicts and practice, and to ensure a clear route of appeal. Intv.: 3, 16	2, 4	58. Organic law on provinces, municipalities, districts etc.			X	MT

CONCEPTS	VALUES	CRITERIA FOR THE LEGAL AND JUDICIAL SYSTEM	STRATEGIC OBJECTIVES	INTERVENTIONS	ON-GOING	TO BE REVISE	TO BE INITATED	PRIORITY of intv.
		To implement a functional system of case management that ensures the timely processing of cases within each court and in the system of appeal. Intv.: 3, 16, 17, 29, 47	2, 5	59. Ensuring a consistent law formulation, including the provision of a trilingual lexicon	X			MT
		To establish criteria for budget allocations for the judiciary and to protect them within the state budget. Intv.: 29	5	60. Statute for Court officials (clerks)			X	MT
				61. Mediation and other alternative dispute resolution methods, including for solving commercial disputes	X		X	MT
				62. Establishment of legal units within each ministry	X	X		MT
				63. Improve mechanisms to facilitate civil society contributions to the Legal and Judicial sector	X			MT

CONCEPTS	VALUES	CRITERIA FOR THE LEGAL AND JUDICIAL SYSTEM	STRATEGIC OBJECTIVES	INTERVENTIONS	ON-GOING	TO BE REVISE	TO BE INITATED	PRIORITY of intv.
4. The rule of law	4.1 The hierarchy of laws	To supervise and enforce the hierarchy of laws through the functions of the courts and the Constitutional Council. Intv.: 2, 3, 16, 23, 33, 551	2, 5					
		Knowledge of the hierarchy of laws in the making and implementation of all legal provisions and instructions. Intv.: 6, 7, 23, 26, 38, 44, 45, 46, 50, 63	2, 5, 7					
	4.2 Predictability	To ensure that courts apply the law in a uniform and consistent manner and that this is recognizable to the public through dissemination. Intv.: 3, 7, 15, 22, 23, 28, 30, 33, 34, 38, 51	3,5					
		To ensure that the government administration enforces the laws in uniform manner at all levels, and that court directives or guiding applications of laws are followed. Intv.: 1, 2, 6, 21, 23, 28, 35, 36, 37, 51, 52, 53	7					
		To ensure that lawyers and other legal advisors have access to knowledge of the application of laws. Intv.: 22, 23, 24	3					
	4.3 Transparency	The public shall have access to all laws, procedures and codes. intv.: 8, 22, 23, 24, 25	3					

CONCEPTS	VALUES	CRITERIA FOR THE LEGAL AND JUDICIAL SYSTEM	STRATEGIC OBJECTIVES	INTERVENTIONS	ON-GOING	TO BE REVISE	TO BE INITATED	PRIORITY of intv.
		The existence of legislation to ensure public access to information on government administration, and which clearly defines exceptions to this access. Intv.: 1, 22, 24	2					
		The courts shall regularly publish their verdicts, decisions and rulings, or digests of the same. Intv.: 23, 29, 40, 47	3					
		Courts shall provide information and guidance to the public and users of the courts. Intv.: 22, 23, 24, 25, 29, 47	3					
		The legislation shall ensure that court proceedings are public, unless otherwise restricted by law. Intv.: 3, 25	2					
	4.4 Accountability	Elaboration of a Code of ethics/conduct for the judges, the prosecution, civil servants, police officers and penitentiary officers. Intv.: 33, 34, 35, 36, 37, 49	7					
		The existence of an independent body for disciplining judges, prosecutors, civil servants and police officers, and an independent body for upholding the ethical standards of the legal profession. Intv.: 29, 30, 39, 42, 52, 53	5,7					

CONCEPTS	VALUES	CRITERIA FOR THE LEGAL AND JUDICIAL SYSTEM	STRATEGIC OBJECTIVES	INTERVENTIONS	ON-ROING	TO BE REVISE	TO BE INITATED	PRIORITY of intv.
		Publication of periodic reports, financial and productivity statistics. Intv.: 43, 47	7					
		The courts shall regularly publish their verdicts, decisions and rulings or digests of the same. Intv.: 23, 29, 40, 47	3					
		Enforcement of the hierarchy of courts and the right of appeal. Intv.: 2, 3, 16, 23, 29, 54	4					
	4.5 Due process	Existence of specialised procedural codes for the courts, including definition of the purposes, rights and duties of the role players in the judicial procedures. A need to clearly define the authority of judges in the conduct of court proceeding. Intv.: 3, 10, 17, 32, 33, 34, 39, 42, 49	2, 4					
		Ability of judges to enforce procedures and conduct cases effectively. Intv.: 28, 38	4					
		Legislative provisions for the handling and solution of complaints from the public in administrative procedures. Intv.:2, 35, 36, 37, 52, 53	2,4					

CONCEPTS	VALUES	CRITERIA FOR THE LEGAL AND JUDICIAL SYSTEM	STRATEGIC OBJECTIVES	INTERVENTIONS	ON-GOING	TO BE REVISE	TO BE INITATED	PRIORITY of intv.
	4.6 Enforcement	Effective and efficient delivery of justice through timely and impartial execution of all duly made decisions of a court and any decision with the force of a judicial verdict. Intv.: 3, 20, 54	2, 7					
		To ensure the capacity of the government administration to implement its decisions in accordance with the rule of law. Intv.: 28, 45 46, 55	7					

The justice plan hierarchy

