

Strengthening the Rule of Law in Lao PDR, 1992–2000

**Miomir Serbinson
Anna Collins-Falk
Björn Birkoff**

**Department for Democracy and
Social Development**

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Sida Evaluation 03/08

**Department for Democracy and
Social Development**

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Authors: Miomir Serbinson, Anna Collins-Falk, Björn Birkoff.

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SWEDISH INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Address: S-105 25 Stockholm, Sweden. Office: Sveavägen 20, Stockholm

Telephone: +46 (0)8-698 50 00. Telefax: +46 (0)8-20 88 64

Telegram: sida stockholm. Postgiro: 1 56 34-9

E-mail: info@sida.se. Homepage: <http://www.sida.se>

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Executive Summary

The main objective of the evaluation was to assess the relevance and results of the different activities carried out within the Project from 1992 to 2000.

Realizing the constraints of the evaluation – the long time frame to be covered by the evaluation, missing documents, etc – the evaluation team concentrated its effort to interview as many stakeholders/their staff as possible under a limited amount of time.

This made it possible to compile an analysis of the effects and outputs of the Swedish support to Lao PDR in “Strengthening the Rule of Law” with a high degree of certainty.

Sweden was the first ‘Western’ country to be invited by the GoL to cooperate within the legal sector in Lao PDR. This type of cooperation was very new and there was very little experience to draw from in other countries, even among other donor agencies.

The Project encompassed a range of different components including support to the Vientiane School of Law (English training); support to the Ministry of Justice (English training and legal training); seminars for government officials in the legal sector including the procurators and courts; support to publishing and dissemination of the Official Gazette; support to the development of court procedures; scholarships and study tours for GoL officials, and library support and procurement of equipment. The Swedish Institute for Legal Development (SILD) has been the Swedish agency responsible for implementing most, but not all activities together with the Ministry of Justice in Lao PDR.

Internally, Sida on a number of occasions, pointed out the low capacity on the Lao side, and the limited capability at the MoJ for ‘absorbing’ different activities and inputs, or of displaying ownership of the project. However, these issues were never addressed in any constructive way during the cooperation. Throughout the project Sida relied on the MoJ to be the project owner of all the components. The MoJ on the other hand claimed that they were not the ‘masters of the situation’, and constantly had to turn to Sida for approvals. The management and ownership of the Project was thus unclear and never became firmly established within the MoJ. This had a significant negative impact on the effectiveness of the project.

The different components of the Project were developed more or less independently without a well-defined overall framework. The different components were managed by different implementers or directly by Sida and the MoJ. Better coordination and integration would have benefited the Project. It was envisaged that the different activities, mainly capacity building, would automatically serve to improve the various legal institutions, a rather piecemeal and overly optimistic approach.

Many of the changes that have been introduced have been *ad hoc*, and not anchored to systems that will guarantee their success. When foreign experts assist in legal drafting, procedural rules etc, the documents are often overly sophisticated, with no explanation of the relation of the document’s specific provision to the Lao context.

Some of the constraints could perhaps have been overcome and mistakes could have been avoided if only the Swedish side had been more familiar with the Lao legal and political system.

The link between the implementation of rule of law and the need for democratisation were not apparent to both sides.

Project management

The cooperation between the stakeholders, i.e. Sida, SILD and MoJ was not very close, which is surprising considering the fact that neither party had any prior experience in this development field. Sida did not monitor the project implementation very closely, and did not insist on regular reports when these were not forthcoming. No evaluation or audit took place during the project.

SILD's line organisation was not optimal and even confusing to the Lao side. There was no continuous presence or resident advisor/coordinator in Vientiane for the whole project period. The sub-contracted Burapha Development Consultants in Vientiane made the best possible out of the situation.

The project management set-up on the Lao side was efficient considering the circumstances with very few qualified and competent staff. In general terms MoJ tried to retain some kind of ownership of the whole Project, but did not succeed. It is not certain that even with competent project management support the MoJ would have taken ownership of all the various components of the Project, considering that some of the project components were not well-grounded within the Ministry, but negotiated only to satisfy the donor (Official Gazette, pilot-study at Vientiane municipality court).

The Ministry of Justice did not fulfil its obligation in the agreement to provide sufficient and qualified staff, to ensure that the contribution was used for agreed purposes, and to present an annual plan of operations.

English training

The *English training* component was well-run and had a positive impact. It lacked a certain amount of consistency and could have been more goal-oriented. It is a common opinion that the English language-training programme had an important, although indirect effect on realising the overall objective of the project to strengthen rule of law in Lao PDR. The effect is long-term and has only started to become apparent now after the end of the Project. The interest in English language training was obvious at all levels and should be further institutionalised (which is partly done through the continuation of the training within the UNDP-Programme).

Legal training

With clear ownership of this project component by the MoJ this part was the most successful. The legal seminars have continued even after the Sida support stopped. The training activities need to be better structured and a curriculum should be drafted for the Judicial Training Centre. Reports from the seminars and study tours have to be disseminated to other individuals and departments. If these and other priorities, such as the English language training are addressed, legal training and education in Lao PDR will be better able to keep pace with developments in the legal system, and in Lao society as a whole. They will also be equipping Lao legal professionals to play a more effective role in ASEAN, and in the international community at large.

Vientiane Municipality Court

The 'willingness' of the Lao Judiciary to change court procedures/routines was grossly overestimated by the Swedish side. Consistency, close dialogue, patience and the continuous presence and support of a resident advisor/coordinator Vientiane for the whole project period and possibly beyond, could perhaps have brought about the desired changes in the court procedures. This however was not the case and the component was not able to reach the objectives agreed on.

Official Gazette

The publication must be considered as a failure as a means to spread legal information and awareness among government officials. Unable to reach more than a handful of these potential readers, the OG could only have a marginal effect no matter how important its content.

Equipment and books

Equipment can be seen as an essential tool in modernising an organisation or institution, as well as increasing its efficiency. Unfortunately investments in this sector were not followed up with necessary maintenance and some equipment was also used as a form of gratification to some senior or retired officials. Without better control of the fixed assets purchased within the Project, only a fraction of the invested money provides any added value to the above objective. The procurement of books to the two libraries was at the given time not relevant in reaching the objectives of the Programme.

The Lao Bar Association

Activities targeting the Lao Bar Association were scattered and without any long-term plan. Some of the activities were not on an appropriate level for the Lao situation at the time. Possible future support should not be focused on the LBA per se, but rather at creating awareness of the role and function of a lawyer, among the courts, the prosecutor's office, and the police. Possible means are seminars, mock-trials etc arranged by the MoJ. These measures could then perhaps have a positive effect on attracting more Law students to choose to become professional lawyers.

Possible Future Support

For the success of any project, a solid and comprehensive preparatory study is necessary, whether in an LEA format or not – defining the background, including assumptions and risks, expectations on both sides, what is supposed to be achieved (expected outputs), how and within what time frame. The need of continuous monitoring and evaluation of the project is also evident. Even if major weaknesses were apparent in the approach, the implementation and the follow-up of the project the Sida contribution was not totally wasted.

The team has noted a change in attitude and a surprising openness to sharing experiences and new ideas, especially among the younger well-educated government officials who have been exposed to the 'international scene'.

If better prepared, the support to strengthening the rule of law in Lao PDR has potentially a better chance today than earlier, and should be explored further. Broad areas that could be focused on include Legal training, Management training, English language training and international long-term scholarships for upgrading the level of education of staff within the judiciary. A brief glimpse of the elements of customary law and traditions in rural areas indicates the need of a somehow different or broader approach when it comes to strengthening the rule of law in Lao PDR. Any further cooperation could also strive to go beyond strengthening the rule of law and attempt a stronger link with promoting development of good governance and democracy.

1 Background

1.1 Project Context – the Lao PDR

The Lao people have endured many violent and radical political changes in the last hundred years. Laos¹ was a part of French Indochina that was almost forgotten to the outside world, it came under Japanese occupation during World War II and later under continued monarchy and American domination. The American war in Viet Nam came to encompass the Lao, who were drawn into a long civil war. The Lao People's Revolutionary Party took control in 1975, and formed the Lao People's Democratic Republic (Lao PDR).

Since then, the first 15 years of Soviet and Vietnamese domination and socialisation and self imposed isolation have gradually given way to private enterprise, an easing of foreign investment laws, and the admission of Lao PDR into ASEAN in 1997.

The 5.2 million Lao citizens of many and diverse ethnic groups are also surrounded by powerful neighbours, with huge populations, like China and Viet Nam, apart from Myanmar, Thailand and Cambodia. Lao PDR has long had to carefully negotiate its role vis a vis these foreign powers and its neighbours for its national development, stability and peace.

The history of Laos and its geopolitical position places it simply put 'in between' in just about every aspect of life. It is a country in between the Indo – and Chinese cultural spheres, with traditions of an ancient monarchy, strong Buddhist religious affiliation, coupled with a tradition of state run socialism/communism, in a rapidly developing free-market economy.

In what seems to have been an effort to negotiate these various demands and interests and maintaining power, the State and the Party accelerated the pace of reform in the 1990's. Reform work included the development of a modern legal system and the adoption of new laws (from virtually nothing), striving towards the rule of law.

The first constitution of the Lao PDR was promulgated in 1991 and most of the legislation has been developed since then. The constitution divides the judiciary into two components, the People's Supreme Courts, presided over by the Supreme Court for purposes of resolution of cases, and the Office of the Public Prosecutor. Both report to the National Assembly. The Provincial and District Courts are under the administrative supervision of the Ministry of Justice.

Sweden was the first 'Western' country to be invited by the GoL to cooperate within the legal sector. The cooperation started in the beginning of the 1990's. This type of cooperation was very new and there was very little experience to draw from elsewhere, even among other donor agencies.

I think that exposure to the Swedish legal system and the good-hearted Swedes is a tonic to the Lao. The Lao at the MoJ genuinely like and respect the Swedes. I think the Lao understand that the Swedish aid does not have a hidden agenda (or it is so deeply hidden they and I can't figure it out) and therefore feel "safe" with the Swedes. (Quote from a former foreign advisor in Lao PDR, August 2002)

¹ For the purpose of this evaluation Lao PDR is used to refer to the Lao nation, except for when referring to the country before 'liberation' in 1975, when Laos is used.

Lao is used for the Lao language and the Lao citizens (of different ethnic groups) and occasionally for the 'Lao side', i.e. Lao stakeholders in the development cooperation with Sweden.

The legislation promulgated by the National Assembly and the decrees of various sorts, issued by the President, the Prime Minister, and the line ministries is now of a different kind from what was enacted in the early years, reflecting the social and economic development of the country and the ASEAN membership. Lao PDR now aspires to play a role in regional affairs and is making attempts at attracting foreign investment, in order to create a sound economy and raise the living standards of the Lao people. Lao PDR will also have to implement international agreements to which it is, or will become a party, which will require more detailed and technical legislation.

Enhancing the laws of the country and strengthening the rule of law within a very short period of time has thrown a great burden on everyone involved in the legal system of the Lao PDR. The knowledge and skills of those responsible for implementation, enforcement, adjudication, education, and training is still relatively low, and even after ten years of support to the sector, there are only a very limited number of highly educated legal professionals that have an education that is adequate or relevant to the present social and economic situation and legal environment. Their workload is, as can be expected, tremendously high.

I use Russian, Vietnamese, and Swedish documents and my Lao experience, when I have to lecture.
(Quote, MoJ official, August 2002)

This provincial court lacks a lot of material. We do not have a typewriter and no transport. We do not have a library and no files. It is a large Province with 12 Districts. It is difficult to reach the Districts and in the rainy season it is not possible. (Quote, Provincial Court Official, August 2002)

The judges do not dare to interpret the law. They are not well educated. There are no books or commentary on how to do it. It depends on their mood. (Quote, MoJ official, August 2002)

The Lao People's Revolutionary Party still rules without any legal opposition. There is no free press and no freedom of assembly and Lao PDR has on several occasions been accused of not respecting human rights. Lao PDR still ranks among the poorest countries in the world.

1.2 Description of the Project

The development co-operation between Sweden and Lao PDR to strengthen the rule of law in Lao PDR started in 1992. The Project went through several consecutive phases and was extended on several occasions. It encompassed a range of different components including support to the Vientiane School of Law (English training); support to the Ministry of Justice (English training and legal training); seminars for government officials in the legal sector including the procuratory and courts; support to publishing and dissemination of the Official Gazette; support to the development of court procedures; scholarships and study tours for GoL officials, and library support and procurement of equipment.

The Swedish Institute for Legal Development (SILD) has been the Swedish agency responsible for implementing most, but not all activities together with the Ministry of Justice in Lao PDR.

Phase 1 of the project (1992–1996) had the overall objective to “Strengthen the Rule of Law in Laos” by enhancing the functions of the Ministry of Justice and the concerned institutions.

The objectives for the components during phase 1 were as follows:

- to support the strengthening of a legal system in the form of rules, regulations, orders and decisions, in order to strengthen the administrative agencies, e.g. the Procurator General in the implementation of their powers and duties;
- to increase the legal competence of professors and students at the Vientiane School of Law, especially in legal English and in legal subjects related to the changing economic and political environment;

- to enhance the material standard of the Vientiane School of Law by purchasing legal literature and necessary equipment;
- to upgrade personnel at the MoJ in legal English and in legal subjects related to the changing economic and political environment;
- to support the MoJ in the establishment of an Official Gazette in order to strengthen its capacity to fulfil the role as a co-ordinating body in the legislative process and to improve procedures in that aspect; and
- to strengthen the Lao Bar Association.

Phase 2 of the Project (1996–1999) had the overall objective to “Support to the Legal Sector” by contributing to the strengthening of the rule of law in Lao PDR, by supporting the development of the court system, the legal procedures and the Ministry of Justice, as well as increasing the number of qualified lawyers and the upgrading of competence of legal professionals. This Agreement was extended several times, most recently until April 2002. The only remaining project activity 2001 and 2002 was the 13 students on scholarships in Thailand. Before a new arrangement could be set up to accommodate this remaining activity the project had to be extended for reasons of formality. (N.B. This evaluation covers Phase 1 and 2, and the extension until the year 2000.)

The objectives for the components during phase 2 were as follows:

- to increase the legal competence of teachers and students at the Vientiane School of Law, especially in legal subjects related to the improved economic and political environment and in legal English;
- to improve the skills of the present corps of magistrates and other categories of legal staff in the Lao courts;
- to upgrade (reform) the Judiciary, to develop the legal procedures and to improve the efficiency in the court;
- to contribute to the development of co-operation between courts, prosecutors and the judiciary police;
- to contribute to improving the skills of the lawyers and to assist in the formation of the Bar Association;
- to make laws and regulations available by supporting the publishing and dissemination of the Official Gazette.

1.3 Objectives of the Evaluation

The Terms of Reference prepared by Sida in April 2002. (appendix 1) state that the objective of the evaluation is to *assess the relevance and results of the different activities carried out within the Project from 1992 to 2000*. Sida further requests that the evaluation should include an assessment of the project management in light of what effects the project management has had on institution building.

The Ministry of Justice has submitted a proposal for a new phase of the Project to Sida. As the approach and the proposed activities are very similar to the approach and activities in past phases, the evaluation team was requested to also look forward, since a decision on possible future co-operation with the Ministry of Justice is to be taken after the evaluation has been carried out.

There has been no previous comprehensive evaluation of the Project. An external financial audit of the project was carried out in October 2001, covering the period 1998–2001 (see separate report).

1.4 Issues Covered in the Evaluation

Following the ToR, the focus of the evaluation is on the second phase of the Project. The evaluation covers all the components and addresses the issue of relevance of the activities carried out, and the effectiveness of each component. The components are presented under separate headings as follows: Project management (cross-cutting, i.e., not a specific component, including gender equality), Legal training, English training, Official Gazette, Court procedures at the Vientiane Prefecture Court, Library support, Procurement of equipment, and the Lao Bar Association.

1.5 Methodology

The evaluation team was composed of three people: Mr Miomir Serbinson, lawyer and international local government development specialist, Ms Anna Collins-Falk, social anthropologist and institutional development specialist, and Mr Björn Birkoff, lawyer and former judge, specialised in court- and legal procedures. The evaluation was carried out in late July to mid-September, 2002.

The evaluation team read and assessed reports and other documentation from the Project as well as other related documents. (see list of documents in appendix 3)

Comprehensive interviews were conducted (and e-mail correspondence, where necessary) with different stakeholders and actors, including:

- staff at Sida in Stockholm and at the Embassy of Sweden in Vientiane;
- International consultants involved in implementing the Project; (SILD and independent individual consultants);
- Ministry of Justice staff that have been involved in the Project at different times;
- individual GoL officials who have taken part in training activities;
- GoL officials at the Office of the Public Prosecutor; the People's Supreme Court, Vientiane Prefecture (Municipality) Court, (list of people interviewed in appendix 2).

The team also made field visits to Luang Prabang Provincial Court and Vientiane Provincial Court which enabled the team to better understand the situation at local level, identifying how the rule of law is spread outside Vientiane and if traces could be found of the ideas and procedures that were explored at the Vientiane Municipality Court in the pilot case. Several visits were made by the team to attend court sessions at the Vientiane Municipality Court (The team had previously received official authorisation by the President of the Court for this)

Unstructured, exploratory interviews were held with villagers in a randomly selected village (Ban Chan) in Luang Prabang Province, one-hour downstream along the Mekong from Luang Prabang. The purpose of the visit was to get a glimpse of how the rule of law was conceptualised in a traditional village environment. The village of Ban Chan in the Chomphet District has 400 inhabitants, as is suggested by the name, most of them are engaged in pottery. The team interviewed the Head of the village (*Nai Ban*). One of the duties of a *Nai Ban* is to mediate disputes among the villagers. Ban Chan had a Mediation Unit with 5 members, made up of representatives of different interest groups, such as the Lao Women's Union and the National Front etc. The *Nai Ban* usually also called on the elders to witness the mediation. Many of the disputants' family members would also be present at the mediation. If the disputants were unable to settle their disagreement the Village Chief would pronounce that the mediation units usefulness is limited and that the disputants would have to submit their case to the courts. A criminal case would go directly to the provincial court. However, the *Nai Ban*, who was 43 years old, explained that as far as he could remember there had not been any criminal case brought to

the court from this village, nor had he experienced that the mediation had failed. In other words for the last 40 to 50 years and probably longer, none of the villagers had any contact with any court or other judicial body. The most common civil dispute was caused by drunkenness and disorder (fighting). If a civil dispute affected also a neighbouring village, both mediation units were called upon to mediate.

This brief glimpse of the elements of customary law and traditions at village level as it is most likely practised in many rural areas indicates the need of a somehow different or broader approach when it comes to strengthening the rule of law in Lao PDR.

The evaluation team benefited from the assistance of a Lao interpreter (Mr Anith Oudomvilay) and an administrative assistant (Ms. Southouatha Kongvongsa). Apart from English and Swedish, individual team members used some French, Russian, and basic Lao on different occasions, which facilitated the discussions with GoL officials.

The choice of a triangulation methodology assisted the team in evaluating whether the development activities had led to any lasting benefits for the stakeholders, i.e. analysing both the processes involved as well as the outcome and outputs of the development project. Different stakeholders were asked to analyse the same data and their conclusions were then compared. A questionnaire of 50 questions was prepared by the team prior to the arrival in Vientiane. It was based on the documentation available at Sida in Stockholm. This was then consequently revised and updated, based on new material and insights acquired during interviews. The questionnaire was used in a flexible way to guide the team in what eventually resulted in a form of semi-structured interviews. This flexibility was necessary because the government officials met had held several different positions during the Project period and could provide information about other components than those originally intended for the interview.

The team initially followed a list provided by the Project co-ordinator at the MoJ of key persons that had been involved in the Project. Sida Stockholm provided a list of key actors from the Swedish side. This list was then extended to include additional persons whose names came up during the course of interviewing.

It should be noted that the team had ready access to any individual, institution or office in Lao PDR, often on very short notice. On the other hand the team was not able to meet or interview all the former Sida staff, despite many attempts over the course of two months. These individuals claimed to be too busy in their new positions. The team had to develop special questionnaires and submit these by e-mail to ensure some information from the former Sida staff (from both Stockholm and Vientiane.)

Discussions and interviews were held mainly on an individual basis where two or three of the team members were present, and on a few occasions with groups. Most often the interviews were conducted in a surprisingly relaxed and open atmosphere. However, the team was often surprised by apparent or blatant contradictions in the information provided by government officials – even during the course of the same interview. Key persons were met at the beginning of the visit and again upon concluding the visit almost three weeks later, and provided contrasting information to the same questions – with little or no hesitation.

The order for interviewing government officials in Lao PDR did not follow any strict hierarchical order. The team met with individuals and groups from different levels, ranging from the Minister, Chief of Cabinet, Presidents of Court, to government officials in the various departments, private lawyers, and village people.

A gender equality perspective was applied throughout the evaluation, whereby gender issues were explored in all relevant dimensions of the project, at all levels. The team also met with the representa-

tives of the Lao Women's Union at the MoJ and the Courts. A special effort was made to meet with women who had been involved in the Project in various capacities, such as for example female judges.

1.6 Constraints and Limitations

It is Sida's mistake that they waited so long to evaluate – things are lost already and people move and people forget.....and now everyone is no good! (Quote, retired MoJ official, September 2002)

The evaluation team has had to contend with a number of constraints during the evaluation. This has limited the scope and detail of information and the level of analysis possible.

Some of the major constraints were:

- the long time frame to be covered by the evaluation, (1992–2000). Staff and consultants involved in the early phases of the Project have moved on to other positions making them difficult to locate and when interviewed were more likely to want to talk about issues pertaining to their present position within for example the MoJ than what they were doing ten years ago. Trying to recall in any detail what happened or the reasons why it did not happen, a relatively long time ago proved difficult.
- Important documentation at the Ministry of Justice had disappeared and as reporting requirements had not been adhered to at times, there was a lack of written material, especially from the Lao side when the Sida support was not implemented through SILD. There was also a tradition to contend with among GoL officials, i.e., that of considering books and documents personal property that can be removed from the office when given a new assignment or position elsewhere.
- The general lack of proper office management and filing systems in government offices has further exacerbated the situation. However the 'Sida Project Office' at the MoJ is an exception where the Burapha project manager helped set up a well functioning office with copies of relevant reports and documents and quite likely the most comprehensive collection of laws and decrees found in one place in Lao PDR (including the Ministry of Justice). This however does not seem to extend to cover the accounting and financial reporting, documents which appear to be missing.
- The amount of documentation both at Sida, Stockholm and at the Embassy in Vientiane, (reports, decisions, training material, project documents, old e-mails etc) had accumulated over the years, but had not been kept or organised to facilitate easy access. Valuable time was spent 'rummaging through' old files in search of even the most basic project documentation.
- The triangulation methodology proved of limited use since interviewees did not hesitate to contradict themselves, (without any apparent loss of face) thus undermining the use of a method calculated to secure a high degree of truth in the information obtained. Whereas the Lao side generally resorted to creative answers when awkward issues were raised, the Swedish side resorted more to avoiding answering at all, or claiming that they could no longer remember, or that it was not their responsibility. Interestingly, both sides had a penchant for answering the questions with: 'Ask Dr Houy' (retired Chief of Cabinet at the MoJ, and former project manager).

2 Evaluation Findings

The findings of the evaluation are contained in this section. They are organised in 8 chapters. Project ownership and the relevance of the activities carried out are analysed in relation to each component below.²

2.1 Project Management

The Project management was comprised of three main actors/stakeholders i.e. Sida, SILD and the Ministry of Justice.

Sida

According to the special agreement between the parties Sida's role in the implementation of the Project was to plan (together with the MoJ), define goals, evaluate, and if needed, guide the cooperation.

Sida – Stockholm decided at an early stage to delegate most of the responsibility for the Project to the Embassy of Sweden in Vientiane (at that time called the Development Cooperation Office). This arrangement was not well received by the implementing agency SILD, who argued that since another Sida project in Lao PDR was handled by Sida in Stockholm, this Project should be handled in the same way. Because the SILD project director was stationed in Stockholm, with only occasional visits to Lao PDR it was obviously more convenient for SILD to have a 'speaking partner' close by.

The management set-up as regards Sida's involvement seems logical and appropriate, but may have overlooked the workload of the Sida staff in Vientiane, and their possibility to be actively involved in the Project when there were many larger development programmes competing for their time. Prestige may also have entered into the relationship between Sida and SILD and valuable energy seems to have been lost in trying to convince Sida to change the set-up.

The findings indicate that Sida – both at the head office, and in Vientiane – showed a substantial lack of systematic or regular active involvement and interest for what they claimed was a very important Project. Bearing in mind that this was somewhat of a pioneering project in the legal sector for all parties involved, this is somewhat surprising to the team, and far from satisfactory. According to the Lao side the only time active involvement and interest was manifested by Sida was during the very beginning of the Project. Both the MoJ and SILD have stated in interviews and reports that they had difficulties in establishing a constructive dialogue with Sida. The contacts were few and qualitatively unsatisfactory. Sida staff have rationalised this as 'a heavy workload' but interestingly, also to 'bad personal chemistry' between individual consultants and programme officers. SILD consultants were attributed as being 'rather overbearing' at times.

The lack of active involvement meant that follow-up and monitoring of Project implementation suffered. During the first phase the necessary follow-up and monitoring was done in the wrong order. Instead of developing a work-plan and a budget for a longer period with close monitoring of the results and a financial audit, short-term approvals were made for budgets and activities covering only a period of six months at time, and then without any serious follow-up or evaluation. The second phase was characterised by no, or very limited, control. Both Sida and the MoJ had the responsibility for preparing the annual review meeting and agreed minutes. Neither side lived up to this responsibility.

² The time and scope of the evaluation did not allow for an analysis of poverty issues in relation to the Project, neither was this included in the ToR.

Sida never evaluated the Project after completing the first phase, apart from commissioning consultants to appraise the Project document for the following phase. Even though one could argue that the first phase was an exploratory phase and the nature of the cooperation was inevitably long-term, this is according to the team a major deficiency on Sida's part. A thorough analysis of the overall Project and its relevance to the Rule of Law would most likely have brought out some of the issues and inherent problems that were simply allowed to continue.

Internally, Sida on a number of occasions, pointed out the low capacity on the Lao side, and the limited capability at the MoJ for 'absorbing' different activities and inputs, or of displaying ownership of the project. However, these issues were never addressed in any constructive way. Throughout the project Sida relied on the MoJ to be the project owner of all the components. The MoJ on the other hand claimed that they were not the 'masters of the situation', and constantly had to turn to Sida for approvals. The management and ownership of the Project was thus unclear and never became firmly established within the MoJ. This had a significant negative impact on the effectiveness of the project.

Another serious weakness was the disparate and disintegrated approach applied in reaching the overall objectives of the project. Apart from the contract with SILD, Sida implemented a number of activities on their own, or with other consultants. It may not be necessary to use one implementing agency, but where Sida has a direct involvement with the MoJ, or where several institutions are involved, coordination of the different components is essential, which was not the case.

A clear case of this disintegrated approach was the support to the Official Gazette. An official decision was made by Sida to start this support without waiting for the overall Project to start. In this way the component was never properly integrated into the rest of the Project.

SILD

The Swedish Institute for Legal Development (SILD) were contracted in 1993 for an initial period of 16 months. The project management set-up can be described as a two-and sometimes three-tiered line organisation, depending on which advisors were present in Vientiane.

According to the Agreed Minutes between Sida and SILD in May 1993, SILD was responsible for the implementation of the Project within the frame of work plans and budgets, approved by Sida bi-annually. Thus all decisions regarding the activities were the ultimate responsibility of SILD. In SILD's proposal an advisory group was envisaged for the guidance of the Project. This was never realised. Instead the SILD Board of Directors was supposed to take an interest in and closely follow the development of the Project.

The Project did not include a resident long-term advisor. SILD relied on regular visits by the project manager, (who visited Vientiane five times) and also sub-contracted a local Lao-Swedish consulting company, Burapha Development Consultants (BDC). It took time before the roles and the division of responsibility between SILD and the sub-consultant were in place. However, the Lao claimed that they still had difficulties in identifying the roles. They often perceived the BDC advisor as the real project manager, even though the sub-consultant never had any real decision-making power. The BDC were assigned the role of assisting and advising MoJ in matters of project administration and procurement of equipment, liaison between SILD and MoJ, practical preparation for seminars/study tours and information gathering for SILD. The team finds that BDC played a crucial and successful intermediary role.

In the early stages of the Project SILD continually requested an ongoing dialogue with Sida in Stockholm, since this was one of the very first legal assistance projects embarked upon by both Sida and SILD. Sida however responded that it was important not to transgress the roles and responsibilities of

the client and consultant. In these circumstances and considering the low capacity on the Lao side, SILD ended up proposing, implementing and following-up activities, rather than responding to requests and demands from the Laos side for legal support, which was contrary to Sida's policy for cooperation (consultancy driven projects).

The MoJ was far from owner of the Project. We had lack of human resources and lack of experience in implementing projects, we also had many other projects, and SILD were active. They wanted to achieve what was their duty and had to push people here. We were not the 'Master of Ceremony'. (High MoJ official, August 2002)

In the final report of the first phase, July 1996, SILD stressed the importance of having a long-term advisor/co-ordinator present in Vientiane for the second phase. In Sida's invitation to tender for a second phase a long-term advisor was in fact foreseen. However, for personal reasons on the part of the long-term adviser and a supposed 'reluctancy' of the part of the MoJ for a permanent advisor on its premises, it was agreed that the advisor/co-ordinator would not be stationed in Lao for the whole contact period, but initially for four months and thereafter visit for shorter periods of time. Hence the project management did not become as firmly rooted in Vientiane as was foreseen. According to SILD this was also the reason why more of the operative responsibilities came to be placed at SILD head office in Stockholm than originally envisaged. However, the team has the impression that for the second phase the operative responsibility for the project management did in deed rest with the project advisor/coordinator in Vientiane. The project management in Stockholm seemed to loose interest in the project at the end of the second phase, and the local sub-consultant was expected to be less involved in the project during the presence in Vientiane of the SILD advisor/coordinator. This left the advisor/co-ordinator in a difficult position and, whenever he left Lao PDR the project almost came to a stand still. The situation reflects the need of consistency and long-term on-site involvement for the project management to be effective and for the overall implementation of such a difficult project to succeed and become sustainable.

Project planning and budgeting were prepared on a six-month basis. The short planning horizon introduced and maintained by Sida during the whole first phase was generally felt by SILD to be a difficulty in the cooperation with the MoJ, as it forced both the MoJ and SILD to seek approval from Sida on a six-month basis for the planned activities. Instead of conventional reports, SILD submitted altogether six work plans, including budgets, to Sida. Only a final report in 1996, included an attempt at analysis. Reporting did not improve in the second phase. The number of reports and their quality varied. One quarterly, two monthly and one semi-annual report were found in Sida's archive for 1997. In 1998 the mid-term memo became an annual report. Going through the reports submitted to Sida by SILD and the very few by MoJ, the team observed that they merely described different activities without any deeper analysis or conclusions, which was the case even for the Final Report of the second phase. It is clear that Sida should have demanded better reports, to allow for better monitoring of Project developments.

MoJ

The responsibility of the Lao side, more precisely the Ministry of Justice (MoJ) was to:

- provide qualified and sufficient staff
- co-ordinate with other ministries, institutions and donors
- ensure that the contribution was used for agreed purposes
- present an annual plan of operations

The project management set up on the Lao side was simple, and thus effective. The Chief of Cabinet was appointed to be the project manager on the Lao side throughout the Project. Everything concern-

ing the project went through the project manager appointed by the MoJ, which provided the opportunity for the Swedish cooperating partners to establish continuity and a good working relation.

At the same time this set-up was vulnerable to manipulation and mismanagement. Due to the poor or non-existing control of the project's financial records, this also became a reality. The audit report concludes that project funds were not spent in accordance with sound financial principals. (See KPMG audit report).

Senior officials at the Ministry regretted the misuse of funds during interviews with the team. The MoJ thus admitted that they never fulfilled their obligation to ensure that the contribution was used for agreed purposes.

However easy it would be to find a 'scapegoat' for the shortcomings of the project implementation, the team is of the opinion that the misuse of funds had only limited effect on the project management and the implementation of the different activities. A more significant obstacle to proper project management was the fact that even if everything seemed to be directed by the Lao project manager, he was not really in a position to make decisions of any importance. Important decisions were made at Party level without any insight by the Swedish cooperating partners. Decisions also often took a very long time.

Another major problem for the MoJ was that it lacked qualified staff for management and implementation of the Project. At the same time the demands that were placed on the institutions in the legal sector by the Project were substantial, ranging from the demands on the courts for procedural changes, efficient investigations on cases, fair trial and effectuating the judgement to, to formulating legal documents, and proper dissemination of all laws, decrees and decisions, i.e. strengthening the rule of law. This was not accompanied by relevant management training. Development of skills and efficient systems for planning, financial management, monitoring and supervision, development and use of management information systems and communications would have been essential for this. Experiences from the Swedish judiciary, study tours, and from the Swedish advisors have at best provided some good examples, but nothing systematic and structured for management development.

Management development takes time if sustainable results and simultaneous development of institutions and individuals are to be achieved. They cannot be developed or trained by short courses or exercises alone. They must be linked to the ideas, policies and operations of the judiciary. A range of 'uncomfortable' common bureaucratic shortcomings should be addressed: waste, unnecessary activities, overlapping functions, confused lines of authority and responsibility, complex regulations, lack of performance standards and information about activities and results, lack of proper bookkeeping, nepotism or cronyism, and corruption, among others. Needless to say high level political support is essential. The management situation could have been anticipated from the beginning if only proper and detailed analysis had formed the basis of the original proposal. Necessary actions could then have been incorporated into the project.

All projects here at the MoJ have problems and cannot close the books. The minister gets angry with us. We cannot trace records and documents. The lesson learned is that you also have to be responsible for the budget or you will be asked to spend more than the budget. (MoJ official, August 2002)

Promoting Gender Equality

Both male and female staff at the different judicial institutions attest to not meeting any form of discrimination and claim that women were given opportunities equal to men in the Project. The women staff said that they 'had a voice'. However no efforts were made to analyse or address the underlying causes of why there are so few women, especially in high positions in the Lao judiciary. No specific incentives or action plans have been explored to promote the advancement of women.

Lao women's union is represented at the MoJ and the Courts, and the representatives serve the purpose of spreading the policy of the State and the Party, especially focusing on women and children, and their role in Lao society. The issue was not pursued by either side in the Project. SILD never mentions the issue in any report. The only time gender equality is mentioned in any document or correspondence it is in relation to statistics, i.e. gender balance in numbers. Other examples provided on what was done to promote women include the special support to the construction of what is referred to as a 'female' dormitory, i.e. a dormitory for female students at the JTC.

In fairness, it should be noted that at the time the Project started, the Lao Women's Union (LWU) was not familiar with the concept of 'gender and development'. It is only within the last few years that this has had any official acceptance and response within the GoL administration and mass-organisations in the Lao PDR. Expecting the LWU to take a lead would have been misguided. Even on the Swedish side the first phase of the project started before 'equality between women and men' had become one of the politically defined goals for Swedish development cooperation. However, gender equality was not raised by Sida or SILD in any systematic way, even in later phases of the Project, neither were issues of women's rights or the rights of the child and international conventions signed and ratified by the Lao PDR to this effect. In 1996 on the initiative of the LWU rep at the MoJ a commendable attempt was made to reach out and create awareness of women's legal rights. This was done by organising legal seminars in the Provinces, to which select women and the provincial administration were invited. Training was carried out in four Provinces.

2.2 Legal Training

Legal training has been an important component throughout the various project phases. It has been carried out in several different ways, through seminars at central level and in the Provinces, regional study tours, international study tours, and scholarships for long-term graduate and post-graduate training.

Legal Seminars – Phase 1

Initially Sida financed countrywide provincial seminars, planned and executed by the MoJ as an education scheme for judges, prosecutors and other officials in the judiciary, regarding new laws. Documentation on these seminars is available at the MoJ in Lao language, consisting mainly of names of lecturers, topic presented and list of participants. As far as the evaluation team could discern, no overall curriculum was developed for the seminars.

The second activity was implemented by the MoJ and SILD under two separate work plans, of which the first were seminars in the Lao PDR. The seminars were held either at the Vientiane School of Law or in the provinces. For some of these Swedish consultants were involved as lecturers. The seminars were divided into:

- A comparative seminar on the 'Elements of Legal Thinking', with 25 participants³ with a law degree from different countries.
- A seminar on 'Legal Aspects of Public Power, attended by 40 participants and a number of high-ranking officials from the MoJ, the Supreme Court, the Procurator General's Office and the National Assembly.
- A seminar on the role of lawyers and the Bar Association, for 2 days, attended by approx. 50 students including members of the Lao Bar Association.

³ Sex-disaggregated information on participation rates is not available in the reports quoted here from SILD.

- A seminar on Commercial Arbitration was held for 2 days for 170 students at the Vientiane School of Law. In connection with this seminar an introductory seminar was held on the Legislative Process in Sweden for the members of the Law Reform Group.
- A two-day seminar was held on the Swedish Judiciary attended by 30 participants followed by a half-day workshop.
- A one-day seminar was held on Due Process of Law followed by a one-day workshop and a lecture for around 80 students.

Between the first and second phase the MoJ organised and carried out four Provincial seminars in Attapeu, Sekong, Salavan, and Champassak on legal issues and land tenure, focusing on women and Provincial authorities.

Study tours abroad

- High-ranking officials from the National Assembly and the MoJ respectively participated in a 10-day study tours to Sweden.
- The Minister of Justice participated in a study tour to Thailand.
- Scholarship to the IDLI Course for Enterprise and Investment Lawyers.
- One person participated in a five-week course in Italy.
- Study tours were organised to Viet Nam and Singapore for seven and five officials respectively. Both tours went on for a week.

Legal Seminars – Phase II

The following training components were conducted during the second phase of the project covering the period 1997–1999:

- Two regional seminars were carried out for judges, prosecutors and police in 1998, organised by the MoJ independently.
- A two weeks regional seminar on law and justice was held for five days in 1998 with judges and other GoL officials.
- Six judges from the VPC attended a four-months training at the Judge Training Centre in Thailand.
- Two one-week national conferences were carried out at the MoJ with 60 participants from provincial courts and the VPC.
- A three-day seminar was arranged by the MoJ on the practice of lawyers, for the LBA, NA, the MoJ, the MoI, the VPC, the Office of the Prosecutor General and the Police.

Cooperation was established between Sida, MoJ and Chulalongkorn University in Thailand 1997, which lasted for seven month and included the following activities:

- One-day workshop on Teaching Material Development for 22 permanent and 15 external teachers.
- One-week study tours of Chulalongkorn University and the Thai justice system for two groups of 15 VSL staff.
- Half-day work-shop on teaching Methodology for 11 VSL teachers.
- Four half-day workshops on current Lao laws for 11–12 VSL teachers each time.

Scholarships for long-term training

Scholarships were provided by Sida for Master of Law studies in Thailand for 13 students. Preparatory studies were done at Kasetsart University. Masters studies were carried out at Thammasath University. However, during the ‘restructuring of the set-up’ for the students and the audit of the Project, Sida

noted that two of these students were actually studying at Chulalongkorn University instead. One of the students is studying international relations instead of law. The arrangements were made by the MoJ without the approval from Sida.

The methodology used was of the conventional type, with a combination of lectures and group discussions. Legal training was predominantly carried out by Lao lecturers, who were GoL officials within the judiciary. The training was done either at the VSL or in the provinces. The lectures given by the Swedish lawyers at some of these seminars had to be interpreted into Lao. Experience has shown that the methodology used, further exacerbated by interpretation and the hierarchical structure of the Lao judiciary, would leave very little room for active participation by the participants.

On the occasions where foreign (mostly Swedish) lecturers were involved, they were all very senior and high-ranking lawyers, which may not have been necessary for introducing modern Western laws and system of laws. However the presence of senior high-ranking lawyers could be interpreted as a display of courtesy from the Swedish side, showing respect for the Lao.

Recognising their own low skill levels, judges, especially in the Provinces requested more professional training opportunities, more information about new laws and more written guidelines on interpreting laws, enforcing court decisions and court procedure.

There was no overall training strategy or curriculum for the legal training in general, and in the Vientiane School of Law in particular. For that purpose Sida contracted Chulalongkorn University in Thailand in 1997. This co-operation lasted only seven months before it was suspended. The official reason for the suspension was that the Vientiane School of Law became the Faculty of Law and was transferred to the Ministry of Education, thus leaving the MoJ without possibility to implement the agreement with Sida. The other explanation for the abrupt suspension of the contract was the irregular presence (sometimes described as non-existing) of the Chulalongkorn advisors in Vientiane.

Reports were prepared from most study tours and legal training activities and submitted to the relevant departments. The reports were not further disseminated to other departments or institutions.

The downside of frequent training activities of different kind is the absence of the officials from their regular work and the lack of substitutes with sufficient delegation and access to necessary documents and other information. The training may have caused problems in the daily work at the MoJ, a Ministry lacking qualified staff even under the best of circumstances. Prioritising between opportunities available and the workload of the staff has not been done by the MoJ.

It could be said that the ownership of legal training was with the MoJ. It was also conducted without much support from the side of SILD. The component has been unanimously praised by the Lao side. It has also been one of the Project components that has come closest to achieving its original objectives. The activities have been sustained by the MoJ after external funding ceased.

The component should be considered relevant and the different training activities that were carried out did serve to improve the skills of judges and other officials and students. The international components such as study tours and scholarships are more long-term and their impacts more in-indirect. The introduction to Swedish and other modern legislation and especially the understanding of that legislation might have been a bit early for the Lao setting but nevertheless played an important role in exposing Lao officials to new ideas.

A concerted effort was made by the MoJ to promote the participation of women in the legal seminars, and study tours. From the prerequisites given – few women in leading positions – the attendance of women in the training was positively high. The gender balance is not as good for the long-term scholar-

ships, where there were few women who would qualify and who could then avail of the opportunities on offer.

One weakness of the legal training component was that no effort was made to include traditional law or village level mediation, a reality in rural areas of Lao PDR.

Regarding villagers complaints during provincial legal seminars about the governments misuse of its rights by cutting a road through the village and then cutting the trees surrounding the area of the 'proposed road': 'to defuse the complaints, the team members assured the villagers that they have to have faith to the genial intelligence of the Party'. (Report from Provincial Seminar on Legal Issues in land titling in Attape. MoJ, 1996)

2.3 English Language Training

A needs assessment of English language training completed in 1992 – at the time when the development cooperation between Lao PDR and Sweden was starting – showed that there was only one employee at the MoJ who could speak English⁴ well enough to work as a counterpart. At the time English was not being taught at the Vientiane School of Law (VSL).

The English Language Training Programme (ELTP) began in April 1993 and targeted both the MoJ and the Vientiane School of Law (VSL). The objective was to develop the English language proficiency of a select group of employees from the Ministry and to develop an English Department at the VSL. Those selected for English language training in Phase 1 were officials from the MoJ, the court system, the prosecutors' office and the Law Committee of the National Assembly. The ELTP was headed by and expatriate English language training Advisor, fluent in Lao, stationed in Vientiane, under a contract with SILD / Burapha Development Consultants. The participants were selected by the Chief of Cabinet, tested and placed according to ability and position. Classes were taught at the MoJ and at the VSL respectively. The high level officials were taught by the advisor and HE the Minister benefited from private tutorial. The plan was to train a core group of officials capable to work with foreign counterparts in the English language.

No clear objective was defined for the second phase, but a target group was identified by the MoJ, consisting mainly of judges with the Pilot Project at the Vientiane Municipality Court. The officials received training at the Lao American Centre (LAC now called the Lao American College). Officials at three provincial courts (Champassak, Savannakhet, and Luang Prabang) also underwent a one-year English language training programme organised in the respective provinces.

The ELTP does not explicitly state that there was any objective as regards promoting gender equality or the advancement of women. However this component displays certain aspects of gender awareness in trying to achieve a gender balance among the participants, and compiling sex-disaggregated statistics for this purpose. There were both male and female teachers, and they explained how they very clearly tried to encourage the women participants and students to participate fully and not be too shy in class, which was often the case initially.

The law school had some 25% girls, which is not so bad. Dr. X knew that Sida wished to have gender balance so he simply stated that the proportion of girls was 50% to make us happy. (Sida staff, previously at the Embassy of Sweden, e-mail corresp. Aug 2002)

⁴ Initially, a major part of the communication between the Swedish advisors and the senior Lao officials was carried out in French, but this effectively excluded a majority of the more junior staff with legal training from Viet Nam or USSR and not France.

An English department was successfully established at the Vientiane School of Law and students at all levels participated in English training. The staff of the VSL also attended English classes. It was staffed by Lao teachers proficient in English, versed in English teaching, methodology, and with some knowledge of legal vocabulary and legal systems. The team met with three of these teachers who are now teaching at the Faculty of Law, and found the teachers to be competent, experienced and motivated. The number of teachers involved in the ELTP varied. Sida and the MoJ shared the cost for teachers' salaries. Each group of English teachers was given an intensive pre-service training.

Initially classes for the judiciary were organised during lunch-time and evenings but lunch time classes were discontinued and all of the students were moved to evening classes. This then varied during the different phases. Problems encountered range from poor attendance because the MoJ officials were often required to participate in seminars, conferences or 'political training' and were therefore absent from classes for long periods of time. There were also inconsistencies in the selection of participants.

A serious effort was made to develop a curriculum and to acquire and develop English language training material relevant and suitable to the Lao context. Study trips and outings were organised and lecturers were invited for the benefit of the students. Role play and even mock-trials were organised for speaking practice, which was very well received, according to the participants interviewed by the team. However, this was viewed with some suspicion by the former Project Manager, who expressed his concerns about the lack of classroom discipline that such a methodology entailed. According to an official letter in the Sida archives the Project manager officially proposed his son⁵ to replace the English language training advisor when the advisor rather abruptly had to leave the country after having been refused an extension to his visa.

Complaints were heard about the selection procedures for opportunities to study abroad and attend international conferences. While English proficiency should have been a consideration in the selection of participants, individuals were selected whose English was not always up to the standard necessary for effective participation. But the selection for the more prestigious 'opportunities' was usually the prerogative of more senior officials, over which the Project would have no influence.

The English Language Training Programme was successful in improving the English skills of the officials at the judiciary. Many of the officials interviewed by the team had a basic understanding of English and quite a few were able to speak with the team in English. But the process of language acquisition to a level of professional competence is inevitably a slow and frustrating one, not least for a native speaker of Lao studying English on a part-time basis. By no means all officials or students reached a level of proficiency that would allow them to understand or follow technical discussions, or to read legal documents in the English language. The desire to improve their English is clearly still strong among all officials interviewed. Many of the staff within the judiciary are continuing their English language training by attending the classes provided by the ongoing UNDP/Sida funded programme.

The ELTP was also successful in developing an English department at the VSL, with a faculty of competent English teachers. The programme however did not succeed in training enough English teachers to meet the growing needs of the School of Law. The Faculty of Law (where the former Vientiane School of Law was) now successfully continue their English language training for their students.

It is difficult to assess the sustainability of the English language training since the English department within the VSL moved to the Ministry of Education after the formation of the National University of

⁵ The son was later hired as Lao coordinator by Chulalongkorn University in their Sida financed co-operation with the MoJ within the framework of this Project.

Lao PDR, and became part of the Faculty of Law. (Now receiving Sida support) The teachers there attest to the problems in the interim period (without external funding) as being ‘difficult times’ where they were forced to accept more than their ideal 20 students per group, and the MoJ pressured them to have up to 100 students in each group. The copying machine was taken away and computers no longer available, and the students were no longer provided with their own text books. This on the other hand would indicate that the MoJ valued the English language training and tried to promote it as much as they could. The MoJ was also successful in securing funding for another new large-scale English language training through the UNDP, with several foreign advisors (UNVs). Another dimension to sustainability is whether the officials now use their English. Very few staff use English on a regular basis, but quite a number continue to attend English training in order not to forget and become more proficient. The officials who managed to attain a high level of English language proficiency during these years have benefited the most, and this is where the English language training has had an important yet indirect effect on realising the overall objective of the project to strengthen rule of law in Lao PDR. The effect is rather long-term and has only started to become apparent now after the end of the Project, when officials who have been able to avail of opportunities for long-term studies abroad are returning to Lao PDR with their law degrees and international experience. At the same time the number of officials have increased who can now actively participate and benefit from international seminars and conferences.

The English language training has helped us open up to the world.....we can now communicate and share experiences.....It has enabled us to apply for scholarships for higher education abroad, It is essential for us when preparing for and attending ASEAN meetings. (GoL staff at the NA, who benefited from English training, Aug. 2002)

I would suggest putting money into scholarships and study tours. Exposure to different judicial systems is a great benefit. Attendance at conferences is an opportunity to meet others in the same fields. We can see the huge impact that the scholarships to Japan and Australia have had on the personnel. The officials return with more confidence and more knowledge. In this way, Sweden really can support the promotion of democracy and human rights. Finding key bright individuals in the MoJ and providing them with learning opportunities can broaden minds. (Former expatriate advisor to the MoJ, Aug 2002)

Lao legal professionals now have the opportunity to review the experience of other countries and compare with the Lao system and the legal issues confronting Lao courts and lawyers, for example in issues such as those arising in the context of inheritance (especially with respect to proving a claim to rights over land), combating drug use, and legal dissemination to mention but a few.

Regional legal developments taking place in the ASEAN context and regional legal networks, such as the Mekong Regional Law Centre are also likely to have increased relevance in the near future and could provide valuable opportunities for Lao legal professionals to make connections with institution and colleagues in neighbouring countries.

2.4 The Official Gazette

The establishment of an Official Gazette, is one of the components of the Project that actually preceded the Project ‘Strengthening of the Rule of Law in Lao PDR’. The goal was to make laws and regulations readily available to government authorities and the public. It started in 1992. A project document for the establishment of an OG was already available, drafted in 1990. At the time the proposal had been submitted to all donors. Sida was said to have seen the importance of such an instrument in strengthening the rule of law and agreed to finance it, after discussions with the MoJ. Technical Assistance was to be provided by the former IMF consultant who had also drafted the proposal. She was employed by Sida to implement the OG Project together with a counterpart and staff at the Law Dissemination Department (at the time called the Dept of Propaganda) at the MoJ.

Initially the plan was for the OG to be published each month in three languages, i.e. Lao, English, and French. Special issues would publish laws, decrees and regulations adopted before 1992. During the first year or two it was published on a more or less regular basis, but not on time. According to the Law Dissemination Department responsible for editing the OG a major problem was collecting the legal documents to be published. The MoJ did not automatically receive all laws and decrees of the President and the Prime Minister. According to the Advisor's report numbering was also a problem, where there was no systematic and 'normalised' method. Each issue was originally published in all three languages, but between phase 1 and 2 the authorities recommended to publish each language in a separate copy, which caused further delays. Translation of the OG has remained a serious bottleneck since the beginning of the Project. This was due to a lack of skilled translators. Once translated the document was revised three times and submitted to 2 quality controls!

There were some difficulties with the OG. We could not find good translators. We had to use translators from outside. They did not get paid and in the end they quit. The Lao version had no problem but it was late and we had no funds to publish it regularly. The GoL and MoJ considers it a priority. We have to publish it and disseminate it but we cannot afford to use the post office. We tell the Provinces to come and pick it up. Sometimes we find out it was just left somewhere and not distributed. They forget. (MoJ official, Law Dissemination Dept. Aug 2002)

It has been impossible for the team to establish how many issues of the OG have been printed and how many copies have been distributed within the framework of the Project. No records are available for this. Apart from the officials responsible for the OG the team also asked everyone else interviewed (over 60 people) about the OG. A wide range of more or less creative and contradictory answers were provided to the team. Answers ranged from the OG being produced bi-monthly in three languages since 1993 until today, in 1800 – 2000 copies (which was the original plan), – to no Official gazette in any language has been produced since May 2001. The latter statement is as far as the team can discern at least true. The last French version is from 1994 and the last English version is from 1996.

The printing machine died last year. Then we repaired it for the MoF to print the budget, but they never paid us. Now it is dead again. (MoJ official, Law Dissemination Dept, Aug. 2002)

The team made a concerted effort in trying to avail of a copy of the OG from the MoJ and the Law Dissemination Department, and also interviewed the person in charge of the actual printing. No one could show the team a copy. The Embassy of Sweden only had three copies in English after all the years of supporting the OG plus the special issue on the Environmental Protection Law from 2001, an edition combining the three languages. The library at the MoJ had some old copies but since the library was in the process of being moved, the librarian could not be of much assistance either. The 'person with the key' to where the OG was 'presumably' stored was not available and when the team persisted into its third week, it was eventually provided with an assortment of Official Gazettes in three languages, by the Sida project manager at the MoJ.

According to the plan copies of the OG are supposed to be disseminated to:

- District authorities, courts, police and prosecutor,
- Ministries and other organisations,
- Schools and the National University,
- Provincial authorities, courts, police, prosecutor,
- Embassies and private services/companies.

(The estimate for 1998 was 1,550 copies in the Lao language and 300 copies in English. The funding was provided by the Embassy of Sweden.)

The Lao side did not show any particular ownership as regards the OG. It has been entirely dependant on external funding. The original estimates laid out in the Project Document indicated that the OG could be sustained through sales, which were expected to increase as the OG improved, and thus ensure financial sustainability for the OG. This was completely unrealistic. Sales, if any, have been extremely limited. Another suggestions of commercialising the OG altogether, through entrepreneurs was still met with suspicion today. The French version was not printed after the special funds for this from the French Embassy were discontinued, and the English version ceased to be published even when there was financial support from Sida.

Curiously, it was mainly the expatriates that stressed the importance of the OG to the administration, while the Lao officials emphasised its importance to foreigners. The OG, they argued, was printed in English and French so that foreigners would know that the Lao government administers the society by law and that this would attract foreigners to invest in Lao PDR. On the other hand the vast majority of government officials at all different levels within the judiciary clearly claim that the OG is indeed both necessary and important.

Even when the OG is published, it is not guaranteed to be disseminated according to plan. There are indications that the dissemination is seriously flawed. The Provincial Courts visited by the team could not show any copy of the OG. Because the MoJ cannot afford to pay for the necessary postage, the different authorities are requested to collect their copies in Vientiane, at their convenience. Once collected and if brought to their destination, there is no system for sharing or disseminating them further, and according to MoJ officials, the pile of OG can be found lying around gathering dust in someone's office.

One of the main reasons for an official gazette is its official status. Laws, decrees and decisions are published regularly in an official version, and in this way made known to the public and to the legal professionals and administration at large. This in itself can be seen as a factor liable to strengthen the rule of law. However the status of the OG would depend on the obligatory publication and dissemination, and the legal effect of the publication. Ideally all new laws, decrees and regulations need to be published before entry into force for the OG to maintain its status as an official document. This has not been done⁶, and there is some dispute within the Lao judiciary as to whether laws have to be published in the OG to enter into force. (With no OG published at all for the last 18 months in any language, it is likely to become a hypothetical question).

Incompetence and poor logistics on the part of the MoJ for its printing and dissemination appears to be one of the reasons why the OG largely fails, but a more alarming reason is related to a lack of interest in the OG. This lack of interest allows for speculation. One possibility is that the OG is not properly valued, transparency is not fully developed, and the State and the Party is still overly cautious of what is to be made public or not. This combined with a degree of scepticism towards foreign ideas, financed by foreigners, means that the OG may represent a commitment the Lao are not prepared to make yet, but were not in a position to say no to.

Despite all the nice words to the contrary, the team concludes that the OG does not in any way represent a priority for the MoJ. This should have been apparent to both SILD and Sida very early on in the Project. One senior official even admitted that the MoJ had to divert the funds from the OG to 'more pressing needs', such as legal training. Other media is cited as available that to some extent replaces the OG, such as other more specific publications, National Radio, TV, written directives, PSC journal and other documents etc. But the fact remains that Lao legal professionals do not have timely access to

⁶ It has not been possible for the team to ascertain which new laws, decrees, and decisions that have been omitted from publication, but MoJ officials state that not everything is being published.

official copies of legal information and can not know that they have access to all legal information either, since there is no single official source published with such information. It is also difficult to argue that individual Lao citizens should be aware of their rights and duties⁷ under these circumstances. This approach to legal information has severe consequences for the rule of law in the Lao PDR. The rule of law cannot prevail unless there is a flow of legal information.

The laws are adopted but nobody plans a budget for the dissemination. In reality there are no funds, and copies of the law are not available. (Quote, GoL official, August 2002)

2.5 Court Procedures at the Vientiane Municipality Court

Support to strengthening the capacity of Vientiane Municipality Court (often called by its old name Vientiane Prefecture Court) started with the second phase of the Project. It was set up as a “Pilot Project”, in several stages, carried out by SILD.

For personal reasons on the part of the long-term advisor (co-ordinator) and the supposed reluctance of the MoJ for a permanent foreign advisor on its premises, it was agreed that the advisor/co-ordinator would not be stationed in Lao for the whole contact period, but initially for four months and thereafter visit for shorter periods of time. Hence the project management did not become as firmly rooted in Vientiane as was foreseen.

Make more effort, take more time, train others, and train trainers, better than training everybody and then just leaving. (Judge at the Vientiane Municipality Court, Aug. 2002)

The project advisor/co-coordinator started the Pilot Project by arranging regular meetings with all the court personnel, where the shortcomings of the present court procedures were discussed, as well as possible ways to improve them. The second stage was to arrange mock-trials with the participation of judges, prosecutors and members of the Lao Bar Association as well as senior students from the Vientiane Law School acting as parties, witnesses and experts. The project co-ordinator drafted new procedural rules to be applied, as well as scenarios for each trial.

Dr. X's work was very useful, he emphasised the practical, involved with everyone one by one, also written material – so many papers – handed everything to translation unit..... but the Head went to the Philippines. (Judge at the Vientiane Municipality Court, Aug. 2002)

The new court procedures and routines in the Vientiane Municipality Court were put into practice in mock-trials. There was a lot of interest from the target group at all levels for these practical exercises. The Advisor also drafted a court manual to improve the case handling routines in the Vientiane Municipality Court. However, it later proved difficult to obtain acceptance from the judges and the administrative personnel in adopting the proposed procedures, despite the popularity of the mock-trials and the cooperation of the staff. The Manual was not completed until the end of the Pilot Project when the advisor had already left the country. It was then simply sent to Vientiane with the hope that it would be translated into Lao and then implemented at the Courts.

The manual is not translated into Lao. It is still at the MoJ, pending authorisation and translation. Even the English version has not been disseminated. It is according to senior MoJ officials not yet clear if it is compatible with the present Lao legislation. The manual also contains practical recommendations regarding the set up of the courts judgements (sentences), entering facts in the diaries, filing, etc

⁷ Increasing public awareness is another major task which was not part of the Project but which is an important dimension of strengthening the rule of law. If people are not aware of their rights and duties, they can be prosecuted for offences they did not know they had committed, which will do nothing to increase respect for the law. The OG is not a suitable channel for this, mainly because of low rates in Lao PDR.

The court manual is not a manual. It was never a manual; it is a printed matter – a guideline. (Judge, Vientiane Municipality Court, August 2002)

The only tangible result the team could find today are a few pages referred to as a ‘guideline’ – possibly the ‘Manual’ in a condensed form, translated and said to be in use at the courts visited.

A reason why the proposed changes of the case handling routines were not implemented in a continuous manner is that further guidance and advice was necessary at this crucial time.

The capacity and competence among a majority of judges and other court personnel was very limited. Even a copy of the Manual in the Lao language is not likely to have sufficed. To consolidate the development efforts already made in this component of the Project the continued presence of Advisors would have been required, in order to guide and advise, for a considerable amount of time.

The Pilot Project could be regarded as having been relevant to the need of introducing modern international standards for trial procedures, but it stopped short of any real impact. Even though it did not achieve its original goals it nevertheless had some discernable positive effects. Judges working at the Vientiane Municipality Court hold the Pilot Project in high esteem and claim that it has improved their knowledge of court procedures. Other sources within the judiciary also confirm the positive effect of the Pilot Project in improving the court procedures. The part of the project mostly referred to is the mock-trials, which have impressed on most persons interviewed as a basis for modernising the Code of Judicial Procedure. The same was true for participants from the Provincial Courts visited by the team.

Another effect of the trials often mentioned by the participants is that they highlighted – for the first time – the importance of access to legal support for the parties in the process. This has also been important for the Lao Bar Association in its struggle for legal recognition. It was clear from the interviews that due to the Pilot Project there is a greater legal consciousness and comprehension of ‘a fair trial’ than there supposedly would have been without the support to different legal training activities.

(Re: difficulties with the implementation of new procedures at Vientiane Prefecture Court) It could have been anticipated if Swedish advisors listened more with the intention of really understanding the ‘Lao mind’ and general setting. (Expatriate, former advisor to the MoJ, Aug. 2002)

In hindsight, the project was conceivably too ambitious, drawn up mainly by the Swedish side, unfortunately aiming too high, within a limited time-frame. It started without sufficient knowledge of whether the final product would be applicable in the Lao legal framework or the ‘political environment’. Perhaps the Pilot Project was also embarked upon at a too early stage, with the unrealistic ambition of turning the tide by introducing modern procedural law. It should have been foreseen that these kind of changes require a very long legal (and mental) process before being effectuated, anywhere, not only Lao PDR. Cultural awareness or sensitivity and in-depth understanding of the Lao political environment may have been lacking on the Swedish side.

2.6 Procurement of equipment

During the project period a minor part of project funds has been used for purchasing technical equipment (such as car, computers, fax- and copy machines, microphones and loudspeakers etc), classroom and dormitory furniture/equipment, books and odd things like a fresh-water well.

Unfortunately the MoJ did not have any fixed assets register or inventory list, nor did Sida make any efforts to secure the fixed assets. Hence, it was not possible for the team to investigate the whereabouts of different equipment in any detail. These project shortcomings are noted in the KPMG audit. However, the team notes that most of the equipment is now outdated, not working or has disappeared (such

as for example a car meant for the Law School). The MoJ never informed Sida when equipment broke down, or was no longer in use. No maintenance appears to have been foreseen or actually carried out.

There is some office equipment purchased during the last couple of years of the project that are in place and used, such as computers at the MoJ and at the Vientiane Municipality Court, a loudspeaker system in the courtroom of the Municipality Court and photocopying machines. The procurement of equipment was done partly through SILD/Burapha and partly by MoJ directly, after approval by Sida.

2.7 Library Support

This was a component on the side, without any real connection to the other components in the Project. The procurement of books for the library at the MoJ and for the Vientiane School of Law was managed through SILD, based on the research and suggestions of an independent consultant. The evaluation team has prepared an inventory list on the books bought within the Project for the MoJ library. It was not possible to prepare a similar list for the Faculty of Law, which inherited the books from the Vientiane School of Law, since the librarians were away in Thailand on a training course during the time of the Evaluation.

According to the librarian at the MoJ, government officials and students regularly use the books in the library. However, officials, judges, judicial staff etc, interviewed by the team claimed that they seldom use the library, or not at all, mostly because of lack of time. Only very few staff have the necessary command of the English language. Furthermore, there is no tradition of reading legal (or any) documents in Lao society. For these reasons the team believes that the investment in developing the libraries and its contribution towards reaching the objectives of the project has been only minimal, even if the law books are excellent and a Swedish Law Library would be proud of having them on their shelves. They are, simply put not at the appropriate level, and not in a language accessible to a majority of the staff.

Our conclusion is therefore that procurement of office equipment actually served the overall objectives of this project much better than the procurement of books at this stage of the Project.

Equipment and infrastructure

The greater majority of legal trainers, judges and prosecutors in Lao PDR are doing their work in an extremely difficult environment. A common theme in almost every interview conducted in the course of the Evaluation was the need for proper facilities and equipment.

The different legal institutions require equipment and resources to do their work to the standard required. The Judicial Training Centre (JTC)⁸ does not have an adequate library, and this is a fundamental requirement of any training facility. Neither trainers nor trainees have access to computers, and internet researching is not possible, nor the other uses to which computers can be put, and which should form part of training for working as a judge, prosecutor, or in any other part of the legal system of the Lao PDR.

Inadequate facilities and equipment will be as much of a bar to the development of a modern system of justice in Lao PDR as inadequacies in education and training, lack of access to legal information, and the low level of legal knowledge in the country as a whole.

⁸ The Judicial Training Centre was created by the MoJ when the Vientiane School of Law became the Faculty of Law, under the Ministry of Education.

2.8 The Lao Bar Association

A decree on a Lao Bar Association (LBA) was adopted in 1989. The LBA was founded in 1991, shortly after the adoption of the Constitution. The rights of a legally accused person was outlined for the first time in the Constitution. Initially the Bar had only four members.

The decree stipulates that the LBA should act as an independent body under the supervision of the MoJ, which also controls and regulated the LBA and decides on new members. The LBA was suspended from 1992 to 1996. The reasons given for the suspension were that lawyers had repeatedly violated ethical rules, the 'internal rules' of the Association.

The second phase of the Project also comprised development activities targeting the lawyers of the LBA. A series of workshops and group discussions (five in total) were held for the LBA with advisory input from among others, the deputy president of the Swedish Bar Association. Discussions covered drafting of ethical rules, establishing a board of discipline, setting up a reference library, recruiting issues, English language training, ethics of lawyers, and the organisation of a Bar Association, and the lawyer's role in court proceeding and other basic principles. The LBA has since drafted ethical rules, – a 'Code of Conduct' based on these discussions, which has been confirmed by the Minister of Justice. The workshops and lectures were led by the foreign advisor.

Members of the LBA participated in the mock-trials at the Vientiane Municipality Court and in study trips to a provincial court in Thailand. These mock-trials have contributed to the awareness of the role of lawyers and legal representation (legally educated solicitors and not only legal support on assistant level), and awareness of the legal rights of the individual. It could be disputed if the introduction to the Swedish Bar Association was the most appropriate tool to attain the goal of developing the LBA, at this very early stage of the development process.

The impact of the LBA on the legal system is difficult to judge. The judges at the different courts, the prosecutor-general and high ranked officials at MoJ have different and often conflicting interpretations of the rights or even the need of a lawyer. They are said to be allowed in court, and others claim the opposite, referring to the either the Constitution, the Code of Judicial Procedures, decrees etc. It is clear that the public awareness of the existence of the LBA and even the need of a lawyer is almost non-existent in Vientiane, the only place where lawyers are active.

During the altogether six visits to the different courts the team attended 8 cases (7 criminal) and not once was the defendant represented by a lawyer, in spite of assurances from both the Bar Association and from the judges that in about 50% of the cases a lawyer is present. The team tried to find out when a case with a lawyer was going to be processed at the Vientiane Municipality Court but to no avail.

Most of the remaining active members of the LBA have advanced legal education from before 'the liberation' in the days of the 'old regime' either from Laos or France. They are better educated than their contemporary Lao colleagues and judges and might therefore pose a threat or intimidate the junior judges in the courts. Many of them were also high officials in the former and/or present administration and are thus in a potential position to exert power over young, – often very young – judges in the different courts. This is a point of contention.

This particular component proved difficult for the consultants and the cooperation in this field failed to achieve any sustainable results. Difficulties included the age and lack of relevant experience of the present corps of the LBA, the legal framework for the LBA, as well as within the institution building and recruiting process. However the position of the LBA slightly improved during the most recent years and assistance from lawyers has become more accepted at court sessions. 18 lawyers are now on a

waiting list (on probation) to become members. They have attended a one-month training course organised by the LBA at the MoJ. Some of the new members are fairly young. Two of them are women. At present there is only one female member (out of 21 members). One problem with the recruitment process of younger legal advisors is that they will hardly be paid during their years as legal advisors with an established lawyer.

A more comprehensive and integrated approach to developing both the LBA and its organisation would be necessary. This would include creating awareness of the role of a lawyer in Lao courts, among the public at large, as well as for the concerned officials, through training, organisational development and research. The Research is suggested to also address the use and role of mediation and traditional/customary rights, etc, to better understand and encompass the rural and village based practices in most parts of the Lao PDR.

The Lao Bar Association does not have any power, people do not respect them. No one wants to be a lawyer. (Senior MoJ official, Aug. 2002)

I don't know exactly how many members (of the LBA) now, some members keep dying. (Senior member of the LBA, Aug. 2002)

The judicial system in Lao is such that lawyers are not considered at the same level as the prosecutors – at least not by the prosecutors. The prosecutors are the government. (GoL official, NA, Aug. 2002)

The mock trials are very important and useful. In the mock trials the lawyer had an important role – but now in Lao the judge has the important role. We have to modify our law to use this. (Judge, Vientiane Municipality Court, Aug. 2002)

When we have lawyers by profession – not appointed – then democracy and human rights will come by itself. (Senior MoJ official, Aug. 2002)

3 Conclusions and Lessons Learned

3.1 Concluding Remarks and Observations

Project management

The area of cooperation and the fact that neither part had any prior experience in this development field should have led to a closer cooperation between the stakeholders, i.e. Sida, SILD and MoJ. Of great importance for a successful project management on the donor side is close monitoring of the project implementation, demanding regular reports of good quality, evaluation and auditing.

The different components of the Programme, managed by different implementers or directly by Sida and the MoJ should have been coordinated and better integrated. This could be done by either choosing one project manager for all of the activities within the Programme, or having a person with enough time and commitment for the Project in charge at the Sida office (Embassy of Sweden) in Vientiane.

SILD could have organised its line organisation better in order to avoid confusion on the Lao side; choose an advisor/coordinator who could be resident in Vientiane for the whole project period; delegate more decision-making power to the local sub-consultant and be more sensitive to the local cultural and legal environment when planning and implementing the different activities. The sub-contracted Burapha Development Consultants made the best possible out of the situation.

The project management set-up on the Lao side was efficient considering the circumstances with very few qualified and competent staff. Initially MoJ tried to retain some kind of ownership of the whole Project, but seem to have become complacent and concentrated only on the more “interesting” and “rewarding” components such as equipment support, study tours, legal seminars and scholarships. It is not certain that even with competent project management support the MoJ would have taken ownership of all the various components of the Project, considering that they never accepted some of the project components, but rather just went along to satisfy the donor (Official Gazette, pilot-study at Vientiane municipality court).

The Ministry of Justice did not fulfil its obligation in the agreement to provide sufficient and qualified staff, to ensure that the contribution was used for agreed purposes, and to present an annual plan of operations, which actually are three out of four responsibilities they took upon themselves in the specific agreement with Sida. The first two could have been mitigated by strengthening and supporting the MoJ with project management skills/staff and with better financial control.

English training

This component could have been more consistent and goal-oriented. It is a common opinion that it was well-run and had a positive impact. It had an important yet indirect effect on realising the overall objective of the project to strengthen rule of law in Lao PDR. The effect is rather long-term and has only started to become apparent now after the end of the Project, when officials who have been able to avail of opportunities for long-term studies abroad are returning to Lao PDR with their law degrees and international experience. At the same time the number of officials have increased who can now actively participate and benefit from international seminars and conferences.

The interest in the English language training was obvious at all levels and should be further institutionalised (which is partly done through the continuation of the training within the UNDP-Programme).

Legal training

With clear ownership of this project component by the MoJ this part was the most successful. The legal seminars have continued even after the Sida support stopped. The training activities need to be better-structured and a curriculum should be drafted for the Judicial Training Centre. Reports from the seminars and study tours have to be disseminated to other individuals and departments.

The consequences of not continuing with the legal training and education are obvious for the Lao Government.

If these and other priorities, such as the English language training are addressed, legal training and education in Lao PDR will be better able to keep pace with developments in the legal system, and in Lao society as a whole. They will also be equipping Lao legal professionals to play a more effective role in ASEAN, and in the international community at large.

Vientiane Municipality Court

A very ambitious programme component, actually the ‘anchor’ of the second phase, which unfortunately did not succeed very well for various reasons. Firstly a resident advisor/coordinator was needed in Vientiane for the whole project period and possibly beyond. Secondly the ‘willingness’ of the Lao Judiciary to change their court procedures/routines was grossly overestimated. Consistency, patience and continuous presence could perhaps have brought about the desired changes in the court procedures. Dissemination to other courts, not by sending written materials, documents or forms, but by on-the-job training and follow-up could have spread the lessons learned at the pilot court to other courts.

Official Gazette

The publication must be considered as a failure as a means to spread legal information and awareness among government officials. Unable to reach more than a handful of these potential readers, the OG could only have a marginal effect no matter how important its content. The Official Gazette’s non-existing legal status removes its possibility to be instrumental in the implementation of rule of law, and is an invitation to arbitrariness rather than rule-adherence. The Official Gazette is a foreign invention, financed by foreigners and with a high ambition to be a part of rule of law in itself and it became a marginal source of information.

Perhaps scepticism towards foreign ideas is another explication of why the OG largely fails, where actually the Lao radio and media manages to be a channel for spreading of rule of law. Hence, in the future, efforts to strengthen the rule of law through information and dissemination should also explore other alternatives.

Equipment and books

Equipment can be seen as an essential tool in modernising an organisation or institution, as well as increasing its efficiency. Unfortunately investments in this sector were not followed up with necessary maintenance and some equipment was also used as a form of gratification to some senior or retired officials. Without better control of the fixed assets purchased within the Project, only a fraction of the invested money provides any added value to the above objective.

The procurement of books to the two libraries was at the given time not relevant in reaching the objectives of the Programme.

In any future programme the office equipment component should be present, but supported by a training programme, a maintenance programme and an obligatory fixed asset register.

The Lao Bar Association

Activities in this component were scattered, and without any long-term plan. Some of the activities were not on an appropriate level for the present Lao situation. It is not actually the Bar Association as such- with new and better-equipped office- that needed to be supported and developed, but rather the need of lawyers and legal representation.

Any further support should focus on seminars, mock-trials etc arranged by the MoJ, the courts, the prosecutor's office, and the police to inform and create awareness of the role and function of a lawyer. These measures could then perhaps have a positive effect on attracting more Law students to choose to be a lawyer by profession. However, in concentrating the efforts on lawyers, one must bear in mind that for the majority of the Lao people a general access to lawyers would make no difference, since hiring a lawyer would be too expensive due to the low standard of living and the lack of legal aid.

3.2 Lessons learned

In the eyes of some to the Lao leaders, rule of law is one of many new things that have been brought in from abroad during the last few years, along with big business, karaoke bars, and Western backpackers. And when threatened by the new, they react cautiously and sceptically. The fear of losing control is also a fear of losing power. (Minor Field Study Report, University of Uppsala, 1996)

This very ambitious project started in a very vague manner. The first fact finding mission by Arnold/ Eduards in August 1991, on which much of the project was based, lasted only five days. It is difficult to understand how long-term cooperation in such a difficult sector as the legal sector, could be built on such a brief and not very precise report. To understand the context of a relatively new legal system, such as the Lao, and its interaction with traditional law, based on mediation, to perceive the willingness of the cooperating partner, the Ministry of Justice, to work towards a common goal, with all its implication in an one-party State, and to suggest the areas of support in strengthening the rule of law, cannot be done in one week!

Some of the constraints could perhaps have been overcome and mistakes could have been avoided if only the Swedish side had been more familiar with the Lao legal and political system. According to the "Assessment of the Lao Legal Framework" prepared in 1996 for UNDP by a group of domestic and foreign lawyers "a sound foundation for institutionalising the Government achievements in this sector and for ensuring the development of a modern and effective legal system is still lacking".

The link between the implementation of rule of law and the need for democratisation were not apparent to both sides.

Many of the changes that have been introduced have been ad hoc, and not anchored to systems that will guarantee their success. When foreign experts assist in legal drafting, procedural rules etc, the documents are often overly sophisticated, with no explanation of the relation of the document's specific provision to the Lao context.

The different components of the Project to Strengthen the Rule of Law were developed more or less independently without a well-defined overall framework. It was envisaged that the different activities, mainly capacity building, would automatically serve to improve the various legal institutions, a rather piecemeal and overly optimistic approach. Institutional development usually implies the combination of organisational capacity building and human resources development, combining two different areas of theory and practice: the legal system knowledge and the general management knowledge. A cross-

cutting issue affecting all areas of support in the legal sector would be the need to develop competency in the field of management⁹.

Institutional development for the Lao judiciary would mean improving the effectiveness and efficiency of the institutions as well as their capacity to learn from, and adapt to, their new modern legal ‘environments’. On the Lao side the State and the Party mix laws with policies and this practise makes courts hesitate whether to use laws or policies as the standard for decisions. If policies are used, then law is not followed and this should be a focal point if interested in strengthening the rule of law. At the same time the understanding of state institutions, such as the judiciary, is very low among Lao citizens in general.

The team has been made aware of possible tensions inherent in the institutional change itself: e.g. the conflict between rule of law and the Lao tradition of mediation or reconciliation/consensus, which should have been addressed in the Programme and must be further explored for any future cooperation.

For the success of any project, a solid and comprehensive preparatory study is necessary, whether in an LFA format or not – defining the background, including assumptions and risks, expectations on both sides, what is supposed to be achieved (expected outputs), how and within what time frame. The need of continuous monitoring and evaluation of the project is also evident. Even if major weaknesses were apparent in the approach, the implementation and the follow-up of the project the Sida contribution was not totally wasted.

The team has noted a change in attitude and a surprising openness to sharing experiences and new ideas, especially among the younger well-educated government officials who have been exposed to the ‘international scene’. With enough of these young ‘ambassadors of change’, – provided they can be convinced to stay within the government service – the future for Lao society at large and the legal sector in particular could be regarded as rather bright.

If better prepared, the support to strengthening the rule of law in Lao PDR has potentially a better chance today than earlier, and should be explored further. Broad areas that could be focused on include Legal training, Management training, English language training and international long-term scholarships for upgrading the level of education of staff within the judiciary. Any further cooperation should strive to go beyond strengthening the rule of law and attempt a stronger link with promoting development of good governance.

Sida has now handed over big parts of the legal cooperation to UNDP through its two programmes and has in this way lost a certain amount of power and insight into the development cooperation in this sector, (even though Sida still takes part in dialogue with relevance to the legal sector.) This is unfortunate as Sida has a well-established and good reputation in Lao PDR, especially at the MoJ. The Lao express great confidence in cooperating with the Swedes and a genuine willingness to continue the cooperation with Sida.

⁹ Depending on language and political culture the concept of management will also have a different meaning to different people.

Appendix 1

Terms of Reference for the Evaluation of Swedish Support to the Legal Sector in Lao Pdr 1991–2001

Objectives of the Evaluation

The evaluation is expected to provide information on performance and lessons learnt and serve as a basis for future decisions.

The evaluation will assess relevance and results of the different activities carried out 1992–2000. The evaluation will also assess the project management in light of what effects the project management has had on institution building.

Sida has received a proposal for a new phase of the project from the Ministry of Justice. As the approach and the suggested activities are similar to the approach and activities in past phases, the evaluation will also look forward, as a decision on possible future co-operation with the Ministry of Justice will be taken after the evaluation has been carried out.

Issues to be Covered in the Evaluation

Project management

- Assess project ownership during the project period.
- Describe the project management set-up on the Lao and Swedish side and analyse in what way it has had effects on effectiveness and project implementation?
- How has the project management affected the planning, budgeting, follow-up and reporting?

Analyse the relevance of the activities carried out

- Was the choice of activities (English training; legal training, including seminars; Official Gazette; development of court procedures; library support; and procurement of equipment) relevant to solve the development problem at hand, i.e. a weak legal system?
- Was a correct assessment of the project's relevance to the different target groups made? Were right people chosen to attend the different training activities carried out (English and legal)?

Analyse the effectiveness of the project

Legal training

- Explore and try to assess the continuity of the training activities as well as the total set-up/system of the training activities.
- How relevant to the development problem at hand has the curriculum used in the different training activities been?
- Assess the methodology and pedagogy used at the training activities. Have the training methods used in the project had any further impact on subsequent training methodology?
- To what extent has the legal training had any effects on the performance of the participants in the training?
- How have gender issues been considered in the different training activities, especially as regards choice of participants?

English training

- Did the project manage to develop the competence of legal English of the students and professors at the Law School and in English at the Ministry of Justice?
- Did the English training that took place during the project have any sustainable effects? If not, what were the reasons for this?
- To what extent has the English training helped towards realising the overall objective of the project to strengthen rule of law in Lao PDR?
- How has gender issues been considered in the different training activities, especially as regards choice of participants?

Official Gazette

- How many issues of the Official Gazette have been produced within the framework of the project? What quantity has been disseminated and to whom? How does this compare to the plan laid out in the beginning of the project?
- It is known that there have been problems regarding production and dissemination of the Official Gazette. Why is this so and could these problems have been avoided within the framework of the project?
- Assess the sustainability of the system set up within the project for the production, dissemination and follow up of the Official Gazette?

Court procedures at Vientiane Prefecture Court

- How are the procedural rules that were elaborated within the project used today?
- A court manual was produced. It was indicated in the final report from SILD that the changes proposed in the court manual were not implemented in a continuous manner. Is this court manual used today and if so to what extent and by whom?
- Have any of the new procedures developed at Vientiane Prefecture Court spread to other courts?

Library support

- How are the books kept today?
- Are the books used? If yes, to what extent?
- Did the procurement of books help reach the overall objective of the project to strengthen rule of law in Lao PDR?

Procurement of equipment

- To what extent has the equipment procured been used within the framework of the project?
- How has the equipment procured contributed to reach the objectives of the project?

Bar Association

- Did the activities which were carried out (work-shops, group discussions) have any effect on the situation of the Lao Bar Association?
- The authorities have restricted the work of the Lao Bar Association. Could this situation have been anticipated in the planning phase of the project?

General questions to be considered regarding all the different activities where applicable

- What do target beneficiaries and other stakeholder groups affected by the project perceive to be the effects of the project?

Difficulties

Some issues will pose difficulties in evaluating the project:

The project started 1992 which means that many people that were involved in the project have moved on to other positions and it may be difficult to remember what happened a long time ago.

Documentation at the Ministry of Justice has disappeared and as reporting requirements have not been adhered to at times, there is a lack of written documentation.

In view of these difficulties and the fact that it is a long project period that is to be evaluated, it is up to the consultant to assess what is possible to do and not. However, focus should be on the second phase of the project.

Methodology and Implementation

In order to carry out the above-mentioned assessments, the consultants should

- Assess reports and other documentation from the project as well as other related documents such as relevant overall Lao policy;
- Interview different stakeholders, including Sida and Ministry of Justice staff that have been involved in the project at different times;
- Interview consultants that have been involved in implementing the project;
- Interview individual beneficiaries, i.e. for example people who have taken part in training activities.

Stakeholders and beneficiaries are to be found in a number of institutions such as Office of the Public Prosecutor, People's Supreme Court, Vientiane Prefecture, Provincial Courts.

Time Schedule and Organisation of the Evaluation

The evaluation will be carried out within two months from date of signing contract.

Person-weeks will be organised as follows:

Work in Sweden: 2 persons x 1 week

Work in Lao PDR: 3 persons x 3 weeks including visits to provinces

Report writing in Sweden 2 persons x 1 week

The work in Lao PDR will start with a preparatory meeting with the Embassy and end with a debriefing meeting with the Embassy before leaving Lao PDR.

Appendix 2

List of persons interviewed* *

Ministry of Justice (MoJ)

1. Mr. Kham Ouane Bouppha, Minister of Justice
2. Mr. Ket Kiettisak, Vice-Minister of Justice
3. Mr. Kisin Sinphangnam, Chief of Cabinet, MoJ
4. Mr. Houy Pholsena, (retired) former Chief of Cabinet, MoJ, former Project Manager Sida Project
5. Mr. Ketkeo Latshongmuong, Deputy Chief of Cabinet, Head of International Relations Dep, MoJ
6. Mr. Khamphone Phommanivong, Project Manager Sida and JICA projects, MoJ
7. Mr. Soutta Chommanichanh, Director of Law Dissemination Dep. MoJ
8. Mr. Chomkham Boupthalvianh, Deputy Director of Law Dissemination Dep. MoJ
9. Mr. Bounpheng Sinavonghone, Law Dissemination Dep. MoJ
10. Ms. Litnarong Pholsena, Deputy Director of Judicial Administration Dep. MoJ
11. Mr. Sida Lauk-Aphone, Director of Law Research Centre, MoJ
12. Mr. Saysomphone, Judicial Administration Dep. MoJ
13. Mr. Nousavath Dalavong, Director of Organisation and Personnel Dep. MoJ
14. Mr. Sisavath Manivong, Deputy Director, Judgement Enforcement Dep. MoJ
15. Mr. Sivath Sengdouangchanh, Deputy Director, Legislation Dep. MoJ
16. Mr. Khumbay Khantisak, Librarian, MoJ

People's Supreme Court (PSC)

17. Mr. Davone Vangvichith, Vice-President, People's Supreme Court
18. Mr. Khamtan, Chief of Cabinet, People's Supreme Court
19. Mr. Kongchi Yangchue, judge, People's Supreme Court. (UNDP Law Support)
20. Mr. Manfred Hornung, Judicial Technical Advisor (UNDP Law Support), People's Supreme Court

Office of the Prosecutor General (OPG)

21. Mr. Somlith Chanthachack, Deputy Prosecutor-General
22. Mr. Khammoune Sengouthai, Project Manager, UNDP Law Support. Office of the Prosecutor General
23. Mr. Matthew Halsey, Advisor, UNDP Law Support, office of the Prosecutor General
24. Mr. Xaysana Rajvong, Project Assistant, (UNDP Law Support) office of the Prosecutor General

National Assembly (NA)

25. Mr. Viengthavison Thephachanh, Project Manager (UNDP Law Support), National Assembly
26. Mr. Paul Waite, Technical Advisor, (UNDP Law Support), National Assembly

* * Cultural note: Lao names are usually presented only with the first name and the spelling will vary depending on how the Lao letters are transcribed. However we have chosen to use both names and followed the spelling used on the name cards provided to us or in some cases how the persons interviewed wrote their names for us. We apologise for any misspellings! We have chosen to use Mr. and Ms. respectively for male and female interviewees, irrespective of marital status or academic degrees such as Dr. or Professor etc.

Judicial Training Centre (JTC)

27. Mr. Phannola Thongchanh, Deputy Director of the Judicial Training Centre
28. Mr. Phivat Vorachack, Vice-President of the Lao Bar Association
29. Mr. Mek Savaly, Lawyer, member of the Lao Bar Association
30. Mr. Somphon Keomounmany, Legal advisor and applicant for membership in the Lao Bar Association

Provincial Courts in Luang Prabang and Vientiane Provinces

31. Mr. Deng Phomsavanh, President of the Vientiane Province Court
32. Mr. Oudom Phommalin, Vice-President of the Vientiane Province Court
33. Ms. Vienglaty Vialythong, Judge at Vientiane Province Court, Head of Lao Women's Union at the court
34. Mr. Souvan, Judge, Decision Enforcement Officer, Luang Prabang Provincial Court
35. Mr. Somphone, Acting President, Luang Prabang Provincial Court
36. Mr. Sayaleuth, Judge, Luang Prabang Provincial Court
37. Mr. Sengdouthut, Judge, Luang Prabang Provincial Court
38. Ms. Siamphone, Judge, Luang Prabang Provincial Court
39. Mr. Kham Seng, Prosecutor, Luang Prabang Provincial Court

Ban Chan, Chomphet District, LPB Province

40. Mr. Thongphan, Nai Ban (Head of Village) Ban Chan

Vientiane Municipality Court = Vientiane Prefecture Court (old name)

41. Mr. Noupanh Mahaphone, President of the Vientiane Municipality Court
42. Mr. Phaivy Siboulapha, Vice-President of the Vientiane Municipality Court
43. Mr. Chantaly Duangvilay, Vice-President of the Vientiane Municipality Court
44. Ms. At Inthaphol, Judge, Vientiane Municipality Court
45. Ms. Chantaly, Judge, Vientiane Municipality Court
46. Mr. Nonglak, judge, Vientiane Municipality Court
47. Mr. Dixa Singhathip, Judge, Vientiane Municipality Court
48. Ms. Chanmala Soukvilay, Judge, Vientiane Municipality Court
49. Ms. Boua Pha Kilyanivang, Judge, Vientiane Municipality Court
50. Mr. Boune Sounag Thavisaen, Director of the Notary Division, Vientiane Municipality Court
51. Mr. Sysavat Soukoellesay, Judge, Vientiane Municipality Court
52. Mr. Kham la Sophabmixay, Enforcement Official, Vientiane Municipality Court
53. Ms. Phounag Phet Siliphan, Notary, Vientiane Municipality Court

National University of Lao PDR (NUOL) Fac. of Law

54. Ms. Phethmany Luangsichampa, English Teacher, English Department, Faculty of Law, NUOL (previously at School of Law)
55. Mr. Khamsai, English Teacher, English Department, Faculty of Law, NUOL (previously at School of Law)
56. Ms. Kaisone, English Teacher, English Department, Faculty of Law, NUOL (previously at School of Law)
57. Mr. Erik Häggkvist, Chief Technical Adviser, Faculty of Law, NUOL
58. Ms. Inthana Bouphasavanh, Project Assistant, Faculty of Law, NUOL

Lao Bar Association (LBA)

- 59. Mr. Phivat Vorachack, Vice-President of the Lao Bar Association
- 60. Mr. Mek Savaly, Lawyer, member of the Lao Bar Association
- 61. Ms. Xaynari Chanthala, Deputy Manager, PriceWaterhouseCoopers Lao, Vientiane, (applicant for membership in the Lao Bar Association)

Sida / Embassy of Sweden, Vientiane

- 62. Ms. Lisbeth Bostrand, First Secretary, Embassy of Sweden, Vientiane
- 63. Ms. Sara Gustafsson, Programme Officer, Embassy of Sweden, Vientiane
- 64. Mr. Klas Rasmusson, First Secretary, Embassy of Sweden, Vientiane

Sida / Stockholm

- * Mr. Jörgen Schönning (was not available for interview and did not reply to the e-mail questionnaire).
- 65. Mr. Göran Bergman (former First Secretary, Embassy of Sweden, Vientiane)
- 66. Mr. Olof Milton (former Chargee d’Affaires, Embassy of Sweden, Vientiane)
- * Ms. Ann Melin-Wennström (e-mail corresp only)
- 67. Mr. Anders Emanuel (e-mail corresp only)
- 68. Mr. Per Sevastik (e-mail and telephone only)
- 69. Ms. Hallgerd Dyrssen
- 70. Ms. Birgitta Danielson, Sida / DESA

Swedish Institute for Legal Development (SILD)

- 71. Mr. Thorsten Cars, LL.D. Project Advisor/Co-ordinator, SILD
- 72. Mr. Harald Nordensson, Project Director, SILD

Independent Consultants and others

- 73. Ms. Annika Fogde, Project Administrator, Burapha Development Consultants, Vientiane
- 74. Mr Steve Epstein (e-mail corresp only)
- 75. Mr Ian Townsend-Gault (e-mail corresp only)
- 76. Mr. Erik Kijne, Consultant, PCM Group, Belgium
- 77. Mr. Mikael Smedberg, Lawyer, (previously BDC in Vientiane) (only brief informal meeting)
- 78. Ms. Li Brissmo, (lawyer, former MFS student in Lao PDR)

Appendix 3

Reference Documents for the Evaluation of Sida Support to the MoJ

1991

Rapport, Stöd till lagstifning och rättsväsende i Laos. Fredrik von Arnold, hovrättsassessor, Justitiedepartementet, 1991-11-20

1992

Official letter 920617, Sida Stockholm to Sida Vientiane, Regarding Legal Gazette m m, Laos

Report from Steve Epstein to Sida Vte and Sida Stockholm highlights of the meeting with Dr Houy. August 19, 1992

1993

Establishment of an Official Gazette in Lao PDR. Ministry of Justice, Vientiane, Linda Schneider, October 1993

Preliminary Review on the Swedish Support for Strengthening the Rule of Law, Vientiane, October 1993 Sven Beling, Mid-term Advisor

Report on Seminar: ‘The Legislative Process’, Stockholm, Sweden 22–31 March 1993, Michael Bogdan

Semi-annual Report 15 Feb – 15 Dec 1993, MoJ/SILD

Sidapromemorier 1993–1999 inkl beslut

Workplans 1/2 1993- 31/12 1995, MoJ/SILD 1993

1994

Comments on Beling’s report, Annika Fogde 1994-02-17

Evaluation Report, Sven Beling, Medium term Advisor 1994

Report on a Project Identification Mission to Vientiane Law School, Nov 1994, Simon Coldham, Anders Fogelklou,

Swedish support to the Vientiane Law School Report 1994, Bjorn Mothander (Elaboration of a Project Document)

1995

Beslutspromemoria Sida, 1995, inkl Specific agreement Sweden Lao PDR 1996–98

Project Plan Improving the English capability of the MoJ and the School of Law. July 1996 – June 30 1999, Steve Epstein Nov. 1995

Report on the expert mission to the Parliament of the Lao PDR French Senate (IPU) Nov 1995

1996

Assessment of the Lao Legal Framework, UNDP, 1996

Final Report, Phase 1, SILD, 1996

MoJ Summary of the execution of the 'Five Year Plan 1991–1995 and workplans for 1996–2000' of the Min of Justice. Unofficial translation

Official letter from Sida Vientiane Göran Bergman to Dr Mayoury Ngaosyvathn regarding Legal Advice Office for Women October 2, 1996

Official Letter from Steve Epstein English Language Training Advisor to Sida Vientiane, Göran Bergman regarding breakdown of the students of the School of Law by gender. October 8, 1996

Official letter MoJ to Sida Vientiane Chargée d'affaires September 18, 1996, regarding bar Association

Overview of Implementation of 5 year plan 1991–1995 and plan of activities 1996–2000, MoJ

Professional Opinion on the Draft Project Documents, Dr Pheuiphanh and Dr Mayory Ngaosavathn, July 3, 1996

Project Document Phase 2, 1996. MoJ

Report, Legal Issues seminars in four southern provinces for women. MOJ April 1996

Rule of Law in Laos, Implementation and Information, Ingmar Neveus, 1996, Minor Field Study No 47 Department of Government, University of Uppsala.

Telefax from Manivone Viravong to Gender Equality group Sida, regarding follow up of the Beijing Conference, October 8, 1996

1997

Final Report, English Language Training Programme, August 1997

Inception report 1/1–30/6 1997, SILD, (Phase 2)

Official Letter, MoJ Dr Houy to Göran Bergman 8 April 1997 regarding Performance of the English Training Project

Plan of Operations 1/7–31/12 1998, Phase 2, SILD Oct 1997

Support to the Vientiane School of Law, Contract for Consulting Services with Sida, Chulalongkorn University Thailand, 1997

1998

Manual for the People's Prefecture Court. (Thorsten Cars, 1998 ?)

Mid-term memo, SILD, (Phase 2), June 1998

Final Report, Vientiane School of Law Project. Ministry of Justice, Paul Samrane April 1998

Official letter 13 January 1998. MoJ to Sida Vientiane regarding request for Sida support to the Official Gazette

Report Concerning Workshops in Small Groups in the Vientiane Prefecture Court 9–20 February 1998, Per Bylen, expert, special adviser

Report, Expert on Enforcement Law, Eugene Palmér 1998

Report, March–May 1998, SILD, June 1998

Report, June–July, SILD, August 1998

Report on the Feasibility of Sida Supporting the Establishment of the Judicial Training Centre in the Lao PDR, Simon Coldham, London 15 July, 1998

Report on the Seminar on the Practice of Lawyers 1998, Dr Thorsten Cars

Report, Seminar on the Practice of Lawyers for the LBA, Elisabet-Fura Sandström, (dep. chairman of the Swedish Bar Association) 1998

Report, Study tour to Viet Nam, MoJ. February 1998

1999

Draft Project Document Phase 3 1999–2001, March 1999

Needs Assessment and Draft Project Plan for English Language Training, SILD/Burapha, April 1999

Reforming the Legal Sector in Vietnam. An assessment of Sida's support to the Ministry of Justice, Final Report, 1999 J. Carlsson, T Cars, E Häggkvist, Dinh Trung Tung

Report on the LFA review and formulation workshops of the judiciary projects in Laos PDR. Sida May and July 1999, Moderator Erik Kijne PCM Group

The Lao Benchbook, A Practical Manual for Judges. MoJ 1999

Workplan for the extended contract period 1/1–30/4 1999

2000

Beslut om insatsstöd, Promemoria, Sida/DESO 2000

Draft Project Document 2001–2005, MoJ 2000

Final report, SILD, Phase 2, March 2000

Official Letter. Sida Stockholm Anders Emanuel to Dr Houy, MoJ, 21 Feb 2000 (Comments on Project Proposal)

Official Letter. Sida Vientiane, Christer Holtsberg to Dr Houy, MoJ, 18 April, 2000 (Regarding the new programme and use of remaining funds)

Official Letter Sida Vte, C. Holtsberg to MoJ, Specification of cuts in activities and funding 16 Oct. 2000

Organisational chart of MoJ (2000)

Progress and Expense report, MoJ to Sida. Sida Scholarships for LL.M Studies at Thammasat University, Thailand. April 2000.

Rapport – formulera projektförslag för fortsatt svenskt stöd, B Mothander, 2000

Rapport avseende uppdrag att bistå justitieministeriet i Laos med att formulera projektförslag för fortsatt svenskt stöd, Björn Mothander 2000-12-27, to Sida DESO/DESA

The Procedure in the Provincial Courts of Laos – from a fair trial perspective. Li Brissmo and Linda Ålander, Thesis in Procedural Law, University of Stockholm, Juridicum, 2000

2001

Audit, Financial statement and management letter, KPMG Lao 2001

Evolution of the Implementation of the Sida financed project of strengthening the rule of law to the MoJ 1999–2000, MoJ, May 2001

Semi-Annual Report, October 2001 – March 2001, Embassy of Sweden, Vientiane, 2001

Tentative Plan for project, final quarter 2000 – first quarter 2001, MoJ

UNDP and Denmark work with Vietnam's Law makers, judges and prosecutors, UNDP staff paper, Ha Noi – Viet Nam, Nov. 2001

2002

Amnesty International ASA 26/004/2002 Lao PDR. The laws are promulgated but have no impact on the people: torture, ill-treatment and hidden suffering in detention.

Managing People's Complaints in Laos – policy analysis experience. National University of Singapore, Fac of Arts and Social Sciences, Viengthavisone Thephachanh, 2002

Organisational chart of MoJ (2002)

Strengthening Legal Education in Lao PDR, Umeå University October 2001 – Feb 2002-08-17
Supreme Court Journal, 2002 [In Lao]

Training Needs Consultancy – Legal training in Lao PDR, Final Report, Ian Townsend Gault. 2002.

Undated Documents

Law on Civil Procedures, GoL

E-mail kopior korrespondens Sida-Vientiane och Sida Stockholm (dates not in the notes)

(Brasklapp) Björn Mothander. Kommentarer till Sida Vte och Sida Stockholm om projektförslag till stöd till justitieministeriet.

Telefax request for funds for 'female dormitory'. MoJ to Sida Vte. (date not in the notes)

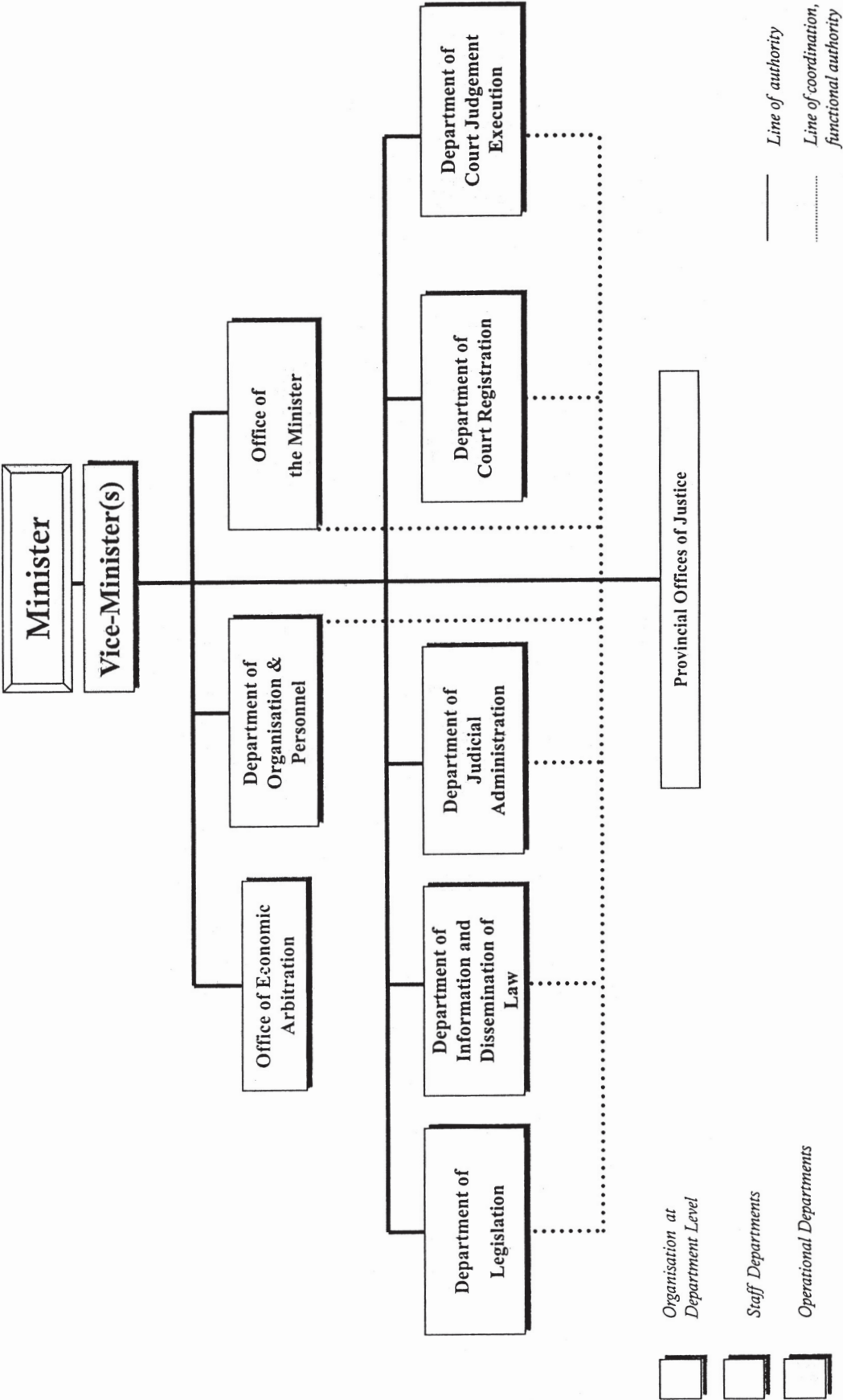
Appendix 4

List of Acronyms and Abbreviations

ASEAN	Association of South-East Asian Nations
BDC	Burapha Development Consultants, Vientiane
ELTP	English Language Training Programme
FoL	Faculty of Law
GoL	Government of Lao PDR
JICA	Japanese International Cooperation Agency?
JTC	Judicial Training Centre
LBA	Lao Bar Association
LL.D	Doctor of Law
LL.M	Master of Law
LWU	Lao Women's Union
MoE	Ministry of Education
MoJ	Ministry of Justice
NA	National Assembly
NUOL	National University of Lao PDR
OPP	Office of the Public Prosecutor
PSC	People's Supreme Court
Sida	Swedish International Development Cooperation Agency
SILD	Swedish Institute for Legal Development
UNDP	United Nations Development Programme
UNV	United Nations Volunteer
VPC	Vientiane Prefecture Court (Vientiane Municipality Court)
VSL	Vientiane School of Law

Appendix 5

MINISTRY OF JUSTICE ORGANISATION CHART



Appendix 6

Interview questions

Project Management

1. Has the Project Management worked efficiently and according to the goals that have been set up in the Project ?
2. Views on Project management, organisation and administration, division of labour between SILD and BDC, three tier line organisation and absence of a long term resident manager and expert.
3. The quality in the way planning, budgeting, implementation, follow-up and reporting has been carried out?
4. Which hindrance has been present for a more successful implementation/management of the project and which lesson can be learned for the future?
5. Who was the “owner” of the project and how was it expressed ?
6. Has the project been self-sustainable, i.e. can the activities started continue without further support from outside (experts, management, equipment) ?
7. Looking back, were the targeted objectives the “right” ones? If yes, did the inputs of activities correspond adequately to the objectives (relevance) ?
8. Was the choice of target groups right? Are you satisfied with the choice of participants?
9. Is/how does the Lao Bar Association work today ?
10. Has the different inputs over the years had a positive effect on the democratisation process and improvement of human right?

Interview questions concerning Vientiane Prefecture Court

11. Are the procedural rules and the court manual in force today and applied? If not, why? If yes, have they had any dissemination effects on other courts?
12. How was in your opinion the Project Management ?
13. Were the activities(inputs) the right ones ?
14. Which problems have occurred? Lessons learned ?
15. Have the right persons been selected for the different activities ?

16. Gender balance?

17. Has this part of the project been sustainable ?

Official Gazette

18. The quality of the material?

19. The number of copies printed each time?

20. Who was responsible for delivery and to whom?

21. Why were not more numbers produced?

22. Does the Gazette contain all the laws and other statutes approved by government, National Assembly?

23. If not, how have the contents been selected?

24. Have the contents been relevant in relation to the rule of laws?

25. Has the Gazette had any importance for the court system and other parts of the MoJ?

26. What is the expected/hopefully future of the Gazette?

Support for Equipment and other Material

27. Have the books bought for the library been spread/read?

28. Were the courts provided with proper material – relevant to the need?

29. What other material/ could have been provided for the same amount of money?

30. Priority of equipment/material for the future?

Legal and English training

31. How relevant to the development problem at hand has the curriculum used in the different training activities been?

32. Has there been continuity in the training activities as well as the total set-up-system of the training activities?

33. How sustainable has the training been?

34. What is the methodology and pedagogy used for the training activities?

35. Have the training methods used in the project had any further impact on subsequent training methodology?

36. To what extent has the training had effects on the work performance of the participants and increased the competence of legal English of the students and professors at the and in English at the Ministry of Justice, respectively?
37. To what extent has the training supported the overall objective to strengthen the rule of law and development of democracy in Lao PDR?
38. Have there have been efforts made to promote the advancement of women and achieve a gender balance in training? Have both women and men been involved in the planning and implementation of the training?
39. How were participants selected? Was there any testing?
40. Is the training relevant to the level of competence of the students?

Lao Bar Association

41. What is the present situation of the LBA?
42. What is its role and mandate?
43. Who are the members?
44. What activities have taken place? – What effect have the training in ethics and legal issues had?
45. What is the relation to the authorities?
46. What future can be foreseen?

Appendix 7

Favourite Quotes from the Notes and Documents

(All quotes are as anonymous as possible – no offence intended!)

- It is Sida's mistake that they waited so long to evaluate – things are lost already and people move and people forget.....and now everyone is no good!
- The Lao Bar Association does not have any power, people do not respect them. No one wants to be a lawyer.
- The MoJ was far from owner of the Project. We had lack of human resources and lack of experience in implementing projects, we also had many other projects, and SILD were active. They wanted to achieve what was their duty and had to push people here. We were not the 'Master of Ceremony'.
- In the eyes of some to the Laotian leaders, rule of law is one of many new things that have been brought in from abroad during the last few years, along with big business, karaoke bars, and Western backpackers. And when threatened by the new, they react cautiously and sceptically.
- This provincial court lacks a lot of material. We do not have a typewriter and no transport. We do not have a library and no files. It is a large Province with 12 Districts. It is difficult to reach the Districts and in the rainy season it is not possible.
- The judges do not dare to interpret the law. They are not well educated. There are no books or commentary on how to do it. It depends on their mood.
- Select good Swedes to come and train and develop teaching materials – basic ones for the government sector. China and Viet Nam are respected and Sweden is also accepted.
- Dr X's work was very useful, he emphasised the practical, involved with everyone one by one. Also written material – so many papers – handed everything to translation unit.....but the Head went to the Philippines.
- The court manual is not a manual. It was never a manual, it is a printed matter and guideline.
- The problem is we have more judges than court clerks and cannot work conveniently. Even we do not have enough judges, and the judges do not know how to write a sentence.
- Make more effort, take more time, train others, train trainers, better than training everybody and then just leaving.
- I use Russian, Vietnamese, and Swedish documents and my Lao experience, when I have to lecture.
- I don't know exactly how many members (of the LBA) now, some members keep dying.
- The Lao were so enthusiastic about the process but had limited ideas of how to make progress (regarding the LFA). Even Sida was excited!!
- I think that exposure to the Swedish legal system and the good-hearted Swedes is a tonic to the Lao. The Lao at the MoJ genuinely like and respect the Swedes. I think the Lao understand that the Swedish aid does not have a hidden agenda (or it is so deeply hidden they and I can't figure it out) and therefore feel "safe" with the Swedes.
- The judicial system in Lao is that lawyers are not considered at the same level as the prosecutors – at least not by the prosecutors. The prosecutors are the government.
- Democracy and Human Rights are western notions – train people first. A good education, knowledge.....then they will know for themselves – without force from outside.

- When we have lawyers by profession – not appointed – then democracy and human rights will come by itself.
- The concern I would have is that the project suffered from a lack of active participation and interest on the part of the Lao government. This being said, I don't think they were entirely to blame. The ministry is tasked with work way above their level of competence and the few good men (this is not being sexist, there are not any women there in key roles) are overworked.
- (About the Official Gazette) The printing machine died last year. Then we repaired it for the MoF to print the budget, but they never paid us. Now it is dead again.
- There are only few women at the MoJ. Women are not motivated or interested and promote other things. We have a policy to promote (women) but reality is difficult.
- (Gender issues?) Sida support to 'female' dormitory.
- The law school has some 25% girls which is not so bad. X knew that Sida wished to have gender balance so he simply stated that the proportion of girls was 50% to make us happy.
- The problem (of gender equality) is not policy, it is tradition and education. Women with low education follow us men without thinking of other possibilities.
- The mock trials are very important and useful. In the mock trials the lawyer had an important role – but now in Lao the judge has the important role. We have to modify our law to use this.
- All judges should know by radio and newspaper of any new laws and decrees.
- The problem is mismanagement. The funding for the Official Gazette has been diverted, not by Sida and not by the GoL or MoJ, but by those directly involved. This is simple to avoid by more control
- Lessons learned: good people must be put in responsible positions. Now there is loss of face.
- The problem with the Lao Bar Association is that they are not aware of their role and duties. We should organise seminars for them. We need more propaganda about the role of lawyers.
- Enforcement of judgement is a problem. We have to use motorbike or tuk-tuk. The prisoner himself has to pay for transport.
- The laws are adopted but nobody plans a budget for the dissemination. In reality there are no funds, and copies of the law are not available.
- The GoL has a 'utilising people problem'.
- The criteria for promotion is 1) the good nature of the staff, 2) vacancy 3) qualification. There is no notice of vacant positions.
- SILD were good for technical not management.
- At the time, 1992, I was convinced that the Lao participants were genuinely interested in judicial reform. I think they (Mr. X, Mr X, of the National Assembly and Mr. X of the Supreme Court) were hoping to improve and develop the judicial system to make it more organized, competent and even more fair and unbiased.
- They acted, I feel, in good faith but they were not in control of the Ministry of Justice which was in the clutches of Dr. X. In terms of the Lao government, I think that the personnel (outside of these three key individuals) are more cynical and more corrupt a decade later and may be more concerned with the materiel (cars, computers, etc) of the project that its actual goals.
- Over 250 criminal cases and over 200 civil cases were appealed to us at the People's Supreme Court. There was also the case about the pig from Sekong Province that we could not reject.
- Since it (the OG) did not function properly the importance decreased, Even MoJ itself did not have a complete set of all laws and decrees. I had to go to a private law firm to get some copies (for Sida).

- Laotierna kanske inte riktigt förstod hur biståndet skulle bedrivas. Det kanske inte fanns någon riktig biståndsvilja från Laos att ha något rättsbistånd.
- (re: difficulties with the implementation of new procedures at Vientiane Prefecture Court) It could have been anticipated if Swedish advisors listened more with the intention of really understanding the ‘Lao mind’ and general setting.
- (E-mail) Subject: Rättstödet och promenad på myrar.
Message contents: Det där med myr kom hastigt på som pigan sa.....Hur som haver är myrar igenväxta sjöar, vill jag minnas rätt så när man väl en botten om man dikar ut dom. Förhållandet skulle kanske ha uttryckts bättre med “... som att gå på gungflyn och skymta fast mark likt en hägring i fjärran ...” e dyl. För det här med rättstödet i Laos, det är verkligen att sakna nåt fast att stå på. I alla fall i dagsläget.
- All projects here at the MoJ have problems and cannot close the books. The minister gets angry with us. We can not trace records and documents. The lesson learned is that you also have to be responsible for the budget or you will be asked to spend more than the budget.
- Many donors want to be involved, but we say no – we give priority to Sida. The Minister still thinks Sida will come back.
- There were some difficulties with the OG. We could not find good translators. We had to use translators from outside. They did not get paid and in the end they quit. The Lao version had no problem but it was late and we had no funds to publish it regularly. The GoL and MoJ considers it a priority. We have to publish it and disseminate it but we cannot afford to use the post office. We tell the Provinces to come and pick it up. Sometimes we find out it was just left somewhere and not distributed. They forget.
- (regarding the content of the OG) ... First we have to go to the legislation dept. Sometimes they give us copies of new laws. We have to go to the Dept. at the Prime Minister’s Office and the National Assembly to look around for new decrees and decisions. They do not always like to give us copies.
- Generellt sett tror jag att projektupplägget var bra! Utgången hade kanske blivit en annan om projektberedningen hade följt LFA upplägget. Detta var då ett problem för Sida som inte riktigt hade kontroll på LFA metodiken och framför allt för SILD/Burapha och MoJ som i ännu större utsträckning inte visste något om LFA.
- When SILD was working there, SILD had a truly inflated view of their own influence and their expectation for government cooperation. They had asked the Ministry of Justice to send SILD copies of pending legislation for review (!!) Think of what that means: you need to translate the document into English – good English at that and then fax it to Stockholm. Needless to add, the Lao never did it, and SILD fumed that they weren’t holding up their end of the bargain. I felt that SILD didn’t have the necessary cultural sensitivity or understanding of the true nature of the Ministry and that their decisions and strategies were not successful.
- I would suggest putting money into scholarships and study tours. Exposure to different judicial systems is a great benefit. Attendance at conferences is an opportunity to meet others in the same fields. We can see the huge impact that the scholarships to Japan and Australia have had on the personnel. The officials return with more confidence and more knowledge. In this way, Sweden really can support the promotion of democracy and human rights. Finding key bright individuals in the MoJ and providing them with learning opportunities can broaden minds.

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SWEDISH INTERNATIONAL DEVELOPMENT COOPERATION AGENCY
S-105 25 Stockholm, Sweden
Tel: +46 (0)8-698 50 00. Fax: +46 (0)8-20 88 64
Telegram: sida stockholm. Postgiro: 1 56 34-9
E-mail: info@sida.se. Homepage: <http://www.sida.se>