

**Evaluation of the Samoa Ministry of
Justice and Courts Administration
Institutional Strengthening Programme
MJCA ISP Evaluation Report**

Commissioned by:
The New Zealand Agency for International Development Nga Hoe Tuputupu-mai-tawhiti

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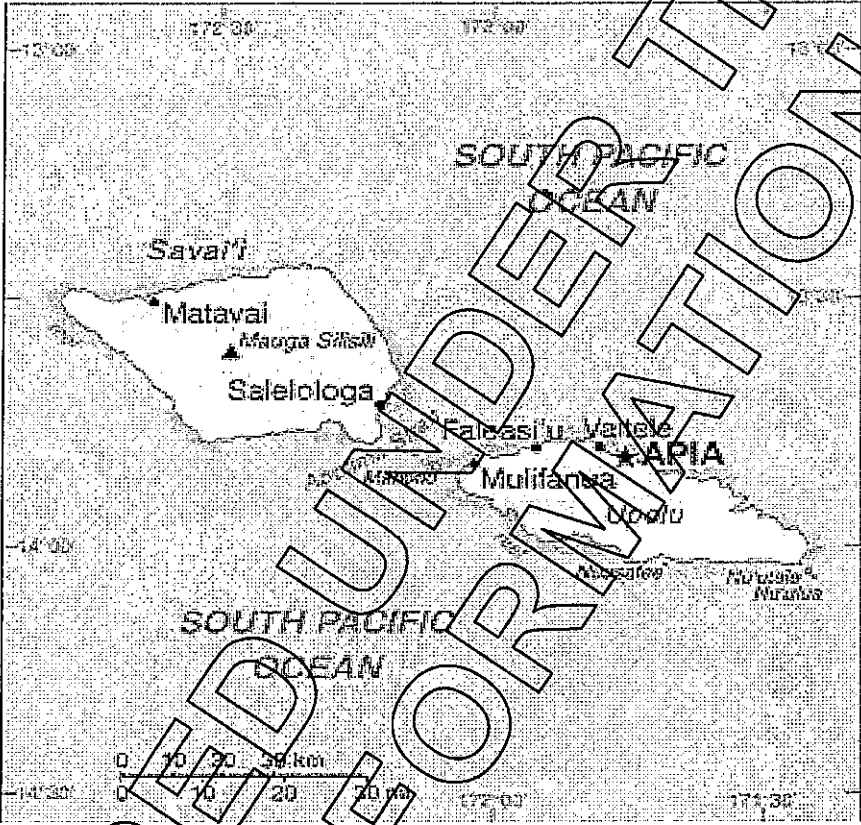
Independent State of Samoa
20 May 2010.

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Map of Independent State of Samoa



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Project Data, Acknowledgement and Disclaimer

Country:	Independent State of Samoa.
Activity Name:	Samoa Ministry of Justice and Courts Administration Institutional Strengthening Programme.
Program:	Bilateral.
Location of Activity:	National level, Courts of Samoa, Probation Service, Censorship Office.
Counterpart Agencies:	Ministry of Justice and Courts Administration; Samoa Ministry of Finance, Aid Coordination Unit.
Managing Contractor:	Kurrajong Hill Pty Ltd.
Programme Advisor	Ms. Fiona Kotvojs
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GoNZ Agencies:	Department of Corrections, Ministry of Justice, and Office of Film and Literature Classification.
Evaluation Team Members:	James Mc Govern (Team Leader); Lorenz Metzner (Team Member); Ms. Mareva Betham-Annandale (ACEO Legal, Policy, Planning, Evaluation and Censorship, MJCA, internal representative).
Key Dates:	
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PID	May 2006
Implementation	May 2006
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2 nd Annual Plan	June 2008
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Approved Cost of Activity	
Government of New Zealand:	NZD 2.3 million

Acknowledgement and Disclaimer

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This report only reflects the views of the MJCA ISP Evaluation Team. It does not necessarily reflect the views of the Government of New Zealand, its Agencies involved in the implementation of the ISP, the NZAID Programme, the Government of Samoa, nor of any of the agencies and individuals consulted during the mission.

Executive Summary

Background

1. From May 2006 to October 2009 the New Zealand Government (GoNZ), through its international development assistance programme (NZ Aid) funded an institutional strengthening programme (ISP) at the Ministry of Justice and Courts Administration (MJCA) in the Independent State of Samoa (Samoa).¹ The ISP represented the second phase of GoNZ assistance to the MJCA, following completion of an initial ISP, which ran from 1999 to 2004, support companies' law reform, computerisation of the births, deaths and marriages registry and establishment of a Law Commission. GoNZ's Department of Corrections (DoC), Ministry of Justice, (MoJ), and the Office of Film and Literature Classification, (OFLC) provided the bulk of the technical assistance personnel (TA personnel) under the second ISP, which ran from 2006 to 2009. A Task Force, (members of the MJCA Executive), supported by a MJCA ISP Coordinator (a MJCA staff member) and a Management Services Consultant (MSC), as Programme Advisor, coordinated implementation of the Programme, in collaboration with the New Zealand Ministry of Foreign Affairs and Trade's overseas development assistance programme (NZ Aid Programme) Development Programme Coordinator (in Apia) and the Development Programme Officer (in Wellington). A Programme Coordination Committee (PCC), consisting of representatives from the MJCA, the NZ Aid Programme, key law and justice sector (LJS) stakeholders and community representatives, provided overall strategic and coordination oversight.

Purpose of Evaluation

2. Following completion of Programme, NZ Aid contracted an external evaluation team with the combined purpose of assessing the results achieved under the ISP for learning and accountability, informing the MJCA and the Samoan LJS about outstanding institutional strengthening priority needs, including any gaps that have not been previously identified. The evaluation is expected to also contribute to the Government of Samoa and NZ Aid learning about ISPs, in general.

Methodology

3. The Evaluation adopted a consultative approach, including establishment of an Evaluation Steering Committee (ESC), which approved an Evaluation Plan describing on the scope, objectives and methodology of the Evaluation. The Evaluation Team felt that it was important to take advantage of opportunities for all members of the Evaluation Team to build each other's capacity, and open and frank communication was adopted internally.

4. The Programme was assessed against the criteria of **Relevance, Effectiveness, Efficiency and Sustainability**. Methods were employed to gather and analyse data included: ISP document review; literature review; semi-structured interviews; capacity development assessment; face to face interviews and discussions; a short questionnaire; development of a Performance Assessment Framework (PAF); feedback and verification of data sources; and capacity building of Evaluation Team members. An Evaluation Plan is set out at Annex 5.

5. A number of limitations was identified in the Evaluation Plan and some limitations emerged during the field mission including: (i) Setting a milestone for ESC approval of the Evaluation Plan during the field mission (six days into the fourteen days available) presented difficulties in addressing some of the feedback received in the remaining time available for field work in Samoa; (ii) The ESC never met in real time resulting in individuals' feedback being received rather than a single set of consolidated ESC comments; (iii) ESC members gave conflicting recommendations about the Evaluation Plan; (iv) Assumptions about logistics responsibilities on the part of both the NZ Aid

¹ Preparatory work for the ISP commenced in November 2005, with a scoping mission, funding of MJCA building renovations, and a legislative drafting review. The official launch of the ISP was in May 2006.

Programme and the MJCA caused delay; (v) The questionnaire was distributed to only to MJCA staff following its late approval; (vi) ISP reporting was largely narrative and did not generate measurable data against indicators; and (vii) Statistics and data requested from the MJCA were not forthcoming.

Key findings:

Relevance

6. Design and implementation of the ISP, including its goal were strategically relevant to both GoS and GoNZ, according with priorities identified under the GoS, GoNZ, Government of Australia (GoA), Joint Samoa Program Strategy 2006-2010, the GoS Strategy for the Development of Samoa 2005-2007, the NZAID Programme's Pacific Strategy, and the MJCA's strategic and corporate plans. The ISP's design and implementation was also reported to be relevant to the needs of the people of Samoa through the priorities set by their democratically elected government. In addressing access to justice the ISP was reported to be relevant to regional initiatives, such as the Pacific Judicial Development Programme (PJDP) and the move toward a sector-wide approach in Pacific island countries. The focus on support to improving quality of specialist technical capacity, including legislation (*Young Offenders Act 2007*, *Community Justice Act 2008*, and amendments to the censorship legislative framework), integration of Samoan cultural aspects into probation and parole services,² and moderate capital expenditure (vehicles and equipment) were all reported to be highly relevant to the MJCA's needs. An additional focus on process, including middle management training at the National University of Samoa (NUS), case management procedures, strategic policy, planning and evaluation, human resources development, human resources management, and quality assurance processes were also reported to be highly relevant to MJCA needs. Through reported improvements to service delivery, these were also relevant to the needs of the public. Responsiveness of both the NZAID Programme and GoNZ Agencies to flexibility meet MJCA requests also resulted in increased apparent relevance of the ISP to MJCA needs. Nonetheless, some instances of externally driven timings for TA personnel inputs were reported by both TA personnel and MJCA staff,³ reducing the relevance of those inputs. Although members of the judiciary indicated satisfaction with the ISP's support, it was reported to be largely not relevant to ongoing judicial education needs, particularly regarding new legislation supported through the ISP. The ISP was also reported to have been marginally relevant to the needs of the Maintenance Section and the Land and Titles Court Division (LTC). However, the combination of technical and systemic foci, although not clearly articulated as an outcome in the ISP's design and implementation documents, was reported to have been relevant in supporting the MJCA to engage effectively with the emerging LIS Plan.

Effectiveness

7. The ISP was overall successful in achieving its stated objectives. Key strengths in achieving outcomes included the establishment of an ISP Task Force and ISP Coordinator from within MJCA staff, which was reported to have increased effectiveness by housing responsibility for decision-making and implementation directly with in-line managers and adopting existing structures. The combination of the ISP's focus on technical and process issues was also considered a strength, together with its flexibility and responsiveness to changing needs. Key weaknesses in achieving outcomes included a Design Component structure which was pitched at the activity-level, rather than at a strategic level. This resulted in changes at the activity level having significant negative impact on the ISP design structure. For example, one quarter of the originally designed objectives were lost by the end of Year 1. A multi-layered coordination and communication management arrangement

² Namely incorporating elements such as: delegating supervision of offenders to village/community leaders; ensuring that community work hours are aimed as the local villages where offenders reside; and ongoing family involvement and support in the management of the offenders receiving community based sentence.

³ One example was Lesley Campbell's (NZAID-DoC MOU) April 2008 four week input into Probation and Parole Section. This input was viewed by both MJCA staff and the TA personnel herself as poorly timed for a number of reasons.

also frustrated cohesion across the ISP, minimising opportunities for synergies. A poor description of anticipated outcomes and patchy reporting against indicators created difficulties in measuring effectiveness. A brief statement of the ISP's key achievements against its objectives is set out below.

Objective 1: To improve the efficiency and effectiveness of the Courts in Apia and Tuasivi.

The streamlining of criminal and civil registry procedures, improving the MJCA's interaction with the public and the legal profession, was reported as being effective in increasing access to justice. Although some Tuasivi office staff benefited from middle management training and ISP-supported MJCA-wide process enhancements, support to improving access to justice at Tuasivi office was not prioritised through the ISP, with only limited engagement of TA personnel.

Objective 2: To develop a probation service that integrates international best practice with Fa'a-Samoa for both adult and juvenile offenders.

The significant support to probation and parole, including support to establishment of Community Justice Supervisors, was reported as effective in increasing access to justice. MJCA staff work place attachments (WPA) in New Zealand were considered effective where the working environment was relevant to the MJCA's needs.

Objective 3: To satisfy the needs of maintenance clients by way of effective processes and prompt enforcement.

Despite receiving some assistance, including office refurbishments and capital equipment, the GoS' consideration of transferring responsibility for the Maintenance Section to the Ministry of Women, Community and Social Development (MWCSO) resulted in the ISP adopting a holding pattern on this in terms of targeted TA personnel inputs. The Maintenance Section participated in MJCA-wide ISP support. This objective was largely unrealised.

Objective 4: To improve the efficiency and effectiveness of Mulinu Court (LTC).

The middle management training at the NUS was also seen as very effective in supporting the MJCA's senior staff. The LTC jurisdiction was withdrawn during the Programme Implementation Document (PID) process from targeted ISP support, although it did receive generic MJCA-wide systems support. This objective was largely unrealised.

Objective 5: To improve the effectiveness of the censorship office in the classification of material, enforcement and education.

Support to revised legislation and procedures in the Censorship Office, together with procurement of additional modern viewing equipment and access to a vehicle was reported to have increased its effectiveness, permitting the Censorship Office's consideration of an increased number of films and inspections and enforcement on both Upolu and Savai'i; community education received less focus.

Objective 6: To strengthen MJCA's capacity in policy, planning and evaluation.

Support to strategic planning was reported to have assisted the MJCA to plan for and better meet its service requirements, and placed it in a leading position in the context of the emerging LJS.

Objective 7: To strengthen MJCA's capacity in selected core areas: quality assurance; human resource management and information technology.

Human resource management (HRM) processes and information technology (IT) strategies are in place. Quality assurance processes continue to face challenges, in particular, timeliness in the provision of information. The approach of a small number of TA personnel and GoNZ workplace exchanges diluted the effectiveness of their inputs with respect to capacity development, with some returning early.

Objective 8: MJCA's quality assurance processes and business assurance programme operating

Strategic planning and core business assurance processes are operating. Insufficient focus on systemic centralised records management affected ISP effectiveness in increasing access to justice, with resources allotted to records management reallocated for procurement and materials. Systematic data generation relevant to improvement is weak.

Efficiency

8. The ISP's NZD2.3 million budget was largely efficiently deployed through a combination of grant funding to the GoS for procurement of capital expenditure, contracted TA personnel through a MSC, and secondments through Memoranda of Understanding (MoU) with NZAID. The Task Force led decision to reallocate resources to train 32 mid-level managers through a specifically designed management training course at NUS was a highly efficient use of available resources. MoU-facilitated TA personnel inputs cost approximately the same as contracted inputs contrary to the initial assumption that this would be a more cost-efficient method of accessing TA. The timing of TA inputs only rarely did not accord with stakeholder expectations. Due to perceived budgetary constraints and weaknesses of capacity development approaches, some contracted TA inputs did not meet expectations, resulting in ongoing unmet needs in key areas, such as the offender management system (OMS) for Probation and Parole. The Task Force as a management structure aligned well with MJCA internal processes, and was reported to have allowed efficient use of time by managers for decision-making and follow up. While the ISP's reporting requirements aimed to align with GoS requirements, Task Force members considered the ISP's financial reporting requirements onerous. The PCC was an inefficient vehicle for wider consultation on, and oversight of, the ISP. PCC members indicated that staff with better knowledge of ISP processes and expected outcomes would have been better able to track progress. While the decision not to have a Programme Advisor based permanently in Samoa was sound, (although in conflict with a key recommendation from the 2002 review of Phase 1 of the ISP), the existence of both a Programme Advisor and a DoC Coordinator, both of whom were externally contracted and not GoNZ Agency staff, was an inefficient means of supporting ISP coordination and communication.

Sustainability

9. Ongoing interest by probation and parole staff on integration of Samoan cultural aspects and continued revision of probation processes evidences a high degree of reported sustainability of ISP efforts in this area. Inputs on revising the Parole Act, however, were not continued, although these may be picked up by legislative review contemplated under the LJS Plan. Key technical improvements in particular in legislation and Court processes are sustained following the ISP, as are improvements in capacity and legislative framework of the censor's office. Stakeholders external to the MJCA largely noted increased efficiency in the MJCA's external interface, and an increased sense of enthusiasm and professionalism on the part of MJCA staff. The ISP's inputs into process, including training on policy and planning, HRM and human resource development also appear likely to be sustained through the leadership of the Chief Executive Officer (CEO). This reliance on the CEO to sustain certain high-level ISP outcomes will result in succession planning becoming a consideration of increasing importance for the MJCA. Task Force decisions on phasing of activities to: prioritise support to Apia Courts and rolling out to Tuasivi at a later time; diminish focus on the Maintenance Section, and focus ISP interventions on the Probation and Parole Section, have meant that sustainability of ISP outcomes outside Apia is weak. Although this may be partly due to the ISP's design the rationale for these phasing decisions does not appear to have been founded on strategy, but on practicalities. Low priority accorded by the ISP to support for judicial education, partly due to the existence of the PJDP, has meant that establishment of scheduled MJCA support to judicial education has not been realised, reducing potential sustainability of legislative changes supported through the ISP. The use of the Task Force was reported as a highly sustainable

outcome from the ISP, with the MJCA executive management team unanimously supporting this approach, including for future support. Relationships with key GoNZ Agencies, particularly the DoC are likely to be sustained where relevant to need, providing a resource in particular for the Probation and Parole Section.

Crosscutting themes

10. While a mainstreaming approach was incorporated into the Design Document, the development of the PID, and subsequently in some activities (probation and parole), systematic incorporation of crosscutting themes, as an intrinsic part of all ISP activities and reporting, did not occur, and advocacy of these themes was weak. MJCA staff familiarity with the impact and relevance of crosscutting themes to the MJCA's core activities was low. For example, despite a number of TA personnel adopting gender mainstreaming approaches, it did not appear to be a key priority under the ISP, and stakeholders interviewed felt that gender-specific challenges were minimal in Samoa. This is contrary to international reporting on gender in Samoa. Reporting against crosscutting themes was virtually non-existent. Gender mainstreaming was weak, although sex-disaggregated data were reportedly available (namely, the Probation and Parole Section), it was not made available to the Evaluation Team. Consequently, the ISP's capacity to capture differential outcomes from the ISP for men or women, the poor, or vulnerable appears limited, as the focus of the ISP's activities was on supporting the MJCA's internal systems and processes. Some differential outcomes were, however, noted with respect to geographical coverage of ISP support as between Upolu and Savai'i due to Task Force decisions on phasing of ISP support to focus on Courts in Apia. Differential outcomes of ISP support were also noted as between the District and Supreme jurisdictions on the one hand and the LTC jurisdiction on the other, and for the Maintenance Section. These differential outcomes are again largely attributable to the Task Force decision regarding prioritisation of ISP support.

Recommendations – future support

11. Despite some shortcomings in implementation of the ISP, the NZAID Programme is well positioned to support the MJCA to realise its position as a key justice agency in the LJS, and to build on gains. Possible areas for NZAID Programme support, listed in order of priority, and reflecting potential Components of a future programme which aligns with the LJS Plan priorities include:

(i) Strengthen systems and processes

12. Under Goal 2 of the LJS Plan (Access to Justice) the MJCA is the lead agency for the strategy of strengthening systems and processes, such as establishing case management systems and computerised information management system (IMS) for the Sector.

13. **Improve records management.** The MJCA has identified this as a critical gap requiring future technical support. Potential activities could focus on the establishment of standardised electronic IMS to improve records security and accessibility, in particular in administration in the LTC Division where records evidence genealogies. The impact of fire or a natural disaster on the records, given their current state, would have significant negative cultural impact.

14. **Strengthen corporate services:** MJCA monitoring and evaluation (M&E) processes still require substantial development so that the ministry is able to effectively engage, manage and provide progress reports on its own activities, on specialist TA personnel, and efficiently direct its own capacity development and learning activities.

15. **Support strengthening of Courts administration:** Development of LTC procedural reforms, analogous to those developed in the Courts Section, is warranted. The importance of the LTC jurisdiction, its deep cultural significance, and the volume of cases it administers, would result in targeted support having a significant bearing on access to justice. The structured roll out of the

Court Section's improvements to administration and registry processes in Tuasivi also appears warranted.

16. **Improve effectiveness of Censorship Office:** Efficiencies achievable through cross-rating from New Zealand for PG and G films would permit time community education and inspections of video stores. More structured and effective community education on censorship would enable people to better understanding censorship and the cultural reasons underlying this. Strengthening capacity and process gaps in enforcement and education would help make censorship consistent, fair and better understood. Some scope for further support through the OFLC could be pursued.

17. **Support small-scale capital expenditure:** subject to sustainability considerations, minor support to MJCA capital expenditure (computers, vehicles) is suggested to enable proposed new staff, and existing personnel who are currently under-resourced, to be appropriately equipped and trained. Though this improvements in overall productivity within the MJCA can be realised. Expenditure would be low with the NZAID Programme's resources principally devoted to provision of specialist technical training expertise. Environment should be considered in support to any capital expenditure.

(ii) Strengthen customary and community-based justice processes

18. Under Goal 3 (Customary and Community-based Justice) the MJCA shares the lead with the MWCSO for the strategy of increasing community awareness of formal and community-based justice systems, including public awareness on Court and village meeting procedures.

19. **Further integrate Samoan culture into probation and parole:** The MJCA has identified a need for further technical support to probation and parole policy development, including incorporation of Samoan cultural aspects to improve the potential positive impacts that these policies have on offender management, and ultimately, on rates of recidivism. Fine-tuning the design and operation of community justice supervision and support so that the probation and parole OMS is a technically operational system are also needed.

(iii) Improve knowledge and practice

20. **Conduct research and gather performance data:** The MJCA's performance monitoring and reporting is weak, including on service delivery. Establishment of independent annual LJS performance reports would provide Samoan justice agencies with concrete information about their performance. Law and Justice Sector Secretariat (LJSS)-coordinated sector level data gathering activities, such as, knowledge, attitude and practice surveys, and targeted research, for example on gender, can be anticipated only after one or two years of LJS Plan implementation. In the interim, independent 'mini' service delivery surveys gathering independent performance data for the MJCA would contribute to the adoption of this approach in the LJS, support budget submissions, and strengthen MJCA M&E processes. The NZAID Programme could then use this support as a platform to roll out performance reporting across the LJS.

21. **Support judicial education:**⁴ A regular schedule of seminars for the judiciary, particularly for legislation notified by the Office of the Attorney General (OAG) is highly desirable.⁵ Support for sustainable access by the judiciary to case law and research databases, including support for budget submissions, also appears necessary.

⁴ Judicial education activities do not feature on the LJS Plan, although it is recognised that the Plan is a 'living document' and future amendments may contemplate this important activity for the Sector.

⁵ Coordination would be needed with the support provided through the regional PJDP.

(iv) Strengthen management and coordination

22. **MJCA manages Programme directly:** The MJCA would need to manage any future GoNZ support through the Task Force model, with the CEO as chair – this is a departure from the previous Task Force model. A smaller GoS Ministry of Finance (MoF)-led PCC would improve engagement and oversight quality. Separate community consultation and feedback activities would achieve better results than by rolling this into the PCC. One externally contracted periodic Monitoring and Technical Advisor position to support the Task Force in prioritisation of activities, quarterly work planning and monitoring, using MJCA M&E processes, is suggested. It is suggested that the MJCA holds responsibility for all procurement, including contracting and management of all national and international TA personnel.

23. **GoNZ provides direct budgetary support:** Subject to a fiduciary risk assessment, direct budgetary support to the MJCA through MoF for all future support, including for procurement of TA personnel services, is suggested. A modest annual investment of NZD500,000 over the next three years is recommended. This would align with GoS processes, increasing efficiency, and developing MJCA's capacity to managing external assistance. Clarity of risks and an acceptance of risk would be required. Annual up-front allocations against agreed priorities are suggested to reduce contestability for limited resources amongst MJCA Divisions. These could be acquitted on a quarterly basis, mirroring MJCA internal planning, budget and reporting processes. The NZAID Programme could transition its support to the LJS once a work programme is in place to implement the LJS Plan.

24. **Harness GoNZ Agency relationships:** The MJCA should assume direct responsibility for harnessing relationships between itself and GoNZ Agencies, which may serve as valuable sources for technical expertise and advice, if required, for both the MJCA and the LJS. Further work place attachments at GoNZ Agencies would also be of benefit for Task Force identified MJCA staff.

25. **Harmonise LJS strengthening:** Ongoing NZAID Programme support would provide the GoNZ with opportunities for further dialogue with GoS and with other donors, such as GoA, to support activities that impact on sector performance, realising definite improvements in access to justice in Samoa. Through harnessing existing relationships and with a modest investment, for example supporting data generation and analysis, GoNZ would be able to make a significant contribution to the LJS by building evidence for future work. GoNZ withdrawal from the LJS may result in loss of momentum within the MJCA (and the LJS) on systemic improvements. Building a closer relationship with civil society also remains a key challenge for the MJCA. The NZAID Programme is in a strong position to support the MJCA to meet its challenges.

Priority Activities

26. The following priority activities are suggested to take this Report forward: (i) A round of consultations at the GoNZ, GoS and the LJS level to communicate results of the ISP Evaluation Report; (ii) IT and related capacity development support to the OMS; and (iii) A joint NZAID Programme-MJCA planning meeting to identify possible areas of GoNZ support

Lessons Learned

ISP partner to lead design and implementation with TA support

27. A key success of the ISP was the MJCA's active involvement in the design, and managing implementation via the ISP Coordinator and the Task Force. Ensuring that programme design receives adequate TA inputs to produce a good quality design are also necessary. Aligning ISP management with MJCA decision-making structures maximised sustainability and strengthened the MJCA's confidence and ability to develop and manage its own continuous learning and capacity development activities.

Use existing systems to maximise efficiency

28. Use of partner government systems for M&E, progress reporting, and procurement, reduces additional administrative burden. Although the ISP MJCA indicators the ISP M&E processes were over-engineered and the conduct of M&E activities were weak.⁶ Adopting the partner institution's M&E processes, or where these are weak, jointly strengthening them would also accord more closely with aid effectiveness principles. Using partner government systems requires donor willingness to assume associated risk and deploy mitigating strategies, such as fiduciary risk assessments. The NZAID Programme appears poised to adopt this approach in Samoa, in light of its experience in tsunami relief activities.

Simplify coordination and communication arrangements

29. Complicated ISP coordination and communication produced unnecessary administrative burdens. When planned streamlining of coordination and communication in latter years occurred, the MJCA grew more comfortable with its role and abilities to drive the ISP. Appointment of only one externally contracted focal point rather than two, and adoption of a 'team' TA personnel approach would have increased coherence, achieving greater synergies and increasing the ISP's effectiveness. Streamlined and regular communication, (scheduled face-to-face meetings) between the donor and the target institution facilitates checking of assumptions. Contracting of TA personnel also needs to be uncomplicated and meet the needs and timelines of the target institution.

Clearly describe the theory of change through a phased approach

30. Clearly articulating stages of implementation of the ISP clarifies expectations for both the partner institution and the donor, and provides sensible milestones for parties to check progress against expected (intermediate) outcomes. This also recognises that individual and organisational capacity development takes time and adjustments will be required. The PDD and PID did not clearly identify intermediate outcomes nor did they provide a clear picture of success anticipated at the end of the ISP. One way of ensuring the clear articulation of intended change is to incorporate phasing into the design. Through this, key milestones are set, against which review can take place. Keeping M&E framework as simple as possible to avoid getting lost in the detail is also required. Conducting M&E activities to accurately populate M&E Frameworks is also required to provide a clear picture of progress.

Maintain flexibility and responsiveness through dialogue

31. Development programmes are at their best when they remain flexible and responsive within a programmed framework. The ISP responsiveness to MJCA needs, including the NZAID Programme staff and the Programme Advisor's flexibility and responsiveness to emerging MJCA requests (some made at very short notice), allowed the MJCA to maximise absorption of benefits. However, flexibility and responsiveness of this scale is best avoided. ISP design needs to be pitched at a more strategic level. This enables changes to individual activities to be made, while avoiding loss of design integrity.⁷ Strategic design is required, so that implementation flexibility and responsiveness centres on implementation of programmed activities, rather than whether or not to implement components of the programme. Dialogue about the prioritisation of changing needs over the life of an ISP is key to ensuring programme flexibility and responsiveness.

⁶ The MJCA faced significant difficulty in providing monitoring information requested by the Evaluation Team, and reports against indicators did not generate data which would be analysed to provide comparative perspective of improvements over time resulting from the ISP's inputs.

⁷ For example, one quarter of the originally designed objectives fell away by the end of the first year as was the case with the current ISP.

1. INTRODUCTION

1.1 Background⁸

1. The Independent State of Samoa (Samoa) is a Pacific Island Country with a total area of 2,860 km² and a population of 219,998. At the outbreak of World War I in 1914, New Zealand occupied Samoa, which was then a German protectorate known as "Western Samoa". New Zealand administered Samoa as a mandate and then as a trust territory until 1962, when Samoa re-established its independence. Samoa's Head of State is His Highness Tuiatua Tupua Tamasese Efi (since 20 June 2007) who has the power to dissolve the 49-member unicameral legislature. The Prime Minister is head of government and there are 12 members of cabinet. The legal system is based on English common law and local customs. Judicial review of legislative acts with respect to fundamental rights of the citizen exists, and the administration of justice is organised into the Court of Appeal, the Supreme Court, District Court⁹ and Land and Titles Court (LTC). The economy of Samoa has traditionally been dependent on development aid, family remittances from overseas, agriculture, and fishing. Agriculture employs two-thirds of the labour force and furnishes 90%, with the manufacturing sector mainly processes agricultural products.

1.2 Phase 1 of support to the Samoan Ministry of Justice and Courts Administration

2. As part of its public sector reform programme begun in 1996, the Government of Samoa (GoS) sought assistance from the Government of New Zealand (GoNZ) to strengthen the Justice Department and to establish a Law Commission. An institutional strengthening programme (ISP) was implemented from 1999 to 2004 and included strengthening the then Justice Department's capacities in the areas of policy, planning, management, rationalising human and technical resources, institutional capacities, financial responsibility, human resource policy and management. The ISP also supported companies' law reform, computerisation of the births, deaths and marriages registry and establishment of a Law Commission. This first phase of the ISP was funded through GoNZ's Ministry of Foreign Affairs and Trade's (MFAT) overseas development assistance programme (NZ AID Programme) with a budget exceeding NZD3 million. A 2002 review of the ISP recommended a further phase of the ISP, subject to strengthened governance mechanisms and that the Department of Justice increase its responsibility and ownership of the ISP.¹⁰ During the GoS' public sector reform, 21 public sector ministries were realigned and reduced to 13, including the amalgamation of the Department of Justice and the Judiciary into the Ministry of Justice and Courts Administration (MJCA). A 2003 review of the first phase of the ISP recommended that further assistance was required to embed gains made and to support the restructuring of the MJCA.

1.3 MJCA ISP Design

3. The newly restructured MJCA identified three priority areas for support through the design of a new ISP in 2006 (the second phase). A joint GoNZ and GoS inception mission in May 2006 developed a detailed programme implementation document (PID) and identified a fourth priority as follows: (i) improving efficiency and effectiveness of Court administration; (ii) developing a probation and parole service that operates the Samoan way and integrates international best practice with *Fa'a-Samoa*¹¹ for

⁸ See: www.cia.gov/library/publications/the-world-factbook For further background information, please also refer to the Terms of Reference for this Review, set out in Annex 2.

⁹ The Fa'amasino Fesoanoani Court (FF Court) deals with cases where the fine is less than WST1000 and with traffic offences.

¹⁰ Recommendations also included a more permanent Management Services Contractor (MSC) presence in country.

¹¹ Samoan culture, or "the Samoan way".

both adult and juvenile offenders; (iii) improving the effectiveness of the censorship office; and (iv) improving the efficiency and effectiveness of corporate support areas including policy development, human resource management, staff training and development and use of information technology.

4. The ISP design, implementation schedules and annual plans were developed to align with MJCA's corporate planning goals (2005-2007) and with broader strategic national, regional and international directions in mind.¹² These included the: 2004 Forum Leaders Pacific Plan goals that cover regional security, sustainable development and good governance; the governments of Samoa, Australia and New Zealand's Joint Samoa Program Strategy 2006-2010 (JSPS) goal to strengthen law and justice to support a safer Samoa; the 2005-2007 Strategy for the Development of Samoa (SDS) goal of enforcing law and order are integral to achieving Samoa's community development goal and overall vision of "an improved quality of life for all"; and the 2008-2017 SDS, under the national goal of improved governance and the priority area on improved public sector management and environmental sustainability.

5. The design of the ISP included the goal of realising "a justice system accessible to all in Samoa (i.e. one that is efficient, equitable, affordable and transparent) serviced by an effective MJCA." The ISP design did not contain a purpose statement. The ISP sought to build the capacity of the MJCA to support the SDS 2005-2007.¹³ The MJCA's Corporate Plans from 2005-2007 and 2008-2011 described the MJCA's ambition to become the best Court administrator in the Pacific Region. The MJCA ISP was designed to include the following eight Components with objectives reflected below.

1. To improve the efficiency and effectiveness of the Courts in Apia and Tuasivi.
2. To develop a probation service that integrates international best practice with Fa'a-Samoa for both adult and juvenile offenders.
3. To satisfy the needs of maintenance clients by way of effective processes and prompt enforcement.
4. To improve the efficiency and effectiveness of Mulinu Court.
5. To improve the effectiveness of the censorship office in the classification of material, enforcement and education.
6. To strengthen MJCA's capacity in policy, planning and evaluation.
7. To strengthen MJCA's capacity in selected core areas: quality assurance; human resource management and information technology.
8. MJCA's quality assurance processes and business assurance programme operating.

1.4 MJCA ISP implementation (2006/2009)

6. The MJCA ISP was a NZD2.3 million investment by the NZAID Programme. The ISP design commenced in 2005, with implementation commencing in May 2006 and completing on 31 October, 2009. The ISP was delivered through:

- A Programme Coordination Committee (PCC) chaired by the Chief Executive Officer (CEO) of the MJCA, with members from the NZAID Programme, key law and justice sector (LJS) agencies and civil society stakeholders, which provided overall strategic coordination oversight of the ISP;
- A Task Force comprised of Assistant Chief Executive Officers (ACEOs) from the MJCA, which took responsibility for technical implementation of ISP activities within areas of responsibility;
- A MJCA-internal ISP Coordinator, who provided coordination support to ISP implementation;

¹² Activities were refined and adjusted in subsequent annual plans in response to MJCA's evolving organisational development needs. This flexibility and responsiveness proved crucial to the ISP's successes.

¹³ MJCA ISP PDD, p12.

- Technical assistance personnel (TA personnel) who were sourced either from:
 - GoNZ Agencies through Memoranda of Understanding (MoU) with the NZAID Programme including the Department of Corrections (DoC)¹⁴, the Ministry of Justice, (MoJ) and the Office of Film and Literature Classification (OFLC); or
 - A Management Services Contractor (MSC), Kurrajong Hill Pty Ltd;
- An externally contracted¹⁵ Programme Advisor who provided ongoing support and coordination to ISP Implementation.

1.5 Purpose of the Evaluation

7. The purpose of this independent Evaluation of the Samoa MJCA ISP is to: (i) assess the results achieved under the ISP for learning and accountability; (ii) inform the MJCA, the LJS and other donors about outstanding institutional strengthening priority needs, including any gaps that have not been previously identified; and (iii) contribute to learning about ISPs for the GoS and the NZAID Programme. Evaluation objectives are set out in Annex 2 to the Evaluation Plan, (see Annex 3 to this Report), which is a table listing draft evaluation questions under each objective and a draft approach for each question. The Evaluation field mission was conducted in Wellington and Apia between Sunday 28 February and Saturday 20 March, 2010.¹⁶

1.6 Evaluation Methodology¹⁷

8. The Evaluation adopted a consultative approach, including establishment of an Evaluation Steering Committee (ESC), which approved an Evaluation Plan describing on the scope, objectives and methodology of the Evaluation. Open and frank communication was adopted internally within the Evaluation Team. This aided the conduct of the Evaluation, by ensuring that cultural and social aspects of conducting the Evaluation in Samoa were appropriately taken into account, and that analysis, discussion and the drawing of conclusions was transparent and consultative.

9. The Programme was assessed against four criteria. (i) **Relevance**: whether the activity contributes to higher-level objectives of the aid Programme (outlined in country and thematic strategies); (ii) **Effectiveness**: whether the activity achieves clearly stated objectives and outcomes; (iii) **Efficiency**: whether the activity is managed and has processes in place to get value for money from inputs of funds, staff and other resources, and to continually manage risks; (iv) **Sustainability**: whether the activity appropriately addresses sustainability so that its benefits continue after funding has ceased, with due account of partner government systems, stakeholder ownership and exit strategy.

10. The following data gathering and analytical methods were used: (i) **Programme Document Review** – as part of preparation and field work, ISP, NZAID, GoNZ Agency, GoS and MJCA documents were reviewed. A list of reference documents is set out in Annex 9; (ii) **Literature Review** – a literature review of regional ISPs and law and justice programmes was conducted to determine current practice in law and justice programmes, including programmes targeting the judiciary; (iii) **Semi-structured interviews** – stakeholders were interviewed with the aim of eliciting information to meet inquiries against each of the evaluation criteria. References which guided these semi-structured interviews are set out in Annex 2 (Draft Evaluation Questions), Annex 3 (Guiding Questions on Aid Effectiveness), and Annex 4 (Draft Programme Evaluation Questionnaire) to the Evaluation Plan. The Evaluation Plan is set out as

¹⁴ An externally contracted DoC Programme Coordinator provided support to the GoNZ's DoC.

¹⁵ Through Kurrajong Hill Pty Ltd.

¹⁶ The Evaluation Team comprised of two independently contracted external members, Mr. James Mc Govern, Team Leader, and Mr. Lorenz Metzner, Team Member, and a representative of the MJCA, Ms. Mareva Betham-Annandale, ACEQ Legal, Policy, Planning, Evaluation and Censorship.

¹⁷ The Evaluation Plan, set out in Annex 10, describes the Evaluation Methodology in detail, and this section provides a brief summary.

Annex 5 to this Report; (iv) **Capacity development assessment** – examination of the ISP's theory of change was conducted to identify anticipated outcomes at intermediate stages and to assess improvements in skills and knowledge, improvements in the use of skills and knowledge, and improvements in organisational change to see whether these improvements actually impacted on individuals, on the MJCA as an institution, and on the LJS as a whole; (v) **Face to face interviews and discussions** – a number of interviews was conducted on an individual basis. Face to face interviews and discussions were less structured and applied more to senior managers. These interviews and discussions elicited further information, particularly relating to background to the ISP and to future needs. Some of these interviews were follow up interviews, aiming to seek verification of information elicited elsewhere; (vi) **A short questionnaire** – an Evaluation Questionnaire was distributed, a copy of which is annexed to the Evaluation Plan; (vii) **Feedback and verification of data sources** – a number of methods was employed to verify data sources, including: follow up interviews and discussions; review of documentation; distribution of a questionnaire; concluding comments during interviews and discussions aimed to confirm the Evaluation Team's understanding of responses provided during the interview, and email and telephone communication with MJCA representatives in Apia and with former TA personnel; and (viii) **Capacity building of Evaluation Team members** – opportunities were provided during the Evaluation for Samoan and expatriate Evaluation Team members to lead discussions and provide input and analysis which contributed to the Evaluation results.

11. The Evaluation Team managed ethics associated with the Evaluation as follows. (i) Each interview commenced with a clear and concise description of the purpose of the evaluation and the use of information and opinions provided, including their confidential nature; (ii) Where a conflict of interest for Evaluation Team members and/or interviewees was identified, this was brought to the attention of the interviewee, and taken into account in the Evaluation Team's conclusions and findings based on the interview – to the knowledge of the Evaluation Team Leader, this took place on only one occasion; (iii) In discussing confidentiality of responses, the Evaluation Team underscored with interviewees that individual responses would not be attributable, and that the Evaluation Team would weigh these individual responses against other available data and information, to ensure maximum accuracy. Only one interviewee raised concern about confidentiality of responses; (iv) Interviews and group discussions were conducted in a semi-structured manner, ensuring that both women and men, and more senior and junior participants had roughly equal opportunity to contribute to discussions. Only on one occasion did an interviewee feel that the ISP had ignored his experience and potential contribution, and the Team Leader highlighted regret that the interviewee felt this way, and underscored the opportunities for the individual to contribute to future MJCA development objectives.

1.7 Limitations to Evaluation

12. A number of limitations applied to the Evaluation, largely due to practical and logistics realities. While ESC feedback on the Evaluation Plan was provided to the Evaluation Team on 9 March, the day after the Plan was due to be signed-off, this milestone was set some nine days after the Evaluation Team had arrived in Samoa. This made it difficult to address some of the feedback received in the remaining time available for field work in Samoa (as was acknowledged by the ESC in their feedback). While most of the ESC concerns were addressed, the ESC's review of the Evaluation Plan prior to the Evaluation Team arriving in Samoa would have permitted sufficient time to consider any suggested changes and to maximise the use of the Evaluation Team's limited time for data gathering in Samoa. At the start of fieldwork it was also unclear where responsibility lay for logistics support for the Evaluation, including organising the schedule and meetings. This meant trying to organise interviews at short notice which affected the availability of some participants and some interview time was lost.

13. The Evaluation Team circulated a short questionnaire to identified stakeholders, including to MJCA management and staff and the PCC. The purpose of the questionnaire was to complement the Evaluation Team's other data gathering activities. The questionnaire was designed to be anonymous.

Some Steering Committee members highlighted constraints in the use of a questionnaire in this context. The Evaluation Team felt that the questionnaire had the potential to complement other data gathering. Following approval of the Evaluation Plan, the Evaluation Team circulated an amended questionnaire incorporating suggested ESC comments. Only one completed questionnaire was returned, and based on advice received, the questionnaire was not relied upon.

14. Baseline data collection and analysis were not conducted at the outset of the ISP. Further, no intermediate expected outcomes were posited at specific points during the ISP, nor was there a clear picture of what success for the ISP would look like – a final expected outcome. Available ISP progress reporting against the agreed indicators was narrative, generation of data against agreed indicators did not accord with defined indicators, and data gathering was not conducted systematically. Accordingly, data collection and analysis activities (monitoring and evaluation [M&E] activities) as against indicators to populate the ISP's M&E logframe were weak. Statistics and data were requested from the MJCA against a number of indicators. While some information was forthcoming, a substantial amount of the information requested was not provided. The Evaluation Team considers the most likely reasons for this are that relevant data are not collected, or that there are no systems in place to effectively access data, once it has been generated. Accordingly, conclusions and judgements reached in this report are largely made on the basis of a review of the documents provided and on field mission interviews. Data, to the extent that they are available, are used to support these conclusions. A Performance Assessment Framework (PAF) for the Evaluation is set out in Annex 6.

2. EVALUATION AGAINST CRITERIA

2.1 Summary assessment

15. The following discussion is structured around the PAF developed as part of the Evaluation. The PAF is structured around the intended outcomes of the ISP as defined in the project logframe matrix. It assesses the outcomes achieved over the implementation period by undertaking a strategic assessment of the ISP's effectiveness, relevance, efficiency, and sustainability under each of its eight objectives. Further, an evidence-based assessment of capacity development in terms both individuals and systems (focussing on individual, organisational, and institutional capacity) - based on available data, interviews, discussions and the document review - was also undertaken. In the assessment of the Evaluation Team, the MJCA ISP was overall a successful programme. It was relevant to the needs of the MJCA by closely aligning ISP activities with institutional and strategic development goals, and ISP decision-making structures with those of the MJCA. It was reported to have strengthened the MJCA's administration of justice through the development of both individual capacity and institutional systems and processes, thereby positively supporting improved access to justice in Samoa. The ISP was effective in promoting change by focussing support on developing planning, management and process capacity within the MJCA, as well as selected equipment procurement. Samoan cultural considerations and stronger community involvement were incorporated into the MJCA's activities, particularly probation and parole by the ISP supporting selected technical and legislative developments. Implementation, management, and use of available resources under the ISP were largely efficient, although ISP communication and coordination was less so. MJCA leadership of the ISP and flexibility in prioritising resources and budgets were reported to have resulted in improved efficiency, particularly through prioritising the use of Samoan resources over international options. Sustainable outcomes have been achieved, including the development of systems and processes that continue to be used, including processes guiding the MJCA's continuous improvement. The MJCA's clients reported improvements in performance and service delivery. Challenges face the sustainability of a small number of ISP outcomes, notably the use of the Offender Management System (OMS) and the Censorship Office's cross-rating of films. Further, outcomes under Objectives 3 and 4 are less tangible, although it is noted

that both the Maintenance Section and the LTC Division received ISP-wide support including renovations and procurement of resources.¹⁸

2.2 Relevance

To what extent have the Programme results been relevant to improving the accessibility of the Justice System for all Samoans and the effectiveness of the MJCA?

16. The MJCA ISP Programme Design Document (PDD) and the PID were developed to align with MJCA's corporate planning goals (2005-2007) and with broader strategic national, regional and international directions in mind. Alignment with this broader strategic direction included: (i) 2004 Forum Leaders Pacific Plan goals that focus on regional security, sustainable development and good governance; (ii) the SDS 2005-2007 to achieving Samoa's community development goal and its vision of "improved quality of life for all"; (iii) the SDS 2008-2012 national goal of improved governance and the priority area on improved public sector management and environmental sustainability; and (iv) the JSPS 2006-2010 goal to strengthen law and justice to support a safer Samoa.

17. The ISP's goal of: "A Justice System accessible to all in Samoa (i.e. one that is efficient, equitable, affordable and transparent) serviced by an effective Ministry of Justice and Courts Administration"¹⁹ clearly aligns with these institutional, country-level and regional and development objectives, with the result that, strategically, the ISP was relevant to the MJCA's, the GoS' and GoNZ's development goals. A participatory methodology was adopted in developing both the PDD. Four MJCA staff members were included in the design team, in addition to a NZAID Programme contracted team leader and technical advisers from the GoNZ, DoC, the OFLC, and a former member of the MoJ. Three of MJCA's design team representatives spent a week in New Zealand to jointly finalise the PDD.

18. The MJCA was again intimately involved in the development of the PID, which took place in Samoa at the commencement of the ISP, with five MJCA staff joining the Programme Adviser and technical advisers from the DoC, OFLC, and MoJ. Feedback received in discussions with the MJCA Executive and several members of the design and PID-development teams, was strongly supportive of this participatory approach. This close engagement in all stages of the ISP was reported to have ensured relevance of the ISP to institutional needs, as MJCA management and key staff members were closely involved in guiding activities, and institutional priorities were incorporated into the ISP as they arose. An in principle agreement during the PID process that MJCA's Maintenance Section would be assigned to the Ministry of Women and Community Sector Development (MWCSD) led to a Task force decision to limit support to the Maintenance Section and focus ISP support on the Courts Section and the Probation and Parole Section. This effectively eliminated Objective 3 from the ISP. Similarly, during Year 1, the Task Force determined that Objective 4 – support to the Mulinu Court (LTC), would also be discontinued. The degree of relevance of the ISP outcomes to beneficiaries is described in the PAF, set out at Annex 6.

Capacity building: Did activities: improve accessibility to the justice system for the wider public?

19. Feedback received during the Evaluation's discussions and interviews indicated that overall the ISP supported the MJCA to promote a "...Justice System accessible to all in Samoa..."²⁰ Improvements were reported in promoting an "...effective Ministry of Justice and Courts Administration..." and ISP support also aligned well with the MJCA's mission, defined in its 2005-2007 Corporate Plan: "To be the best court administrator in the Pacific Region."

¹⁸ The Programme was described in the Programme Implementation Document (PID) in eight Components. In 2008 this was reduced to seven Components to reflect the MJCA's Strategic Plan, although Programme documents retained the original numbering.

¹⁹ PDD, at page 7.

²⁰ Ibid.

20. Interviewees reported that the ISP increased accessibility to justice by: combining the civil and criminal registry and the associated payment of lodgement fees in a single location. This was noted by a number of legal practitioners, including the Attorney General and the President of the Law Society. Members of the Judiciary, including the Rt. Hon. Chief Justice noted improvements in servicing of the Courts, reducing delays resulting from incomplete or lost files. Interviews with Community Justice Supervisors, probation and parole staff and non-governmental organisations (NGOs) indicated that the development of Community Justice Supervisors in probation, enabling the inclusion of the community and Samoan cultural concepts in the administration of justice had improved access to justice for communities. Both the legal profession and the judiciary noted the strengthened customer service focus of the MJCA, improving the MJCA's interaction with the public and legal profession and the distribution of filing checklists to private sector lawyers clarifying document requirements prior to lodgement²¹ was well recognised as a factor driving increased efficiency in the administration of justice. Provision of vehicles²² was reported to have improved MJCA's access to communities and more responsive servicing of clients outside of the MJCA's Apia office. Further, the middle management training provided much needed administration and management skills for this group of MJCA staff. Interviews with Tuasivi MJCA Office staff and the MJCA CEO indicated that work placements of selected Tuasivi-based staff in the MJCA's Apia office strengthened operations in Savai'i. A stronger focus on customer service was noted in interviews with MJCA staff, with the judiciary and with members of the legal profession. This approach, in combination with the new MJCA office and Courts facilities in Apia, and new MJCA office in Tuasivi, has improved the status of the MJCA in administering justice on both Upolu and Savai'i.

21. While positive outcomes are noted, a number of elements limited broad-based improvements in access to justice during ISP implementation. Direct TA personnel inputs and continued ISP activities did not focus on the Maintenance Section and on the LTC Division, both of which engage intensively with the public on a daily basis. The result was that while these sections received MJCA-wide ISP assistance, such as for office space renovations, procurement of computers and a fax, Training of Trainers (ToT) training, OA inputs, etc., neither area received targeted TA inputs from specialists in their areas of operation. The positive impacts on access to justice generated in other sections of the MJCA, (for example the Courts Section where checklists for filing documents increased certainty for the legal profession and increased the quality of files as noted by the judiciary), were, therefore, less fully realised within the Maintenance Section and the LTC Division.

22. A Task Force decision was made to prioritise support to Apia Courts Section and to roll out substantive support to Courts in Tuasivi at a later time. This decision regarding phasing of support was made during implementation and appears to have been partly due to changes in Task Force membership. Consequently, only limited direct engagement by the ISP of personnel occurred in Savai'i. The effect of this was that strengthening of systems and staff capacity to improve access to justice in Tuasivi was significantly more limited than in the MJCA's Apia office. There also appears not to have been significant consideration given to the timing of phasing of support to Tuasivi Courts.²³

23. The Task Force's decision to limit the ISP's focus on centralised records management resulted in limited improvements in the operation of the Records Section over the life of the ISP. The quality of records management has improved during the ISP, and security within the new MJCA buildings in Mulinu'u and Tuasivi is also significantly enhanced.²⁴ However, accessibility of available records to the

²¹ Members of the legal profession reported that these filing checklists were very helpful to ensure that documents were complete prior to filing. This is a good example of an outcome which resulted from a TA personnel input through the ISP, and which is helping to drive efficiency not only within the MJCA, but also within the wider legal profession.

²² Three vehicles were purchased under the ISP: two Hilux pick ups (1 for Probation & 1 for Warrants); and one vehicle which is now used interchangeably for Probation and Administration work.

²³ See also paragraphs 36 and 37 below.

²⁴ Although this increase in security from the new facilities is not attributable to the ISP.

public and lawyers is still limited and there is currently no capacity for electronic storage, searching, and retrieval of records, which would significantly improve access.²⁵ Records management is of particular significance for the LTC jurisdiction and given the current state of the records, a natural disaster or a fire would have significant negative cultural impact on the LTC jurisdiction, as only hardcopy records exist as evidence of genealogies relevant to land and title decisions.²⁶

24. Engagement with the wider community and NGOs was largely limited to public consultations on draft legislation and through the PCC. Feedback received on the community consultations held during the legislative development was positive, with community engagement on the *Young Offenders Act 2007* and the *Community Justice Act 2008* seen as being effective. The PCC, however, did not prove to be an effective vehicle for promoting ongoing community engagement, with a PCC community representative indicating that it would have been preferable to have those more intimately involved with MJCA management involved in PCC decision making. Further, targeted strategies that promoted community inclusion and actively addressed the inability of marginalised groups to access the support of the MJCA were not developed as part of the ISP's implementation strategy. The ISP did not seek out broader community views on areas of concern, including perceptions of crime, which could have linked ISP activities to NZAID Programme's crosscutting issues.

Capacity building: Were activities relevant to the needs of staff?

25. The establishment of the MJCA Task Force at ACEO level within MJCA ensured the close engagement of the Executive with the ISP. It also enabled the MJCA to guide, and at times direct, the progress and direction of ISP activities. The Task Force was perceived as a key mechanism for the management of the ISP by the MJCA Executive because it mirrored MJCA internal structures and responsibilities and allowed flexibility in management and responsiveness to emerging priorities, which changed over time. This Task Force approach also promoted both leadership and increased the relevance of the ISP's activities to the MJCA and its staff members' needs.

26. A good example of this was the decision to reassign the resources initially allocated to send a small number of MJCA staff offshore to undertake management training. Funds for the proposed offshore training were reallocated following Task Force consideration (with support from the Programme Advisor) toward supporting broader, more institutionally relevant, management training for 32 MJCA mid-level managers at the National University of Samoa (NUS). Discussions with a number of the participants of the middle management training (both in Apia and in Savai'i) clearly demonstrated that this reallocation was a good example of the ISP meeting staff members' capacity development needs. Deputy Registrars from the LTC Division were particularly keen to pursue further studies and commented positively about the quality and relevance of the training course, which was specifically designed to meet MJCA mid-level managers' needs. The Evaluation Team also met with the MJCA staff member (probation and parole) who achieved the best results for the course, and who appeared enthusiastic and enlivened by the experience. Additional discussions with the supervisors of those MJCA staff members that received the middle management training indicated that their ability as managers had been strengthened – for many this was the first post high school formal training. Areas of change reported included improvements in staff management, time management, reporting, professionalism, and confidence in the execution of management duties.

27. The Evaluation identified a number of ISP activities as having strong relevance to the operations and performance of the MJCA (in addition to the middle management training noted above).²⁷ Discussion groups and semi-structured interviews highlighted a number of recurring 'themes' where

²⁵ Improved access to records was experience following the digitising of the Births, Deaths and Marriages records under the first phase of the ISP. It is likely that such an improvement in accessibility would also occur with general MJCA records.

²⁶ The Evaluation Team notes that two earlier pieces of work on records management were commenced. Any future support to this area would need to build on this previous work.

²⁷ Outcomes achieved by the ISP are discussed in the 'Effectiveness' section, below.

MJCA management and staff repeatedly noted the value and relevance of the ISP to their capacity development needs. These themes included the following.

28. *Support to the Probation and Parole Section* - a partnership approach between the long-term TA personnel and MJCA staff to develop procedures for the section was seen as positive and promoted capacity development. Feedback also noted that the development of an operations manual and self-paced learning materials were relevant as they assisted new staff in particular in undertaking their responsibilities more effectively.

29. *Combining of the criminal and civil registry* - the development of a single registry, clearly defined procedures, and checklists for filing improved the MJCA's interaction with the public and the legal profession. Consistency and clarity with respect to filing requirements, and checking of documentation being submitted at the time of filing, was reported to have enabled the registry to operate more effectively and impacted positively on the quality of files being developed. Feedback received from judges in particular supported this, with positive comments being made on the significant improvement in the quality of files being presented to the Courts. The technical inputs that supported the MJCA to develop these procedures were highly relevant to the internal and external service delivery requirements of the Registries and to the capacity development needs of the staff.

30. *Support to Warrants Section* - support provided by TA personnel to develop processes, to improve the record keeping Excel database, and to develop collection procedures and incorporation of these into an operations manual for the section was seen as very positive. Section staff interviewed expressed greater confidence in undertaking their duties, and there was also the perception that transparency in the fine collection process had been improved. Staff also noted that fine collections had increased as a result of these changes, and that coordination with the Samoa Police Service, with responsibility to enforce warrants, had improved.²⁸

31. *Support to the Censorship Section* - through amendments to *The Film Control Act 1978* and the support to develop and document classification procedures. As at the time of the Evaluation, approximately 80% of the Censorship Office's time was required for classification, which is consistent with the findings of the Programme Adviser.²⁹ Time savings with regard to classification were not as substantial as anticipated as cross-rating of films no longer takes place.³⁰ Feedback received in interviews indicated that cross-rating does not occur given the very specific cultural context within which classification decisions are made in Samoa. Further, with changes in staffing, in particular the Chief Censor position, new approaches appear to have been adopted over time. Despite this, additional time now available to the Censorship Section's staff is allocated to the section's other activities.

32. *Capital expenditure on procurement of vehicles and equipment* - while ISP supported procurement did not address all equipment-related requirements of the MJCA and was largely conservative, this expenditure was highly relevant to the MJCA's needs. Information technology (IT) procurement formed a significant part of total ISP expenditure³¹ and this has enabled improved quality

²⁸ Data was requested, but not forthcoming.

²⁹ A reduction of previous work time on classification from about 97% - Programme Adviser's *Completion Report Final - Supplement to MJCA Completion Report*, at page 6.

³⁰ Cross-rating is a classification technique where rating decisions made by the New Zealand OFLC for certain films could be used in Samoa reducing the time required to view and classify films by the MJCA's Censorship section. The PDD proposed that cross-rating for G and PG rated films only. The Censorship Adviser estimated that cross rating would reduce the Censorship section's viewing workload by between 10 and 15% (*Report on Outcome of 2007 Censorship Advisor Input, December 2007*).

³¹ Disaggregated figures were not available, however, estimates based on figures developed in the 2007-2008 Annual Plan indicated that IT-related expenditure was approximately 11% of total ISP expenditure. Direct funding to the MJCA / GoS under the ISP was approx NZD685,000 - around 30% of total ISP expenditure, which was largely for procurement. Based on a summary of the 'procurement annex' from June 2008 around NZD260,000 was spent on procurement of IT and related equipment.

of administration through access to computers and related equipment for the purposes of key activities such as reporting and database use and update. Purchase of vehicles has allowed better interaction with the community and Community Justice Supervisors, enabled more effective service of warrants (and revenue collection), and also allowed the Censorship Section to undertake compliance inspections more regularly. Maintenance costs of this equipment remains to be prioritised by the MJCA, although stakeholders indicated that given the move to the new building, recurrent costs, and maintenance was emerging as an important issue for the MJCA and was accordingly being incorporated into budget submissions.

Capacity building: Did activities: improve service delivery?

33. Improvements in the MJCA's service delivery as a result of the ISP were reported. Areas of improved service delivery noted in discussions included the following.

34. *Quality of files and reports presented to the Courts* – Registry staff now check documents prior to acceptance of files for registration. Members of the judiciary were overwhelmingly supportive of the approach, which they felt had improved the quality of files presented to them. Files are also being repaired to restructure these in a more logical and ordered manner, and improved quality of reporting due to reporting procedures and report writing training;

35. *Significant reduction in the instance of lost files* – due to both improvements in filing and some records management systems resulting from the ISP, as well as to the new document storage facilities in both Mulinu'u and Tuasivi. Members of the judiciary, including the Rt. Hon. Chief Justice himself commented favourably on the reduction in lost files as a positive outcome of the ISP³²;

36. *Improved consistency in the performance of core tasks* – relating principally to the Courts, Warrants, and Probation and Parole Sections. The use of procedures, manuals and checklists was seen as promoting consistency. Feedback received, however, highlights that there are some differences in perception as to whether certain procedures required by the MJCA are required by law. One example given related to the requirement for affidavits to be lodged when filing cases. Concern was expressed as to the uncertain legislative basis for this requirement in some circumstances. Nonetheless, feedback from Community Justice Supervisors evidenced a professionalism and supportive approach on the part of the Probation and Parole Section;

37. *Development of call-over lists* – introduction of call-over lists has streamlined the call-over portion of the Supreme and District Courts' work by up to 50%. Further, making these lists available via email to external agencies, such as the Office of the Attorney General (OAG) was also perceived as a positive improvement in client servicing on the part of the MJCA and as helping to drive efficiency within the LJS;

38. *Increased confidence of MJCA staff in undertaking their tasks and responsibilities* – while a less tangible outcome, this change in the staff was noted by a majority of interviewees, reporting that MJCA staff engages more effectively and professionally both with external clients (the public and the legal profession) and with internal clients, including members of the judiciary. Positive perceptions were also expressed relating to the MJCA's new offices in Mulinu'u, which in combination with systemic changes give a sense of heightened efficiency and professionalism to the MJCA's operations.

39. There is a broad-based recognition on the part of the MJCA's Executive that ongoing improvements to service delivery are possible and required. This is a positive unintended ISP outcome in that it evidences the development of a culture of professionalism and continuous improvement within the organisation through participation in the ISP over a sustained period.

³² In contrast, members of the legal profession, including the Attorney-General and the Law Society President, noted that a small number of cases is stalled within the Courts, including at least one case for which the parties have been awaiting a decision for at least 15 years.

How effective were the working arrangements and linkages with other multilateral, regional or national law and justice sector activities and planning?

40. During the ISP's term, there was a number of projects and programmes conducted in the LJS. MJCA staff interviewed noted that the NZAID Programme was supportive in maintaining the flow of information regarding these projects and programmes and that this enabled working relationships and opportunities for coordination of activities to be maximised.³³ Direct partnerships between the ISP and other justice sector activities were limited. Interaction focussed on promoting information sharing and general coordination of activities, with the ISP engaging with the following wider justice sector support activities: the Governance Assistance Fund support to the GoNZ Crown Law Office prosecutions support activity to the OAG; Pacific Prevention of Domestic Violence; Samoa In-Country Training Programme; the Australia Agency for International Development's (AusAID) Pacific Governance Support Programme; and the NZAID Programme's Pacific Programme for Strengthening Governance.

41. Non-ISP support to, or interaction with, the MJCA during the ISP's implementation period was as follows. *The Pacific Judicial Development Programme (PJDP)*: The Programme Adviser and the PJDP Program Director held coordination discussions and undertook information exchanges to identify ways in which the two programmes could coordinate, and to avoid the duplication of activities. Additionally, assistance was received from PJDP and the LEADR Association of Dispute Resolvers in establishing mediation as part of civil and criminal cases. A committee was established to look at the broader introduction of mediation through the Courts system with the Chief Justice as Chairperson and the Attorney General, MJCA CEO, Ombudsmen, and two private legal sector representatives as members.

42. *The Samoa Police Project (SPP)*: Discussions were held regarding potential opportunities for several joint activities. The first related to the establishment of a joint PCC as members for both the SPP and ISP PCCs were substantially the same - this did not occur. Further, the possibility of conducting combined training activities and sharing some facilities was also explored, however, once again, this did not occur.

43. *ADB Customary Land Project (CLP)*: There was a close link between this project and the activities of the LTC. Exchange of reports and some information sharing occurred, and investigation of the records management at the MJCA and the LTC Division was also undertaken by the CLP. Information provided to the Evaluation Team in the Draft Completion Report, however, indicates that no activities were undertaken with respect to MJCA records management processes.

44. *Public Sector Improvement Facility (PSIF)*: this facility approved a grant of \$100,000 to the MJCA for assistance to review and undertake legislative drafting for the *Land and Titles Amendment Act 2008*; *Divorce and Matrimonial Ordinance 1961*; and *Maintenance and Affiliation Amendment Act 1997*. Activities under this grant were contracted out by the MJCA to a consultancy law firm.³⁴

45. Other smaller-scale activities during the ISP's lifetime included AusAID Australian Youth Ambassador for Development Program (AYAD) position through which the MJCA submitted a number of requests for AYAD support with one position being approved for a 'Young Offender Rehabilitation' role. Inputs occurred between October 2008 and April 2009. In 2008 UNICEF approved funding for a Youth Court Council Meeting including workshops focussing on child care and protection, patterns of offending, dealing with young offenders, facilitation of meetings, domestic violence and diversion. The MJCA participated in trials of a database of statutory materials, court judgements and general legal materials with assistance from the Pacific Legal Information Institute (PacLII). Law Library Twinning - this AusAID funded activity provided legal reference material to Samoa, with some additional IT training being provided in which MJCA participated.

³³ Samoa MJCA Institutional Strengthening Programme: Draft Completion Report - December 2009, at page 21.

³⁴ Due to a number of factors including the availability of consultants and scheduling of community engagement activities, the scheduled six-week activity took almost two years to complete.

46. The MJCA participated substantially in the preparation of the LJS Plan 2008-2012. As a result of the LJS Plan's development, Samoa is currently undergoing a shift in the strategic focus for development assistance to the LJS from agency-based to sector-wide support. A number of mechanisms has been put in place to support the establishment of the LJS and the ongoing development of LJS Plan. Mechanisms include: (i) a Steering Committee, comprised of the CEOs of justice agencies³⁵; (ii) Lead Agency, currently the OAG; (iii) Judicial Advisory Committee, providing an avenue for the judiciary to express its views on the LJS, while avoiding involvement in policy-making; (iv) Working Group, comprised of senior justice agency officers; and (v) The LJS Secretariat (LJSS), sitting within the Lead Agency, providing management and administrative support. The LJSS also provides a mechanism through which international community support, such as the ISP, can contribute.

47. Under the LJS Plan, individual justice agencies are identified as leading agencies for implementation of key activities under sub-strategies of the LJS Plan. For example, the MJCA shares joint Leading Agency with the Samoa Police Service for implementation of key activities of the sub-strategy of implementing crime management processes and systems under Goal 1 – *Community Safety* – of the LJS Plan. Similarly, as an integral part of the MJCA, the ISP contributed to the identification of LJS goals, particularly through support provided to strategic planning and policy formulation. Although not clearly articulated in the PDD and PID, the focus on strengthening MJCA planning and management processes under the ISP was reported to have enabled the MJCA to participate effectively with other justice agencies in the sector to support the ongoing development of a work programme to operationalise the LJS Plan.

Conclusion - relevance

48. The ISP was relevant to the needs of the MJCA by closely aligning ISP activities with organisational and strategic development goals, and ISP decision-making structures with those of the MJCA. It is reported to have strengthened the MJCA's administration of justice through the development of both individual capacity and organisational systems and processes, thereby positively supporting improved access to justice in Samoa. The ISP was also relevant to GoS and GoNZ strategic priorities, and GoS development priorities. The ISP was also relevant to the development of a Samoan LJS, and the ability of the MJCA to engage effectively with the sector.

2.3 Effectiveness

Describe the rationale for change (Theory of Change) articulated by the MJCA ISP Programme Implementation Document

49. The rationale for change articulated in the PID was based on the premise of using and building upon existing MJCA systems rather than creating new or parallel ones. Structured around MJCA's Corporate Plan, the ISP was to provide the necessary skills to the MJCA so that the Ministry would be able to manage future support programmes without external assistance. A capacity building approach was adopted to achieve this. As part of the ISP's approach to successfully give the MJCA "...the assets and ability to complete the required functions to the required standards"³⁶ a number of elements were defined in the PID, including that all assistance was to maximise the transfer of skills from the adviser to MJCA staff. Advisers and counterparts were peers and were to work as a joint team. Building capacity was more important than completing a defined activity on time. Sustainability was a key consideration so that MJCA's achievements assisted by the ISP were aligned with MJCA priorities and able to be maintained following the completion of the ISP. Finally, ISP M&E was to be integrated fully with the MJCA's M&E.

³⁵ LJS justice agencies include: OAG, Ministry of Police and Prisons, MJCA, Office of the Ombudsman, and MWCSO.

³⁶ PID, at page 32.

50. While this rationale underpinned a sound approach to the ISP, supporting ownership and leadership from within the MJCA, and ownership of Programme outcomes, the link between the capacity building approach, objectives, activities, and overarching goal of the ISP was unclear. Although an overarching ISP goal was defined,³⁷ no ISP-specific purpose was identified to focus proposed activities on the immediate outcomes that the ISP was to achieve. Further, high levels of activity-level definition in both the PDD and PID logframes and in the description of the ISP in eight activity-focussed Components, suggest an output-focussed, rather than a strategic capacity building centred, approach to implementation.³⁸ Reflecting MJCA priority activities in the ISP design at the Component level created vulnerability in the Programme design; decisions to discontinue individual activities affected the Design's Component structure. When the Task Force decided to reallocate resources away from the Maintenance Section and the LTC Division, two of the eight Components (or one quarter of the ISP Design) were abandoned. It is suggested that a more robust Programme Design that contained a Component structure pitched at a more strategic level might have better tolerated changes at the activity level. It is possible to argue that due to poor Programme Design, one quarter of the ISP fell away within the first year.

51. Further, the ISP's rationale for change did not clearly articulate the stages or phases of implementation. That is, intermediate anticipated outcomes were not posited. Consequently, no priority areas or 'building blocks' were identified at the outset whereby early ISP capacity building was used as the basis for commencing subsequent interventions. Further, data gathering exercises to generate data measuring improvements as a result of the ISP's inputs were not conducted. From documents reviewed and discussions with members of the Task Force, discussions about phasing of the ISP's activities took place and decisions were made. For example, support to the Maintenance Section was removed at the time of PID development³⁹ so that only general support from MJCA-wide activities occurred. Subsequently, direct ongoing ISP support to the LTC Division and the MJCA office in Savai'i was also limited to MJCA-wide activities. While this flexibility in phasing or prioritising ISP support allowed the MJCA to maximise absorption of the ISP's benefits to meet its changing needs, there is no clear evidence of the rationale behind these decisions and how or whether they aligned with a theory of change underpinning the ISP. For example, did they fit within the parameters determined by a theory of change so that the Task Force could be confident that in making these decisions, they were heading down a path that would realise the intended outcomes of the ISP? That is, while the practical reasons for the phasing decisions appear to be logical and well reasoned, there is little available evidence that this thinking was encapsulated in a phased approach, supporting the MJCA to realise the ISP's goal.

To what extent have these intended outcomes been achieved?

52. Support to strategic planning was reported to have assisted the MJCA to more effectively plan for and better meet its service requirements. MJCA staff viewed the development of a framework for MJCA policies and associated training of Policy and Planning Section staff as highly effective and targeted at the appropriate level. Further, co-facilitation of policy training for wider MJCA staff by the Adviser and section staff enabled effective knowledge acquisition, with the Policy and Planning Section staff noting increased confidence in the use of the framework as a result of this approach.

53. The PID defined a range of objectives that focussed on a number of technical and process issues. This combined focus appears effective in that it ensured that ISP support was available to develop both technical frameworks and then support their application within the MJCA's operations. A practical example of this was the incorporation of culturally appropriate and community inclusive offender management mechanisms into the sentencing regime. Technical support was

³⁷ "A Justice System accessible to all in Samoa (ie one that is efficient, equitable, affordable and transparent), serviced by an effective Ministry of Justice and Courts Administration, PDD, at page 7.

³⁸ At least two TA personnel noted that timelines for inputs were influenced either by external pressures (in some cases GoNZ Agencies) or by budgetary constraints, limiting capacity building opportunities.

³⁹ This was due to the likely relocation of the Maintenance section to the Ministry of Women and Community Services.

provided to draft the *Young Offenders Act 2007* and the *Community Justice Act 2008*. This legislation was reported to have had a significant impact on the nature and scope of the Probation and Parole Section's activities through the establishment of Community Justice Supervisor activities. ISP support was also available to address the process implications of this legislative development, enabling effective management systems and procedures to be incorporated in the section's operations.

54. Consequently, the ISP was reported to have integrated international best practice with Samoan cultural approaches by incorporating elements such as: delegating supervision of offenders to village/community leaders; ensuring that community work requirements take place in the local villages where offenders reside; and ongoing family involvement and support in the management of the offenders receiving community based sentences. Early during implementation, the Probation and Parole Section reviewed NGO's interest in working with offenders. At that time, a poor response was received and this resulted in the MJCA shifting the focus of its engagement to work closely with Village Councils and community leaders.⁴⁰ The Probation and Parole Section was supported by 22 Community leaders supervising 80 probation clients in October 2008 (8 months after commencement of the initiative).⁴¹ Feedback received during the Evaluation from the MJCA, Community Justice Supervisors, and external stakeholders (both within the GoS and the community) was positive, indicating that this shift in focus was effective.⁴² Further, this quick and sustained 'up-take' of community inclusive offender management into the Probation and Parole Sections activities demonstrates the cultural relevance and appropriateness of the approach adopted by the ISP,⁴³ and strengthened support to probationers after the completion of probation.

55. Community Justice Supervisors were enthusiastic regarding the offender management approach, and supportive of future improvements. The need for ongoing refinement of offender management strategies has also been acknowledged by the MJCA as being critical to ensure that these strategies remain relevant and effective. Areas identified in the Evaluation where ongoing development is required to impact recidivism rates, included the need to continue improvements in the quality of information provided to Courts, including pre-sentencing reports.⁴⁴ Establishment of links with rehabilitation programmes and development of relationships with NGOs was also identified.⁴⁵ Finalisation of the revised Parole Act to further strengthen the framework supporting the integration of international best practice with Samoan cultural practices in offender management in Samoa was identified.⁴⁶ And finally, development of regional networks to enable experiences in the integration of culture and local customs into probation and parole practice to be exchanged was also identified.

56. The development of the OMS was seen as less effective. Senior Probation and Parole staff indicated that the OMS was valuable as an integrated data collection and management tool and collected the right type of information. The fact that the system was modelled on an existing system in Vanuatu could be attributed to efficiency. The OMS was reported to have assisted greatly with the creation of probation and parole reports. While the database as a system is potentially operational, it is

⁴⁰ Department of Corrections Coordinator: October 2008 Input Report Appendices, at page 4.

⁴¹ Department of Corrections Coordinator: October 2008 Input Report, at page 1. Up to date statistics were requested but no made available.

⁴² The effectiveness of incorporating traditional social and cultural systems into offender management strategies is further supported when looking at rates of imprisonment per 100,000 population in four countries of comparable geographical and cultural backgrounds, namely - *American Samoa*: 410; *New Caledonia*: 205; *Samoa*: 99; and *Vanuatu*: 90. One of the main differences in imprisonment rates between these four countries is that Samoa and Vanuatu have largely maintained their customary social and cultural structures (*NZ DoC: Feedback on Samoa MJCA ISP Draft Evaluation Report.*)

⁴³ Data to support these reported improvements was not available.

⁴⁴ Improvements were noted as having occurred by judicial members interviewed.

⁴⁵ Noted as being necessary in interviews with the MJCA, Community Justice Supervisors, and community representatives.

⁴⁶ Note, the perspective of the Department of Corrections Coordinator was, however, that the absence of this legislation did not fundamentally affect the work of the Probation and Parole Service - *Department of Corrections Coordinator: October 2008 Input Report Appendices*, at page 3.

not currently being used as it is not 'up and running' and accessible to MJCA staff. Consequently, Probation and Parole staff has reverted to manual data collection and reporting systems. Feedback received indicated that factors contributing to the current non-operation of the OMS database included that relevant agencies held differing views about whether adoption/adaptation of the Vanuatu OMS system or development of a new Samoan system from scratch was the best option and this led to delays in rolling out the OMS. The late delivery of computer hardware (procured in Samoa) and budgetary constraints⁴⁷ resulted in insufficient time available to complete functional testing, and to consult and train staff. Finally, a lack of clarity and communication of TA personnel's Terms of Reference (ToR) – TA personnel never recognised that their ToR included a requirement to provide on-the-job or ToT training for the OMS.⁴⁸

57. In view of the above, further work on the OMS appears necessary. By adopting a capacity building approach, and including further IT support for OMS development, MJCA IT staff will gain a thorough understanding of OMS functionality and design. More training for OMS users on its use, together with definition of different roles in managing the OMS are also required. Finally, establishment of an online support system, such as an online user help desk or a forum web site shared by OMS users, so that they can communicate and share their experiences on OMS related issues, and provide feedback for system improvement, would be useful.

58. Streamlining of Court Section procedures, particularly through the merging of the criminal and civil registries, the integration of the lodgement-fee payments with the registration processes, and improvements in the Court Section's process by the development of manuals, simple databases and procedural checklists was reported to have enabled more efficient provision of services. In discussions with MJCA Executive and staff, the allocation of responsibilities for both registration and fee-collection functions within the Corporate Services Division was reported to have improved fee collection, and was perceived as a significant improvement in transparency. If substantiated, these developments appear to have also increased both accountability and access to justice. As part of the PID, system-level performance indicators were incorporated in to the ISP's M&E framework. Improvements in the performance of Courts administration were to be assessed by a reduction in the number of (i) hearings pending that are older than three months, and (ii) deferrals requested by Courts, Police or OAG.⁴⁹ Despite a number of requests by the Evaluation Team for data against these indicators, no data were made available which would allow the Evaluation Team to make an assessment of whether the performance of courts administration has improved over the life of the ISP.

59. Support to amend legislation and develop procedures in the censor's office, together with procurement of viewing equipment were reported to have improved the effectiveness of this section in undertaking both its classification and enforcement functions. Discussions with censorship staff indicated that ISP's assistance in developing classification guidelines promoted consistency in the classification of films. Colour-coded labels carrying film classification information are now also being used, making different film ratings more easily distinguishable for end users. Further, staff time not

⁴⁷ Further to a MJCA request, the NZAID Programme funded three additional TA personnel inputs to those planned, for further development of the OMS. The budget spent on the OMS development (NZD140,000) and training is considerable in relation to the comparative size of the users and 'clients' of the system.

⁴⁸ A great benefit of the ISP's approach to the OMS is that it is modelled on a functioning system in Vanuatu. The Vanuatu experience shows that the OMS there is a success because:

- Sufficient support is available for the OMS, including for system maintenance and add-on features, on demand user help, and user training;
- The OMS is widely used in the Vanuatu Corrections Department and users find the OMS a useful tool for information gathering and decision making; the more users use the system, the more effective it is by way of providing feedback to OMS developers; and
- Users are trained and offered different roles to facilitate the process and validation of systems usage instead of relying on IT personal only. The Vanuatu Corrections Department therefore has overall control of the system.

⁴⁹ PID, at page 38.

spent on classification is now being used to conduct more effective compliance inspections both on Upolu and on Savai'i, where the current Principal Censor travels once every two weeks. Effectiveness of inspections has, however, been constrained by the requirement to access to a vehicle on a roster basis, thereby making *ad hoc* or 'snap' inspections difficult.⁵⁰ Ongoing community education activities regarding classification and film ratings are not envisaged, however, awareness-raising activities on the amended censorship legislation are planned once the amendments to the Act have been passed.

60. MJCA staff highlighted a number of training and professional development activities as being effective in meeting the organisational and staff capacity development needs, these included the following. *Work Place Attachments (WPA) in GoNZ Agencies* - MJCA participants noted that the experience gained through WPA was highly valuable. It was also noted that this exposure enabled participants to develop a better understanding of the underlying rationale for some of the changes proposed by TA personnel and how these 'fitted into the whole'. Further, the WPA enabled participants to take back to the MJCA certain experiences and skills that they were able to adapt and apply. One practical example given was the way in which NZ MoJ staff managed the civil and criminal registry. This approach was found to be effective and has been adapted and incorporated in the way District Court cases are now managed by the MJCA;

61. *Middle management training at the NCS* - as noted above, this training was an example of the staff members' needs being effectively met by the ISP. Additionally, a number of the MJCA's staff interviewed noted that the middle management training was the first formal post-secondary training that they had received. MJCA supervisors / ACEOs also noted that this training had strengthened the ability of mid-level managers to perform their staff management duties;

62. *Probation and parole* - A series of short and long-term TA personnel inputs into the Probation and Parole Section exposed staff to a range of technical and process improvements. Given the enthusiasm and workload of the section, this series of inputs appears to have helped the section to address its key process and cultural elements. This has resulted in improved professionalism and a stronger client focus in the work of probation and parole officers.⁵¹ Exposure to DoC processes and thinking was reported to have permitted the probation and parole staff to identify areas of relevance to the Samoan context, and to support procedural improvements.

63. *Long-term TA personnel in Courts administration* - Registry staff interviewed spoke of the benefit of having TA personnel involved in a capacity development programme over a sustained period of time. This ongoing availability of TA personnel was reported to have facilitated the uptake of improved systems and processes, such as the filing checklists jointly developed for Supreme and District Court registries. The sustained presence of the TA personnel allowed work practices to develop which saw the TA personnel's inputs maximised during times where registry duties were less hectic, fitting in with the natural learning and development cycle emerging in the MJCA.

What unintended outcomes have resulted from the Programme (including the differential outcomes for men and for women, and where relevant, the poor and vulnerable)?

64. Positive achievements identified in the course of the Evaluation in addition to the outcomes defined in the PDD and PID were achieved largely due to flexibility and responsiveness in the management of the ISP. They included the following. *The development of Strong MJCA leadership via the Task Force*: As discussed above, the MJCA Executive saw the Task Force as a key mechanism for managing the ISP. At the completion of the ISP, the Task force was considered a successful management tool, as well as one that promoted leadership and ownership of ISP-related outcomes. It was also perceived as being an organisationally appropriate decision making mechanism, allowing for consultation along lines of organisational responsibility. The close involvement of the Task Force was reported to have resulted in a significant increase in the confidence of the MJCA's Executive team to

⁵⁰ In a random inspection of a video/DVD store on Upolu, the Evaluation Team did not discover any unclassified films.

lead and manage development assistance activities, which positions it well to engage effectively with the emerging LJS.

65. *Cadre of Effective Middle Managers* – By re-directing training funds intended for a group of five overseas training posts, a group of 32 mid-level managers was able to be trained at NUS in Samoa. This was reported as having a significant influence on management capacity within the MJCA, and was reported to have had a substantially broader effect than envisaged in the PDD. Further, broadening the internal management base, and equipping the MJCA with a group of competent and motivated senior officers was reported to have created a strong foundation for the MJCA's future leadership.

66. *Gender differentiated support for parolees through Community Justice Supervisors* - in discussions with Community Justice Supervisors it became apparent that, varying support was being provided to male and female probationers. The example given related to basic skills development activities, where male probationers were given training in carving, and female probationers were given training in sewing. While this is a positive outcome, differentiated support as part of Community Justice Supervisor activities is not structured or uniformly applied - a consideration that future development of these activities will need to take into account.

Differential outcomes for men and for women, and where relevant, the poor and vulnerable?

67. A mainstreaming approach was incorporated into the ISP at its inception to consider and address crosscutting themes throughout implementation.⁵² From the document review and interviews, it is apparent that recognition was given to crosscutting themes in the development of the PID and subsequently in some reporting. Some activities incorporated these themes, notably within the Probation and Parole Section, where there is a need for gender appropriate responses when engaging with probationers and parolees. Feedback received from MJCA staff and from document review, however, suggests that systematic incorporation of crosscutting themes, as an intrinsic part of all ISP activities, did not occur, and advocacy of these themes was weak. Generation of data relevant to the assessment of differential outcomes was also weak. Consequently, in discussions with staff, familiarity with the impact and relevance of crosscutting themes to the MJCA's core activities was low.

68. Despite a number of TA personnel adopting gender mainstreaming approaches, it did not appear to be a key priority under the ISP, and stakeholders interviewed felt that gender-specific challenges were minimal in Samoa. A key opportunity to advance this area through support to the Maintenance Section was minimised with the shift in focus of the ISP to probation and parole at the expense of both the Maintenance Section and the LTC. According to the Gender Development Index (GDI), Samoa's GDI value is 0.763. When compared to Samoa's Human Development Index (HDI) value of 0.771, its GDI value is 99.0%. Although this may seem high, out of 155 countries with both HDI⁵³ and GDI values, 87 countries have a better ratio than Samoa's. In terms of the gender empowerment measure (GEM),⁵⁴ which tracks whether women take an active part in economic and political life, Samoa ranks 89th out of 109 countries in the GEM, with a value of 0.431 – this is a low value. Clearly, gender equality challenges remain in Samoa, but they do not appear to have been systematically promoted through the PCC, the ISP's activities, nor reported on in a meaningful way. Regarding other crosscutting themes, particularly issues relating to broader concepts of human rights, HIV/AIDS, and

⁵² Cross-cutting themes identified by NZAID include: human rights, gender, environment, HIV/AIDS, and conflict prevention.

⁵³ The HDI measures average achievements in a country, but it does not incorporate the degree of gender imbalance in these achievements. The gender-related development index (GDI), introduced in Human Development Report 1995, measures achievements in the same dimensions using the same indicators as the HDI but captures inequalities in achievement between women and men. It is simply the HDI adjusted downward for gender inequality. The greater the gender disparity in basic human development, the lower is a country's GDI relative to its HDI.

⁵⁴ The GEM reveals whether women take an active part in economic and political life. It tracks the share of seats in parliament held by women; of female legislators, senior officials and managers; and of female professional and technical workers – and the gender disparity in earned income, reflecting economic independence. Differing from the GDI, the GEM exposes inequality in opportunities in selected areas.

conflict prevention, little if any familiarity was shown by interviewees of the relevance of such concepts to their daily activities. Once again, decisions about prioritising support to Apia Courts prior to rolling out support to Tuasivi Courts, resulted in differential ISP outcomes on access to justice resulted on Savai'i, where not all initiatives progressed through the ISP were realised at the same time. Research on crosscutting themes based on a differentiated approach could help drive an increased appreciation within the MJCA of the importance of its services contemplating the possibility of differential outcomes across these themes.

Conclusion - effectiveness

69. The ISP is reported to have been largely *effective* in realising its objectives, although it is noted that 25% of the ISP's objectives were unrealised, largely due to the ISP Design approach. The ISP promoted change by focussing support on developing planning, management and process capacity within the MJCA, as well as selected equipment procurement. By supporting selected technical and legislative developments, Samoan cultural considerations and stronger community involvement were incorporated into the MJCA's activities, particularly probation and parole. Support was delivered through a capacity development approach using a variety of mechanisms including TA personnel inputs, mentoring, use of Samoan education and training courses, and development of self-paced learning modules. Some differential outcomes of the ISP support were noted, largely due to Task Force decisions and a weak mainstreaming of crosscutting themes.

2.4 Efficiency

Were the inputs, budgets and costs for the programme adequate and reasonable in relation to the achievement of programme outcomes?

70. Total ISP's expenditure upon completion of inputs was approximately NZD2.3 million, including design costs. This was an approximate 32.5% increase over the initial budget of just over NZD1.72 million. The increase in the ISP's budget is due largely to substantial changes made during the development of the PID, which incorporated a capacity building approach,⁵⁵ resulting in a revised ISP budget of approximately NZD1.93 million at completion of the PID, (an increase of over 12%). Extension of one long-term TA personnel input from 12 to 18 months also resulted in increased expenditure.⁵⁶ Taking into account the ISP's outcomes⁵⁷ the ISP's expenditure was efficiently deployed and the NZD2.3 million investment represents good value for money. Feedback received from MJCA staff and Advisers indicated that sufficient resources were available in a timely manner, both in terms of TA personnel time and equipment, to enable the implementation of most ISP's activities. One exception relates to the development of the OMS, where feedback indicated that additional TA

⁵⁵ Changes of particular relevance made in the PID as against the PDD are the:

- Alignment of the ISP's activities with the MJCA's Corporate Plan.
- Revision of Adviser inputs from significant remote inputs to substantially in country.
- Change of several shorter-term Adviser positions to a two of longer-term inputs.
- Re-incorporation of the OMS into the ISP (identified in the Design Mission Report but not included in the PDD).
- Broadening of focus from human resource developed to human resource management.

⁵⁶ Costs of NZD174,000 were incurred during the extension of ISP implementation period to 30 June, 2009. Two further Letters of Variation extending implementation to 31 October, 2009 were also finalised. These extensions allowed for the completion of selected activities, and both were cost neutral.

⁵⁷ Key outcomes are: **relevance to the needs** of the MJCA and the public by closely aligning ISP activities with institutional and strategic development goals, and ISP decision-making structures with those of the MJCA to improve administration of justice; **effectively promoting change** by focussing support on developing planning, management and process capacity, selected equipment procurement, selected technical and legislative developments, incorporating Samoan cultural considerations and stronger community involvement into services provided by the MJCA; **efficiencies in implementing, managing, and using available resources** (over international options), leadership and flexibility in prioritising resources and budgets; and **sustainability** through the development of systems and processes that continue to be used, including guiding the MJCA's auto-improvement, and actual improved performance and service delivery.

personnel inputs (or TA personnel inputs of a different type - adopting a more capacity development approach) and extended timeframes for implementation would have enabled more effective engagement and more sustainable outcomes.

71. ISP expenditure was dispersed through a combination of: (i) direct grant funding to the GoS principally for procurement (approximately 30% of total ISP expenditure); (ii) TA personnel and related costs through MoU arrangements between the NZAID Programme and three GoNZ Agencies (the DoC, OFLC and MoJ). This was approximately 41% of total ISP expenditure; (iii) Contracted Programme Adviser, other TA personnel and related costs managed by the MSC (approximately 24% of total ISP expenditure); and (iv) Other contracting arrangements including the NZAID Programme's Approved Contractor Scheme (ACS), and the New Zealand Crown Law Office (approximately 5% of total ISP expenditure).

72. Direct grant funding to the GoS was focussed on procurement, including: IT and office equipment; training, and procurement of vehicles and some capital works in the former MJCA offices. Save for a final MJCA acquittal for the period July to October 2009, all amounts dispersed in this manner have been fully acquitted.⁵⁸ Although some procurement specifications lacked clarity (there was over-ordering of some computers, for example), most matters requiring clarification of expenditure were of a more minor nature.⁵⁹ Furthermore, the management of the direct grant funding was seen as an efficient way in which to further develop the capacity of the ISP Coordinator, who, in the opinion of the Programme Adviser, was capable of monitoring and completing the financial reports independently.⁶⁰

73. The majority of TA personnel was sourced through the MoU arrangements between the NZAID Programme and GoNZ Agencies, (including the long-term Courts Adviser and Probation and Parole Adviser).⁶¹ The efficiency of the contracting and related mobilisation and payment arrangements for these TA personnel depended on the familiarity of the GoNZ Agency in undertaking development assistance work. Some GoNZ Agencies interviewed felt that the NZAID Programme did not provide them with sufficient information on management arrangements. There were significant variations in the type of benefits that TA personnel from different GoNZ Agencies received and uncertainty existed as to contractual arrangements and expectations. Further, the nature and scope of items able to be reimbursed from the ISP budget were not clearly understood by all GoNZ Agencies. Consequently, some cost implications arose for individual GoNZ Agencies, and inefficiencies in the administration of the ISP were reported due to these variations.

74. The Wellington-based NZAID Programme member expressed satisfaction with the efficiency in which the MSC managed expenditure and contracting arrangements despite their sometimes cumbersome nature. The Task Force members interviewed found the financial reporting requirements and formats unwieldy and not similar to GoS formats. Significant responsibility was placed on the MSC for administration of TA personnel recruitment, including advertising, interviewing, supporting selection processes, and contracting. No provision was made to cover MSC costs and risks arising from contracting and directly managing these TA personnel. This placed an unfair burden of risk on the MSC - a matter that might have been better dealt with through a risk sharing arrangement between the NZAID Programme and the MSC.

75. Sourcing TA personnel from GoNZ Agencies was reported to have been promoted as a more cost effective option than independent consultants. However, on the basis of the figures available, the annual package (salary and benefits) of long-term and short-term TA personnel seconded from GoNZ Agencies through MoU arrangements with the NZAID Programme was roughly equal to independently

⁵⁸ MoF has provided its final acquittal for the ISP to the NZAID Programme in Apia.

⁵⁹ Programme Adviser Report to the Taskforce against Terms of Reference, August 2008, at page 1 ff.

⁶⁰ Ibid. However, timeliness in the provision of reports was a recurrent challenge from the NZAID Programme's perspective.

⁶¹ A breakdown of changes in MoU value over time is set out Annex 9.

contracted TA personnel. Given that the costs of contracting were approximately equal, MSCA management noted that they would have preferred to select TA personnel from a wider pool of candidates on the open market. Other contracting arrangements constituted only a minor part of expenditure under the ISP and were largely used at the design and early stages of ISP implementation. Feedback received from one TA personnel contracted under the ACS indicated that this mechanism was efficient and effective. The ISP also employed mentoring and self-paced learning to deliver assistance. MJCA staff did not highlight mentoring as a preferred approach, although it appears that the NZAID Programme considered the mentoring programme of key staff successful and good value. Self-paced learning materials developed for the Probation and Parole Section were also considered good value, allowing staff to work at their own pace to gain knowledge of the role of a Probation Officer, although no data were collected to determine usage rates of these self-paced learning materials.

Was the ISP managed efficiently and effectively; were the processes used efficient and effective (taking into account the needs of key stakeholders and effectiveness of partnerships)?

76. Interviewees identified effective management elements as follows. *Task Force* - As a management structure this aligned well with MJCA internal processes and was reported to have allowed for the efficient use of managers' time for decision-making and follow-up, as ISP activities were incorporated into broader MJCA in-line management activities.

77. *Nature of Long-term TA personnel inputs* - Both staff and TA personnel interviewed noted that long-term TA personnel inputs were suited to the needs of the MJCA, particularly given ISP's capacity building focus. Long-term TA personnel engagement was seen as effective and collaborative, allowing for a series of conversations over time, based on trust and mutual understanding. Furthermore, long-term inputs were seen as necessary given the reality that staff undertook their day-to-day responsibilities within the MJCA throughout implementation, and unforeseen work commitments needed to be accommodated.

78. *Flexibility in the reallocation of resources* - Reallocation of ISP resources enabled 32 mid-level managers to receive training through a specifically designed course at NUS. MJCA participants interviewed noted the relevance and effectiveness of the activity. It also was a highly efficient use of available resources.

79. The following inefficiencies in the implementation and management of the ISP were noted. *Complex coordination and multi-layered communication arrangements* - Various aspects of ISP coordination and communication the MJCA were shared between the MJCA ISP Coordinator, the Programme Advisor and GoNZ DoC Coordinator. Coordination and communication between the Programme Advisor, the DoC Programme Advisor and the TA personnel on the ground, however, were less streamlined. Some TA personnel interviewed were largely unfamiliar with other parts of the ISP and its objectives, and a 'team' sensibility was not present among the TA personnel interviewed. This may have been due in part to the timing of inputs, and the fact that a number of TA inputs was short-term. However, a clear vision of how each TA personnel's contribution leads to the realisation of the ISP's objectives was not apparent from the documentation nor from the TA personnel interviewed. Additionally, both the Programme Advisor and a DoC Coordinator were external contractors and neither was based in Samoa.⁶² This situation was further exacerbated by the fact that, as an external contractor, the Programme Advisor was unable to directly manage the MoU relationships between the NZAID Programme and the GoNZ Agencies involved in the ISP. While feedback received from the MJCA Executive and Advisers indicated that significant confusion did not result from this situation it was an inefficient means of supporting ISP coordination and communication, as it required significant additional effort, particularly on the part of the NZAID Programme, to enable ISP activities to proceed smoothly. It also resulted in strategic relationships not being as effective as they ought to have been. The layering of coordination also militated against a streamlined communication with the CEO, although

⁶² This conflicts with a key recommendation of the review of Phase 1 of the ISP conducted in 2002.

the NZAID Programme considered the contribution of the Programme Advisor as integral and valuable to the success of the ISP. While flexibility in allocating expenditure enabled responsiveness to changing needs and priorities, multiple contracting and TA personnel engagement methods resulted in an increase in the demand for support and coordination from the NZAID Programme reducing management efficiency. Given the complexity and overlap in coordination roles, particularly between the Programme Advisor and the DoC Coordinator, these arrangements did not represent good value for money. Given the coordination and management capacities of the MJCA at the outset of the ISP, engagement of a MSC to coordinate the ISP appears warranted.

80. *Nature of the MoU arrangements between the NZAID Programme and GoNZ Agencies* – While the MJCA was involved in development of the MoUs, as they were bipartite agreements between the NZAID Programme and GoNZ Agencies, engagement between the MJCA and the three GoNZ Agencies was mainly through an intermediary. Efficiency in developing institutional links, maintaining relationships, and guiding the nature of interaction between the institutions was, therefore, affected, as was the sustainability of these relationships. A tripartite arrangement would have allowed for more direct organisation to organisation interaction.

81. *Alignment of ISP's reporting and financial requirements with MJCA systems* – Although the logframe developed during the ISP's design and revised in the PHD accorded with the MJCA Management Plan, it included high levels of activity definition. This level of detail in the logframe, combined with a financial reporting format and requirements that Task Force members felt was unwieldy resulted in the MJCA viewing the ISP's narrative and financial reporting requirements as onerous. This may in part explain the low levels of monitoring data generation. Feedback received in discussions with the MJCA's Executive indicated that NZAID-funded expenditure was not easily captured in MJCA / GoS progress and financial reporting systems, and that ISP formats were not 'user friendly', particularly financial reporting requirements. Timeliness of reporting has been a weakness (including for this Evaluation Report) and efforts to improve efficiencies are needed, including through maximising alignment with GoS reporting formats and through strengthening GoS systems (including data generation).⁶³

82. *Inefficiencies in selected short-term inputs* – While on the whole short-term TA personnel inputs were focussed on capacity development and were reported to be effective; it became apparent from several interviews that at the timing of some short-term TA personnel inputs were not stakeholder driven. Some inputs were determined by Adviser's commitments and not by the availability of MJCA staff to engage with TA personnel. For those inputs, this was reported to have resulted in the poor use of resources, and potentially contributed to a more limited focus on capacity building in short-term inputs⁶⁴ as some TA personnel focussed on completing defined tasks even where MJCA counterparts were not available "to get the job done". Further, due to perceived budgetary constraints some contracted short-term TA personnel inputs did not meet expectations, failing to fulfil ToR and resulting in ongoing unmet needs in key areas, such as the OMS. The most cost effective capacity development activity was the NUS middle management training although data evidencing increased efficiencies as a result of this activity are not available. The least cost effective capacity development activity was the OMS database-related TA inputs, which were largely delivered outside a capacity development approach, and resulted in little uptake by MJCA staff of knowledge and ownership of the OMS database.

Conclusion - efficiency

⁶³ The NZAID Manager in Apia indicated that the NZAID Programme in Samoa has previously relied upon GoS financial reporting systems for acquittal of funds provided in support of the post-tsunami recovery efforts. This could be one option for the future.

⁶⁴ A point noted by the Programme Adviser in interviews, as well as in the Adviser's *Completion Report Final - Supplement to MJCA Completion Report*, at page 18.

83. Implementation, management, and use of available resources under the ISP have largely been *efficient*, although ISP communication and coordination was less so. MJCA leadership of the ISP and flexibility in prioritising resources and budgets resulted in improved efficiency, particularly through prioritising the use of Samoan resources over international options. Taking into account the ISP's outcomes, the ISP represents good value for the NZD2.3 million investment. Some inefficiency in coordination and contracting arrangements was present but this is balanced against efficiencies gained the ISP harnessing existing MJCA internal management structures and processes.

2.5 Sustainability:

To what extent will MJCA be able to sustain practices and processes or other changes and outcomes gained under the ISP, with or without future donor funding?

84. For sustainability to be achieved, institutional and individual commitment to support changes in systems, process and attitudes needs to be ongoing. As one former MJCA staff member interviewed noted, many useful systems were now in place following the completion of the ISP, and responsibility rests with the MJCA's management to ensure that these systems are used and further developed. The Task Force was apparently a very successful leadership and management mechanism as it mirrored the MJCA Executive, and is therefore a highly sustainable outcome of the ISP. It was an ideal vehicle through which sustainability of the systemic and process achievements of the ISP were promoted, and the MJCA Executive, including the CEO, is keen to replicate the approach for any future support.

85. Stakeholders external to the MJCA noted increased efficiency in the MJCA's interaction with its clients, as well as an increased sense of enthusiasm and professionalism on the part of MJCA staff. This combination of attitudinal change and increasing professionalism is supportive of sustained change and a desire for continued improvement within the MJCA. Exposure to TA personnel inputs in Samoa, and through WPA in New Zealand, has injected skills and experience into the MJCA. The ACEO for Civil and Criminal Courts was particularly positive about the impact of his placement at the High Court Registry in Auckland, where he noted a number of systemic approaches that he is pursuing in Samoa.

86. Probation and Parole Section staff actively uses processes and procedures developed with ISP assistance. This interest in further integrating Samoan culture into the section's activities, and the recognition that ongoing improvement in operations (in particular regarding the efficiency and effectiveness of Community Justice Supervisor activities) is important and points to sustainability of ISP efforts in this area. Approaching systemic weaknesses with an attitude of willingness to change appears to be a significant unintended outcome of the ISP.

87. Two areas where sustainability of interventions has been more limited are the revision of the *Parole Act* and the development of the Probation and Parole Section's OMS. Amendments developed by the ISP to the *Parole Act* had not been progressed at the date of the Evaluation field mission, and were reported to have been put on hold, pending finalisation of legislation revised with funding from the PSIF.⁶⁵ The second area is the OMS, which is currently not on-line and manual data collection and reporting systems are again being used.

88. Key technical improvements, in particular in legislation and Court administration processes are being sustained following the ISP. Alternative sentencing options under the *Young Offenders Act 2007* and *Community Justice Act 2008* are being used, however, this is being driven by the Probation and Parole Section through recommendations included in pre-sentencing reports. There was no evidence of the Courts proactively ordering pre-sentencing reports or alternative sentences in the absence of recommendations from the Probation and Parole Section. The absence of ISP support for targeted judicial education has meant that the full benefit of legislative changes is yet to be fully realised. The

⁶⁵The OAG was not aware of this activity at the time of Evaluation interview.

uptake by the judiciary of sentencing and diversion options, in the absence of recommendations contained in pre-sentencing reports, has been low.⁶⁶

89. Interviews held during the Evaluation show that revised processes, manuals, checklists and systems (including excel databases) developed in the Courts Section are still being used in day-to-day operations. From discussions in Savai'i, however, it became apparent that the Task Force decision to prioritise support to Apia Courts Section and roll out substantive support to Tuasivi at a later time has limited the impact of ISP on Court administration in Savai'i and sustainability of ISP outcomes outside of Apia is more limited.

90. Improvements in the capacity, processes and legislative framework of the Censorship Section are being maintained. Feedback from interviews with staff indicated that the processes developed under the ISP are relevant, and that viewing equipment and classification guidelines are still being used. Proposed cross rating of G and PG films from New Zealand has, however, not been implemented, and as noted above, may not occur given the very specific cultural context within which classification decisions are made in Samoa. The inability to implement cross-rating has a significant impact on staff time, and therefore, staff resources available to undertake the non-classification responsibilities of the section.

91. An underlying element of the ISP was the development of ongoing institutional relationships between the MJCA and key GoNZ Agencies. Discussions with the MJCA's Executive confirmed that the support of GoNZ Agencies had been an integral part of the ISP. Ongoing engagement with these agencies will be determined by the MJCA's needs. Indications in the discussions were that the relationship with the DoC is likely to be prioritised, as further development of Probation and Parole activities is seen as a priority need for the MJCA.

What are the sustainability issues/risks for MJCA in transitioning to a new funding modality (i.e. from an institutional strengthening programme to the law and justice sector programme) with new partners and new ways of working?

92. As noted above, leadership in promoting and sustaining change is critical. Consequently, consistency in leadership and management direction is vital, resulting in an increase in the importance of corporate and succession planning within the MJCA. With changes in the MJCA's leadership over time, comprehensive planning that promotes and continues the development of ISP outcomes will be of great importance.

93. Outcomes of the ISP need to remain relevant over time to be sustainable, as only if systems and processes respond to changes to the MJCA's operating environment will they continue to be supported and sustained. Feedback received indicates that the update of policies and processes forms part of annual planning activities. Discussions with various sections within the MJCA, however, showed that update and improvement of documents, processes and systems developed as part of the ISP are limited. Consequently, processes of continuous improvement need to be established and implemented for long-term sustainability to be achieved.

94. One aim of the ISP was to minimise recurrent costs associated with the technical and systemic changes instituted as part of its activities. While it is recognised that this aim was not fully achieved⁶⁷ there are indications that there is high-level institutional commitment to sustaining the ISP's outcomes. Evidence of this is the revision of the MJCA's corporate structure, recently approved by cabinet. This restructure is expected to allow the MJCA to operate more effectively, increasing core staffing by 19 establishment posts.

⁶⁶ It is noted that judicial education activities are managed directly by the Court and are not a MJCA-led activity although the MJCA administers the budget for this activity.

⁶⁷ Programme Adviser's Completion Report Final - Supplement to MJCA Completion Report, at page 24.

95. Appropriate levels of core funding are critical for the effective operation any government institution. Consequently, ongoing budget development and approval will play a large role in promoting the efficient functioning of the MJCA and the sustainability of ISP interventions. The recent Cabinet decision to increase the number of establishment posts within the MJCA indicates that support provided through the ISP has not affected the willingness of the GoS to adequately fund the MJCA. Discussions with the MJCA's Executive indicated that GoS budgetary support for additional equipment purchases has been put on hold. With the shift in operations from manual to electronic systems, limited support for ongoing IT development is of concern. Further, should resources to support proposed MJCA staffing increases be limited, the ability of the MJCA to further advance ISP supported developments such as Community Justice Supervisor activities may also be adversely affected. Availability of relevant performance data as supporting evidence for budgetary submissions to meet the MJCA's ongoing needs will become increasingly important to the MJCA, as has the management of recurrent costs for equipment.

96. While the LJS Plan is a good start to a sector-wide approach to law and justice in Samoa, a number of issues currently affect its development. The judiciary appears ill at ease with the role and interface it has been accorded under the LJS Plan coordination arrangements (the Judicial Advisory Committee). The LJS Plan does not describe any activities targeting inclusion of the judiciary, such as support to judicial legal seminars. The MJCA is an agency of the executive branch of government, one of whose key roles is to service the judicial branch of government. Accordingly, it is in a unique role in terms of ensuring that (executive) government policies are applied to the administration of justice, without damaging the independence of the judiciary or perceptions of the independence of the judiciary, in the exercise of judicial functions. For example, if GoS policy were that members of the judiciary are encouraged to attend at least two judicial seminars per year to ensure that they have access to the latest research on and knowledge of legal issues relevant to their jurisdictions, the MJCA's role would be to ensure that this executive policy is implemented by supporting the organisation of relevant seminars and activities. As a work programme is yet to be developed which will operationalise the LJS Plan, achieving greater synergy in working relationships amongst key justice agencies also remains a challenge for the LJS – a challenge which the MJCA also faces. As the LJS Plan is seen as a living document, integration of emerging MJCA priorities, identified in the period following finalisation of the LJS Plan, is also possible. It is expected that the LJS Plan work planning processes, expected to commence in the next few months, with the support of TA personnel inputs, will accord this opportunity.

97. As the LJS Plan work programme takes shape, the MJCA will be required to engage on a LJS-level with key justice agencies. This will require the MJCA to manage relationships across the LJS differently. The current executive appears well positioned, capable and adaptive to changing circumstances; the impact of any changes in MJCA leadership on then Ministry's ability to manage relationships within the sector is less clear. While the LJS Plan includes priorities identified by the MJCA, priorities which have subsequently emerged may not be able to be incorporated into the LJS Plan work planning process. Similarly, the MJCA might not be able to access funding through the LJSS or through other funding streams, such as PSIF. An example is the roll out of Court processes to Tuasivi Courts and support to the LTC Division, which although originally planned under the ISP, did not take place. Both activities do not sit neatly under the LJS Plan but will require further training and funds. Another example would be technical support and training to the OMS. Further, MJCA internal realisation of LJS Plan objectives, such as establishment of sector-wide information management systems, may require additional support, for example, through targeted support to records management and some capital expenditure that has not received cabinet approval.

98. Given its record in completing donor-required reporting and M&E activities, the MJCA may also face ongoing challenges with respect to timeliness and quality in generating data and meeting external LJS narrative and financial reporting requirements, (if required by AusAID, for example), if these requirements are substantially different to GoS processes. There do appear to be good prospects for

the capacity of the MJCA to manage TA personnel recruitment and contracting, provided GOS processes are followed. The corporate services and planning areas of the MJCA have benefited through the ISP, and these areas are well positioned through the existence of systems, processes and reporting, to support the Executive to manage externally contracted TA personnel.

To what extent have the outcomes from the original 1999-2004 ISP been sustained?

99. The MJCA Executive did not view the implementation approach and the nature of TA personnel inputs for the first ISP (1999-2004) as positive. It was further noted that the MJCA's experience during this initial ISP was instrumental in informing the more participatory, capacity building, approach adopted for the design and implementation of the second ISP. The status of key outcomes of the first ISP is as follows. *Support for Companies Law Reform* – the *Companies Act* was passed in 2001. It was, however, amended in 2006 following comprehensive public consultations to simplify a number of the original provisions. *The Companies Act*, as amended, came into effect in July 2008, repealing the *Companies Act 1955* (New Zealand).

100. *Computerisation of the births, deaths and marriages registry* – computerisation was completed successfully and activities are governed by the *Births, Deaths and Marriages Registration Act 2002*. The births, deaths and marriages registry has now been relocated to a new unit within the Ministry of Finance. The Evaluation Team was informed that the unit is operating effectively using the computerised system developed under the first ISP, and that the turn-around time for receiving a birth of marriage certificate is short (a matter of minutes). Turn-around time for receiving death certificates is more variable as these depend on the receipt of information from hospitals.

101. *Establishment of a Law Commission* – the Commission is established and operational at the time of the Evaluation. It is now governed by the *Law Reform Commission Act 2008* (effective 25 March, 2008) and is established within the OAG. An Advisory Board governs work of the Commission and the office now has four staff headed by an Executive Director. The Law Reform Commission has commenced activities with the development of issues papers for the review of the: *Crimes Ordinance 1961*; *Coroners Ordinance 1959*; *Law Practitioners Act 1976*; *Commissions of Inquiry Act 1964*; and consideration of care and protection legislation to protect children.

Conclusion - sustainability

102. Development of systems and processes that continue to be used, including guiding the MJCA's ongoing improvements in performance and service delivery noted by MJCA internal and external clients are evidence of sustainable outcomes. Challenges face the sustainability of a small number of ISP outcomes, notably finalisation of the *Parole Act*, the use of the OMS and the cross-rating of films. While sustainability of established systems and processes is assured, further support to the MJCA will be required to support achievement of unrealised objectives and to support transition of the MJCA to the LJS and the MJCA's ability to contribute effectively to the LJS. The transition from direct support to LJS-based support will undoubtedly include some challenges, however, with the LJS Plan is seen as a living document, the integration of emerging MJCA priorities, will possible. Sustainability of inputs into planning is evidenced by the MJCA's capacity to procure and manage TA personnel inputs directly for any future support. M&E and reporting are areas which require further attention to achieve sustainability. Outcomes from the first ISP are sustained, including computerisation of the Births, Deaths and Marriages Registry and establishment of the Law Reform Commission. Factors that appear to support better sustainability and how these lessons could be incorporated into any future law and justice sector programme are set out in the 'Lessons Learned' section, below.

2.6 Crosscutting themes⁶⁸

103. NZAID Programme crosscutting of environment, conflict prevention, HIV/AIDS and human rights were on the whole poorly integrated into the ISP.⁶⁹ As these themes were largely donor driven, and the ISP was MJCA-driven, some mismatch in uptake is therefore not surprising. Environment appears to have been weakly integrated into the Programme— there is no discussion of the environmental impact of purchase of equipment and vehicles (for example, were hybrid vehicles considered as an option). Conflict prevention was integrated tangentially through generic activities supporting the MJCA's conflict prevention responsibilities. The MJCA-led reprioritisation of ISP Components and the refocus of activities on the MJCA head office and Courts in Upolu minimised opportunities for ISP engagement with the LTC, the Maintenance Section and on Savai'i. Consequently support to the conflict prevention activities in the LTC, the Maintenance Section, and outside of Apia was limited. This again points to weaknesses within the ISP Design. Further, mediation services provided by the Maintenance Section and LTC Division (at both Mulinoi and Toasivi) play a vital role in preventing conflict. MJCA staff working in the Maintenance Section spoke of the importance of providing an environment for parties to reach their own maintenance agreements, with MJCA support, and how this approach was more effective in securing maintenance for clients. Similarly, the role of the LTC in settling land and titles disputes, either through mediation or through Court decision, is a significant contribution to conflict prevention in Samoan society.

104. HIV/AIDS was taken into account in development of probation and parole processes, and TA personnel from the DoC provided specific HIV/AIDS training. Probation and Parole Section staff indicated that this training contributed to their knowledge of HIV/AIDS and to their responsibilities to ensure that processes were in place to accommodate probationers and parolees living with HIV/AIDS. Human rights as a theme was poorly addressed, although again, this is not surprising, given the internal process and technical foci of the ISP. Nevertheless, as a general point, increasing access to justice through improved administration of justice resulting from better services could be seen as having a positive impact in terms of human rights; individuals have greater access to justice to realise their rights. No data were available to support such improvements. Addressing the cost of realising those rights does not appear to have been an objective of the ISP, as end user cost analysis does not appear to have underpinned the ISP's approach to improving access to justice.⁷⁰

⁶⁸ Note: discussion of crosscutting issues relating to gender and differential outcomes for men and women is found in paragraphs 68 & 69, above.

⁶⁹ See also Section 2.2 on integration gender into the ISP design and PID processes and differential outcomes for women and men.

⁷⁰ Consideration of the financial cost to individuals/groups of realising their rights through formal and non-formal justice systems is one approach. Annual per capita costs of provision of individual legal services in each Samoan jurisdiction would also provide a basis to evaluate whether access to justice had improved and would be a proxy indicator of human rights outcomes of the ISP for Samoa.

3. RECOMMENDATIONS - FUTURE SUPPORT

Identify significant gaps that should be addressed through future support (specifically through the law and justice sector programme).

3.1 NZAID Programme's approach to future support

105. Any future GoNZ support to the LJS needs to align with and be in support of the Samoan LJS Plan, including supporting the MJCA to realise its objectives under the Plan. A coordinated concrete work programme to operationalise the LJS Plan is yet to emerge. The Government of Australia (GoA) is the main donor supporting the development of the LJS and supporting the LJSS and TA personnel inputs are expected over the coming months supporting establishment of a medium term expenditure framework for the sector and associated M&E framework. There appears to be some gaps however within the LJS, with the judiciary largely not targeted under the Plan. Discussions are also currently taking place to delay the commencement of implementation of the LJS Plan, originally scheduled for 1 July 2010, to 1 January, 2011. It is suggested that achieving greater cohesiveness within the LJS will be key to its operationalisation and is likely to take a further 1-2 years.

106. Taking into account this delay and the challenges facing the LJSS, it is premature for the NZAID Programme to direct its support solely through the LJS Plan, although any future support to the MJCA should support LJS Plan priorities. Given that the LJS is expected to take more concrete shape over the coming 12 months, including through development of an operational work programme, some difficulties may occur for justice agencies in the interim, including the MJCA, in accessing support coordinated by the LJSS during this period. There is a risk that important gains made with assistance of the ISP might not be sustained during this period. A number of important steps remains to be carried forward by the LJSS, including establishment of a LJS M&E Framework, and a Medium Term Expenditure Plan for the work described in the LJS Plan. Further, given that the MJCA has identified areas for further support, there is scope for further involvement of the NZAID Programme to support the MJCA to realise its objectives under the LJS Plan, while continuing to strengthen the MJCA's internal systems and processes. In doing so, the NZAID Programme would be supporting the further strengthening of a key justice agency, in line with already articulated LJS priorities, while waiting for the LJS to further mature and for the fully fledged commencement of sector-wide operations. It is suggested that a modest annual investment of NZD500,000 over the next 3 years, carefully targeted through discussions with the MJCA Executive and the LJSS, commencing from 1 July, 2010, would be an appropriate approach in support of both the MJCA and the LJS.

3.2 Significant gaps deserving consideration of future NZAID Programme support

107. By continuing to support the MJCA to strengthen key processes and target identified technical weaknesses, the NZAID Programme would be helping to support the MJCA to realise its position as a key justice agency in the LJS, support identified LJS Plan priorities, and build on gains made through the just completed ISP. Possible areas for NZAID Programme assistance, described as potential components of a future programme are listed in order of priority under each sub-heading, below:

(i) *Strengthen systems and processes*

108. Under Goal 2 of the LJS Plan (Access to Justice) the MJCA is the lead agency for the strategy of strengthening systems and processes, such as establishing case management systems and computerised information management system (IMS) for the Sector.

109. **Improve records management:** The MJCA has identified a need for further technical support to records management in the ministry and in the Courts, which remains a key issue. Records management is culturally significant in administration in the LTC Division, where records evidence genealogies, a factor with direct relevance conflict prevention of disputes about titles and land.

Activities under this area could also support the establishment of standardised electronic IMS for the Sector, which would greatly increase efficiency in the administration of justice through design and implementation of information sharing protocols.

110. **Strengthen corporate services:** Targeted support to corporate services, in particular further development and employment of MJCA M&E processes, is suggested. Taking into account the fact that ISP M&E processes and reporting were considered cumbersome, and the fact that the MJCA's responsiveness to ISP reporting and monitoring demands have remained a challenge, there is need to strengthen this aspect of the MJCA's corporate services. If the ministry is to effectively engage, manage and provide progress reports on specialist TA personnel, some further work to support planning and prioritisation of donor assistance and the MJCA's management of that assistance, through specialist strategic planning TA personnel might be required. This would build on the growing capacity of the MJCA in planning and reporting.

111. **Support strengthening of Courts administration.** Given the importance of the LTC jurisdiction in the Samoan legal and cultural context, and the challenges to the administration of justice in the jurisdiction evidenced by the volume of cases reaching the LTC,⁷¹ consideration of measures similar to those developed in the PDD, and subsequently implemented for the registries in the Supreme Court and District Court, is warranted. Targeted support to the LTC Division is expected to have significant bearing on access to justice, as the LTC jurisdiction is an extremely active one, with deep cultural significance. Supporting the MJCA to continue improvements to Court administration procedures, including registry processes, in the Apia Courts, including the LTC and a structured programme to roll out these improvements in Tuasivi also appears warranted. While some staff members in Tuasivi participated in middle management training and had the benefit of MJCA-wide training, there is need for systems to be strengthened. Importantly, the capacity of enthusiastic junior staff recruited to the Tuasivi MJCA office needs to be developed as soon as possible to realise their full potential. Importantly, this factor is recognised by the MJCA CEO, who is keen to support development of junior staff members' within the MJCA.

112. **Improve effectiveness of Censorship Office:** As the comparison of G and PG rated films between New Zealand and Samoa conducted during the original ISP scoping revealed no significant difference in rating between Samoa and New Zealand, and that this was a clear expectation on the part of the MJCA executive for the ISP, it seems highly likely that greater efficiencies could be adopted through revisiting support to cross-rating. Implementation of cross-rating would free up time of the Censorship Office's staff for community education and inspections of video stores. Effective community education would contribute to the MJCA's stated goal of "a Justice System accessible to all in Samoa..." since it would enable people to better understand censorship and the cultural reasons underlying it. Strengthening capacity and process gaps in enforcement and education would help make censorship consistent, fair and better understood. A final element of the Censorship Office's work is progressing amendments to the Censorship Office's legislative framework, in collaboration with the OAG. Some scope for further support through the OFLC may be warranted.

113. **Support small-scale capital expenditure:** Minor support to MJCA capital expenditure (computers, vehicles) is suggested, as per need. While the MJCA has been somewhat successful in increasing staffing establishment posts (by 19 posts), need exists to ensure that both these additional staff and existing under resourced MJCA staff are appropriately equipped and trained to perform duties required of them. Monitoring of increases in efficiency as a result of this capital expenditure would be required. Principles underpinning the proportion of any future NZAID Programme assistance allocated to capital expenditure would need to be agreed with the MJCA. It is suggested that support for capital expenditure needs to be kept low, and that the best use of the NZAID Programme resources would be devoted to provision of specialist technical training expertise. Environment should be considered in

⁷¹ The LTC jurisdictions was reported to the Evaluation Team as having the largest case load of the Samoan jurisdictions.

support to capital expenditure as should the need for agreed maintenance plans and depreciation policies. While the scale of the shortfall in budgetary resources is small, the absence of these resources remains a significant gap for the MJCA in delivering justice services. A phased approach is suggested to this support, to ensure that the MJCA uptakes responsibilities, including for recurrent costs of any procurement.

(ii) *Strengthen customary and community-based justice processes*

114. Under Goal 3 of the LJS Plan (Customary and Community-based Justice) the MJCA is joint leading agency with the MWCSO for the strategy of increasing community awareness of formal and community-based justice systems, including public awareness on Court and village meeting procedures.

115. **Further integrate Samoan culture into probation and parole.** The MJCA has identified a need for further technical support to probation and parole policy development, including incorporation of Samoan cultural aspects to improve the potential positive impacts that these policies have on offender management, and ultimately, on rates of recidivism. To positively impact recidivism rates; structured probation / community service programmes, strengthened support to probationers after the completion of probation, and the establishment of links with rehabilitation programmes may be needed. Fine-tuning the design and operation of community justice supervision and support so that the probation and parole OMS is a technically operational system, including through specialist IT training and IT support, are also needed.

(iii) *Improve knowledge and practice*

116. **Conduct research and gather performance data:** Establishment of LJS performance data through annual LJS performance reports would provide Samoan justice agencies with concrete information about their performance levels and the performance of the Sector as a whole. While justice agencies, including the MJCA, conduct some performance monitoring and reporting, the service delivery aspect of this reporting is not prioritised, and available reporting relies on available internal statistics, the generation and collection of which appears weak. Independent service delivery monitoring, and surveys of internal and external clients' satisfaction rates may shed light on how the MJCA is actually performing, as opposed to how internally it perceives itself to be performing. Such activities would also provide opportunities to strengthen MJCA-internal monitoring and reporting processes. At a sector level, this could be complemented through crime perception surveys or knowledge, attitude and practices surveys, and other data-gathering, coordinated by the LJSS. As the LJS and the LJSS are still developing, this activity on a sector-wide level is likely to be scheduled for Year 2 or Year 3 of the LJS Plan's implementation. In the interim, support for independent mini service delivery surveys and targeted support to monitoring activities (both internal and external) would help the MJCA to gather independent performance data, essentially putting the MJCA in the lead on this issue, and contributing to the development of this approach in the LJS. Data generated through monitoring would also be useful for the MJCA to support budget submissions targeting improved service delivery. The NZAID Programme would be well placed to support the roll out of performance reporting on a sector-wide basis, which would represent a significant contribution by the NZAID Programme to supporting the development of the Samoan LJS, for a modest investment. Other areas of research in the LJS may be evident which could help drive the MJCA's and the LJS' efficiency measures, or direct support to areas that have not received focus to date. One such area could be research on gender equity issues or access to justice, and it is suggested that research on crosscutting themes would provide a more solid basis to integrate these themes into any future GoNZ support. For example; given the perception that crosscutting themes are of low immediate relevance, independent research on access to justice, gender equity and the HIV/AIDS-related issues on core MJCA activities might reveal interesting data which could inform MJCA policies and receive future GoNZ support to operationalise.

117. **Support judicial education:**⁷² Increased judicial employment of key legislation, such as the *Young Offenders Act 2007* and the *Community Justice Act 2008*, would not only improve sustainability of ISP outcomes, but also establish a sound approach for the Samoan judiciary's future. One way of doing this would be to support, in close cooperation with the judiciary, a regular schedule of seminars for the judiciary, particularly for legislation notified by the OAG.⁷³ The MJCA administers a budget for judicial education, although the judiciary drives these activities. Prioritising support to judicial seminars would help to ensure that the judiciary receives sufficient priority within the MJCA, and support the MJCA executive's efforts to realise greater coherence in this area, while also taking into account the independence of the judiciary.⁷⁴ Judgement writing seminars could also prove useful, particularly in the LTC jurisdiction, where the majority of judges are lay people without formal legal training and qualifications. Support for sustainable access by the judiciary to case law and research databases also appears necessary.

(iv) Strengthen management and coordination

118. **MJCA manages Programme directly:** It is suggested that the MJCA would lead management of any future GoNZ support. A Task Force model is suggested, with the CEO as chair – this is a departure from the Task Force model under the ISP and it is suggested to further align the Task Force with MJCA internal structures. A GoS Ministry of Finance (MoF)-led PCC comprised of a smaller membership, including a NZAID Programme representative and no more than two additional members, would improve engagement and oversight quality, by allowing a smaller number of members with appropriate familiarity with the Programme to exercise oversight, while still assuring transparency. The ISP's PCC model was not an effective vehicle for community consultation on implementation, and it is suggested that separate community consultation and feedback activities would achieve better results. One externally contracted periodic Monitoring and Technical Advisor position is suggested for the Task Force to support prioritisation of activities and work planning of MJCA objectives, and to monitor progress on a quarterly basis. Ability to establish and maintain effective working relationships with a range of MJCA staff at various levels would be a key criterion of this position. The MJCA would need to coordinate activity implementation at the ACEO level, with resourcing either from existing MJCA establishment staffing posts, or by contracting locally. It is suggested that the MJCA holds responsibility for procurement and management of all national and international TA personnel. Strengthening and use of MJCA M&E processes are also suggested.

119. **GoNZ provides direct budgetary support:** Subject to a fiduciary risk assessment, direct budgetary support to the MJCA through MoF for any future support is suggested. This would allow for donor support to align with GoS processes, increase efficiency, and develop MJCA's capacity in managing external assistance. Both the NZAID Programme and the MJCA would need to clearly understand the risks associated with this approach – a degree of acceptance of risk would be required on the part of the NZAID Programme. Annual up-front allocations against agreed priorities are suggested to reduce MJCA internal contestability for limited resources available through the NZAID Programme, and acquitted quarterly. This approach would ensure that allocations are made against agreed strategically planned priorities, rather than on an ad hoc basis to meet shortfalls or poorly planned activities. This process would mirror the MJCA internal planning, budget and reporting processes. It is suggested that once the work programme to operationalise the LJS Plan is developed, the NZAID Programme could consider directing some of its support through the GoS systems to the LJSS to support the work programme.

⁷² Judicial education activities do not feature on the LJS Plan, although it is recognised that the Plan is a 'living document' and future amendments may contemplate this important activity for the Sector.

⁷³ Coordination would be needed with the support provided through the regional Pacific Judicial Development Programme.

⁷⁴ A potential source of resources for judicial education is the NZAID Programme-funded In-Country Training Programme, which funds training courses in a wide range of vocational and work-based skills areas for the public, private and civil society sectors within Samoa.

120. **Harness GoNZ Agency relationships:** Where appropriately experienced and skilled TA personnel can be sourced (and spared) from within GoNZ Agencies, harnessing relationships between MJCA and these GoNZ Agencies, such as the DoC would serve as sources of technical expertise and advice, if required, for both the MJCA and the LJS. Care would need to be taken to ensure that coordination and management of such inputs remains streamlined. Further work place attachments at GoNZ Agencies would also be of benefit for Task Force identified MJCA staff, particularly in Courts administration. The MJCA Executive has clearly identified the DoC as a key GoNZ Agency with which it wishes to maintain a close relationship.

121. **Harmonise LJS strengthening:** GoNZ's support to MJCA to realise its LJS Plan objectives would provide it with opportunities for further dialogue with GoS and with other donors, such as GoA, on how best GoNZ can target support to strengthening the Samoan LJS as it emerges. Engagement in the LJS over the longer-term would provide the NZAID Programme with opportunities to support activities that can have a real impact on sector performance, realising definite improvements in access to justice in Samoa. The LJS is only now just emerging and it will take some time before the sector operates effectively. The NZAID Programme has a close working relationship with the MJCA. For a modest investment (and with a light footprint) it will be able to make a significant contribution to the emergence of a strong LJS in Samoa. Premature departure from the LJS risks not only losing momentum of the improvements which are ongoing within the MJCA but also opportunities for the NZAID Programme in Samoa to impact on human rights through improving access to justice are weakened. While the ISP was successful, key access to justice challenges, including building a closer relationship with civil society, remain and they remain in the hands of the MJCA to administer. The NZAID Programme is in a strong position to support the MJCA to meet these challenges.

3.3 Priority Activities

122. The approach described above would require some priority activities, which would feed into decisions about the next iteration of GoNZ support to the Samoan LJS. It is suggested that these activities could take place in parallel to finalisation of the Evaluation Report to complement the findings of the Report.

- A round of consultations at the GoNZ, GoS and the LJSS level to communicate results of the ISP Evaluation Report.
- Support to ensure that the OMS is operational and running and meets the needs of the Probation and Parole Section. Sufficient support to ensure that any technical difficulties, which may emerge over the next year, can receive appropriate technical and capacity development support, either through in-country technical and training visits, or through remote IT support, through a website forum or helpdesk approach, or both (this may form an activity agreed in the discussions suggested below.)

A joint NZAID Programme-MJCA planning meeting to identify possible areas of GoNZ support. The agreement would need to include: (i) phasing of the support required; (ii) indicative financial annual allocations against priorities/activities; (iii) key outcomes expected; (iv) management arrangements, including how TA personnel would be engaged and managed; (v) a fiduciary risk assessment; (vi) a reporting schedule; and (vii) a simple monitoring and evaluation framework, which meets the needs of both the NZAID Programme and the GoS, and which uses GoS reporting formats.

4. LESSONS LEARNED

What lessons can be learned from this ISP to assist the NZAID Programme to tailor support for other institutional strengthening activities in Samoa or other Pacific island countries; and for the Government of Samoa to take into consideration for any further institutional strengthening interventions?

4.1 ISP partner to lead design and implementation with TA support

123. Key successes of the ISP in terms of sustainability of its outcomes were the integral involvement of the MJCA in the design process, and through the Task Force, the PCC, and the ISP Coordinator in managing implementation. This approach appears to have maximised sustainability and strengthened the MJCA's confidence and ability to develop and manage its own continuous learning and capacity development activities. This approach also helped to shape the ISP, aligning internal management structures with existing MJCA structures. Stakeholders, particularly Task Force members, overwhelmingly expressed the view that the ISP's key strength was its alignment with MJCA internal administrative structures. This allowed decision-makers to feel confident in making decisions within their areas of responsibility, and placed the Task Force, comprised of line managers who have knowledge about the MJCA's strengths and weaknesses, in the best position to guide the ISP to respond to emerging needs. The MJCA clearly saw the ISP as a part of its core activities, with points of departure including narrative and financial reporting, and additional coordination and management workloads. Provision of TA support to programme design, planning and monitoring (which was in fact the case in the design of this ISP) is crucial to ensuring tangible successes are achieved and recorded.

4.2 Use existing systems to maximise efficiency

124. The majority of Task Force members interviewed found the ISP's reporting and financial systems cumbersome and not well aligned with MJCA/GoS systems. Use of existing GoS systems for narrative and financial reporting on progress and for procurement reduces additional administrative burden on the MJCA. Similarly, the use of the partner institution's M&E processes, or where these are weak, jointly developing processes that generate useful data for both the donor and for the institution promotes relevance and sustainability of M&E activities. Ensuring that the Programme design structure is strategically pitched and that its M&E framework has potential to capture significant performance information and evidence of change, without over engineering for detail is required. While it is important to track progress of activities, keeping M&E processes as simple and uncomplicated as possible helps to accord clarity to the Programme and to the realisation of its objectives. Such an approach would accord with aid effectiveness principles, and would help to address weaknesses in systems and processes through donor interaction. This approach would require assumption of risks by both parties, although the more significant risk assumption would rest with the donor, and the approach would need to include a comprehensive fiduciary risk assessment. Such an assessment does not appear to have taken place during the design or PID processes. It is encouraging to note that the NZAID Programme appears willing to contemplate this approach, given its recent experience using GoS systems for tsunami relief activities.

4.3 Simplify coordination and communication arrangements

125. ISP coordination and communication was overly complicated and produced arguably unnecessary administrative burdens for both the MJCA and the NZAID Programme. Careful attention to coordination and communication may have been necessary during Year 1 of the ISP, but there appears to have been scope for streamlining coordination and communication as the MJCA grew more comfortable with its role and abilities to drive the ISP. One external focal point to support the partner institution's coordination of the ISP would have reduced complexity, avoided duplication, and

streamlined communication, particularly across the TA personnel. Coherence across the TA personnel inputs was weak, with TA personnel interviewed often citing that they did not communicate regularly with each other, or had poor knowledge of the other elements of the ISP and its objectives. Increased coherence on the part of the TA personnel and adoption of a 'team' approach was necessary to achieve greater synergies and increase the ISP's effectiveness.⁷⁵ Communication between the donor and the target institution also needs to be as streamlined and regular as possible. Assumptions made on the part of both the NZAID Programme and the MJCA need to be clarified through regular communication and it is important to ensure that a schedule of regular bilateral face to face meetings is established.. While telephone and email communication are efficient, the effectiveness of these media is diminished if they are not underpinned by sound relationships built on spending time with partners. Contracting of TA personnel inputs also needs to be uncomplicated and meet the needs and timelines of the target institution. Care needs to be taken to ensure that securing and coordinating and contracting of inputs by GoNZ Agency TA personnel remains as streamlined as possible. Also, assumptions that the cost of sourcing TA personnel (either from GoNZ Agencies or from the open market) need to be verified on an ongoing basis to ensure value for money. Some instances were noted where externally driven timing of TA personnel inputs took place. This was seen either as ineffective, in that they did not meet the needs of the MJCA, or inefficient, as resources could have been used elsewhere or in a different way.

4.4 Clearly describe the theory of change through a phased approach

126. Clearly articulating stages of implementation of the ISP clarifies expectations for both the partner institution and the donor, and provides sensible reference points for parties to check progress against agreed objectives and expected outcomes. This approach also recognises that individual and organisational capacity development takes time and adjustments will be required. While the MJCA conducted an internal mid-term review of the ISP, the NZAID Programme did not conduct an external mid-term review, and so tracking of progress and achievements was patchy. Furthermore, the PDD and PID did not clearly articulate a theory of change that described concrete steps that would be achieved. One way of doing this would have been to incorporate phasing into the design, which would have seen key milestones (or intermediate outcomes expected) set for mid-term, against which review could be conducted, and which would then provide useful progress reporting for both the MJCA and for the NZAID Programme. For example, strengthening the MJCA's capacity in policy, strategic planning and evaluation, quality assurance, human resource management, IT, and integrated records management would have provided a solid basis in core process areas within the MJCA on which further inputs could be built. A mid-term review point could review progress, and if capacity was sufficiently strengthened, the ISP could then direct its support to targeted technical inputs, including into the Censorship Office, the Maintenance Section, the Probation and Parole Section, Courts Section in both Apia and Tuasivi, and the LTC. Related to this is the complexity of the M&E Framework, which while providing a high degree of detail about individual activities, did not provide a sensible useable overall picture of progress – progress was simply lost in the detail.

4.5 Maintain flexibility and responsiveness through dialogue

127. Development programmes are at their best when they remain flexible and responsive within a programmed framework. A key success of the ISP was its ability to respond to MJCA needs, such as redirecting resources to the NUS middle management training course, and redirecting support away

⁷⁵ For example, TA personnel in the Probation and Parole Section and the Courts Advisor, both of whom provided long-term inputs, did not seem well apprised of each other's roles. Further, both were not aware of the schedule for short-term TA personnel inputs through the ISP. Donor-MJCA communication appeared to take place often at the operational level (with the ISP Coordinator) and largely by telephone.

from maintenance and the Courts at Tuasivi to probation and parole. This flexibility allowed the MJCA to maximise absorption of the ISP's benefits to meet its changing needs and priorities and staff capacities. However, flexibility and responsiveness of this scale is best avoided. A design pitched at a more strategic level might have avoided this occurrence—effectively two of the eight original objectives were abandoned after the design period and shortly following commencement of implementation. While the decisions are likely to have been based on sound reasons, this decision-making needs to take place at the design stage, so that realistic expectations are made and so that implementation flexibility and responsiveness centres on how best to implement activities within an agreed programme, rather than whether or not to implement components of the programme. Nevertheless, maintaining dialogue with the partner institution about prioritisation of its changing needs is key to ensuring that the ISP remains flexible and responsive to needs.

5. CONCLUSION

128. The ISP has scored well against key criteria of relevance, effectiveness and sustainability; greater efficiency could have been achieved in certain areas, through simplification of monitoring and reporting requirements, particularly financial reporting, and through simplified governance arrangements. The ISP has scored poorly in terms of incorporating NZAID Programme crosscutting themes, monitoring progress, and the outcomes of its inputs with respect to access to justice, and the sustainability of outcomes relating to the OMS. MoU between GoNZ Agencies and the NZAID Programme, although harnessed well under the ISP, did not provide a more cost effective means of engagement of TA personnel, as was expected. Management arrangements aligned well with internal MJCA responsibilities, with the ISP Task Force being constituted by ACEOs with line responsibility, while governance arrangements were less effective and unwieldy. The PCC mechanism, while providing transparency in decision-making, was not an effective vehicle for inclusion of community views. Having both a Programme Advisor and a DoC Programme Coordinator with central coordination roles caused confusion. Both of these posts were externally contracted (external to both the MJCA and to GoNZ Agencies) and neither was permanently present in Samoa. Coordination and communication between the MJCA and the NZAID Programme might have been strengthened, as evidenced by a very different set of assumptions about responsibilities and approaches evident during the Evaluation field mission.

129. Key areas of sustainability include Courts Administration processes, legislation, establishment of probation and parole systems including Samoan culture through Community Justice Supervisors, some elements of support to the Censorship Office and its legislative framework, planning and reporting processes in place, and training delivered to 32 mid-level managers. At approximately NZD2.3 million over 3 years represents good value for the investment. Less tangible but nonetheless important outcomes from the ISP include a growing sense of confidence and responsiveness on the part of the MJCA. This has in part been provided through the new MJCA building, which provides a good working environment for the MJCA and the Courts, and which adds an air of seriousness to the administration of justice in Samoa. Further, confidence in the ability of the MJCA to manage its own capacity development going forward is a significant outcome of the ISP. This has supported the MJCA to establish systems and processes which will allow it to discover its own shortcomings and to take steps to correct those in a responsive and transparent manner, working in partnership with the international community. The key challenge facing the MJCA in the context of the emergence of the Samoan LJS will be its ability to proactively engage on a sector-wide level with justice agencies, particularly in relation to its own performance data (both internal and external), and its ability to internalise succession planning processes, so that gains made with the support of the ISP are not lost due to staff turnover.

Annex 1: Acronyms and Abbreviations

ACEO	- Assistant Chief Executive Officer
ACS	- NZAID Programme's approved contractor scheme
AusAID	- Australian Agency for International Development
AYAD	- Australian Youth Ambassadors for Development Program
CEO	- Chief Executive Officer
CLP	- ADB Customary Land Project
DoC	- Department of Corrections (GoNZ)
ESC	- Evaluation Steering Committee
GDI	- Gender Development Index
GEM	- Gender Empowerment Measure
GoA	- Government of Australia
GoNZ	- Government of New Zealand
GoS	- Government of Samoa
FF	- Fa'amasino Fesoasoani
HDI	- Human Development Index
HRD	- Human Resources Development
HRM	- Human Resources Management
IMS	- Information Management System
ISP	- Institutional Strengthening Programme
IT	- Information Technology
JSPS	- Joint Samoa Program Strategy (GoS, GoNZ, GoA)
LJS	- Law and Justice Sector
LJSS	- LJS Secretariat
LTC	- Land and Titles Court
M&E	- Monitoring and evaluation
MFAT	- Ministry of Foreign Affairs and Trade (GoNZ)
MJCA	- Ministry of Justice and Courts Administration
MoJ	- Ministry of Justice (GoNZ)
MoU	- Memoranda of Understanding
MSC	- Management Services Contractor
MWCSD	- Ministry of Women, Community and Social Development
NGOs	- Non Governmental Organisations
NUS	- National University of Samoa
NZAID Programme	- MFAT's overseas development assistance programme
NZD	- New Zealand Dollars
OAG	- Office of the Attorney-General
OFLO	- Office of Film and Literature Classification (GoNZ)
OMS	- Offender Management System
Racli	- Pacific Legal Information Institute
PAF	- Performance Assessment Framework
PCC	- Programme Coordination Committee
PDD	- Programme Design Document
PID	- Programme Implementation Document
PJDP	- Pacific Judicial Development Programme
PSC	- Public Service Commission
PSIF	- Public Sector Improvement Facility
SDS	- Strategy for the Development of Samoa (2005-2007; 2008-2012)

SPS	- Samoa Police Service
TA personnel	- Technical assistance personnel
TNA	- Training Needs Analysis
ToR	- Terms of Reference
ToT	- Training of Trainers
USD	- United States Dollars
WPA	- Work place attachments
WST	- Samoan Tala

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Annex 2: Terms of Reference: MJCA ISP Evaluation

1. Background

1.1 Programme Background

As part of its public sector reform programme begun in 1996, the Government of Samoa (GoS) sought New Zealand Agency for International Development's Nga Hoe Tuputupu-mai-lawhiti (NZAID) assistance to strengthen the Justice Department and to establish a Law Commission. An institutional strengthening programme (ISP) was implemented from 1999 to 2004 to support companies' law reform, computerisation of the births, deaths and marriages registry and establishment of a Law Commission.

During the reform, 21 public sector ministries were realigned and reduced to 13, including the amalgamation of the Department of Justice and the Judiciary into the Ministry of Justice and Courts Administration (MJCA). A 2003 review of the ISP recommended that further assistance was required to embed gains made under the ISP and to support the restructuring of the Ministry. The newly restructured Ministry identified three priority areas for support through the design of a new ISP in 2005. A joint Government of New Zealand and Government of Samoa inception mission in May 2006 developed a detailed programme implementation document (PID) and identified a fourth priority.

The four main priorities identified by MJCA for the new institutional strengthening programme were:

- improving efficiency and effectiveness of court administration
- developing a probation and parole service that operates the Samoan way and integrates international best practice with Fa'a-Samoa for both adult and juvenile offenders
- improving the effectiveness of the censorship office
- improving the efficiency and effectiveness of corporate support areas including policy development, human resource management, staff training and development and use of information technology.

Activities to support MJCA to address these key priorities were refined and adjusted in subsequent annual plans in response to MJCA's evolving organisational development needs.

The programme design, implementation schedules and annual plans were purposely developed to align with MJCA's corporate planning goals (2005-2007) and with broader strategic national, regional and international directions in mind. These include the: 2004 Forum Leaders Pacific Plan goals that cover regional security, sustainable development and good governance; the governments of Samoa, Australia and New Zealand's Joint Samoa Program Strategy 2006-2010 (JSPS) goal to strengthen law and justice to support a safer Samoa; the 2005-2007 Strategy for the Development of Samoa (SDS) sub goal of an efficient and effective justice system integral to achieving Samoa's community development goal and overall vision of "an improved quality of life for all"; and the 2008-2012 SDS, under the national goal of improved governance and the priority area on improved public sector management and environmental sustainability.

NZAID has provided the financial support for the MJCA ISP, with three New Zealand government agencies providing most technical support (Department of Corrections, Ministry of Justice, and the Office of Film and Literature Classification). A NZAID Management Services Consultant (MSC),

Kurrajong Hill Pty Ltd, in collaboration with the MJCA ISP Coordinator and ISP Taskforce, provided technical and coordination support for the ISP. A Samoa Programme Coordination Committee (PCC) consisting of representatives from MJCA, NZAID and other key law and justice sector stakeholders, provided overall strategic and coordination oversight of the ISP.

1.2 MJCA ISP Goal

A Justice System accessible to all in Samoa (i.e. one that is efficient, equitable, affordable and transparent) serviced by an effective Ministry of Justice and Courts Administration.

1.3 MJCA ISP Objectives

The MJCA's corporate plans for 2005-2007 and 2008-2011 set the direction for the Ministry to become the best court administrator in the Pacific region. The ISP was structured into seven⁷⁶ components that reflect and support MJCA's corporate plan aims, namely:

i. To improve the efficiency and effectiveness of the courts in Apia and Tuasivi

Output 1.1: Integrated criminal/civil registry established and improved case management practices implemented in courts in Apia and Tuasivi

Output 1.2: Improved systems and processes to support increased fines collections and civil debt enforcement by the Apia Court Warrant Section implemented

ii. To develop a probation service that integrates international best practice with Fa'a-Samoa for both adult and juvenile offenders

Output 2.1: Probation and Parole section provides required information to the Courts and Parole Board

Output 2.2: A legislative framework for Probation Service that integrates international best practice with Fa'a-Samoa in place

Output 2.3: Probation and Parole section manages offenders appropriately

Output 2.4: Community groups (including traditional structures) and individuals participate in the planning and delivery of probation services

iii. To satisfy the needs of maintenance clients by way of effective processes and prompt enforcement

Output 3.1: Improved case management practices in the Apia Court Maintenance Section implemented

iv. To improve the efficiency and effectiveness of Mulinuu Court

⁷⁶ Note: the PID originally contained eight components. The numbering changed in 2008 to reflect MJCA's new Strategic Plan and the last annual plan includes both sets of numbers. Subsequent documents have tended to use the original numbers – though not always.

Output 4.1: Improved case management practices in the Mulinnu Court implemented and proposal to establish non-judge led mediation service developed

vi. To improve the effectiveness of the censorship office in the classification of material, enforcement and education

Output 6.1: Regular monitoring and enforcement undertaken

Output 6.2: Revised systems and procedures being implemented

Output 6.3: An appropriate legislative framework for Censorship that integrates international best practice with Samoa community standards

Output 6.4: Censorship has the capacity to implement censoring services effectively

Output 6.5: Educational activities undertaken

vii. To strengthen MJCA's capacity in policy, planning and evaluation

Output 7.1: Strengthened Policy, Planning and Evaluation Section (PPE) supporting Justice Sector Policy development and operational service improvement

Output 7.4: Sustainable implementation of the Samoa MJCA ISP

viii. To strengthen MJCA's capacity in selected core areas: quality assurance; human resource management and information technology

Output 8.3: An integrated records management system for all Courts and implementation of improved file management practices established

Output 8.4: Information Technology Strategy and an IT Section Plan completed and implemented

Output 8.5: Core Human Resource Management (HRM) functions (recruitment and selection, performance management, human resource development (HRD)) operating effectively

Output 8.6: Operational quality assurance (QA) processes in place and business assurance programme established.

2 Purpose

The MJCA ISP is due to end October 2009 and as a significant programme it is important to evaluate the results achieved through the ISP. A new law and justice sector programme, based on the Government of Samoa's Law and Justice Sector Plan 2008-2012, is anticipated to commence early to mid 2010 and findings from the evaluation may contribute to the design of the sector programme.

The purpose of the evaluation is therefore to assess the results achieved under the ISP for learning and accountability, and to inform MJCA and the law and justice sector (and potential other donors of the law and justice sector programme) about outstanding institutional strengthening priority needs,

including any gaps that have not been previously identified. The evaluation will also contribute to the Government of Samoa and NZAID learning about institutional strengthening programmes, in general.

The end of project evaluation report will be made available to all stakeholders and interested parties.

3. Scope

The focus of this assignment will be on evaluating the components and activities of the most recent institutional strengthening programme of the Ministry of Justice and Courts Administration. It will include the preparation phase, including ISP design (October 2005 to April 2006), and the ISP implementation phase (May 2006 to October 2009). However, the assignment will also examine the sustainability of the outcomes from the original ISP (1999-2004), in order to identify lessons learnt for the new law and justice sector programme

The evaluation will specifically address the relevance, efficiency (processes, management, value for money), effectiveness (outcomes), and sustainability of the MJCA ISP. The broader, longer term impacts will not be examined as insufficient time has passed for these impacts to be evident.

The primary stakeholders of the ISP are the Ministry of Justice and Courts Administration and their clients. Other stakeholders included the sector agencies (Attorney General's Office, Samoa Police, Ministry of Women, Community and Social Development, the Ombudsman's Office and the Public Service Commission); community groups (relevant non-government organisations, including the umbrella group SUNGO); New Zealand government agencies (Department of Corrections, Ministry of Justice, and the Office of Film and Literature Classification); and the Ministry of Finance and NZAID. The consultant/s will be expected to undertake field work in Samoa and Wellington, New Zealand.

4. Objectives

Objective 1: Assess the relevance of the MJCA ISP.

- To what extent have the Programme results been relevant to improving the accessibility of the Justice System for all Samoans and the effectiveness of the MJCA? Is baseline information available?
- How effective were the working arrangements and linkages with other multilateral, regional or national law and justice sector activities and planning?

Objective 2: Assess the effectiveness of the Programme.

- Describe the rationale for change (Theory of Change) articulated by the MJCA ISP Programme Implementation Document (PID), including the outcomes expected (and possible unintended outcomes) at different stages of the Programme (refer to the MJCA ISP Log Frame)⁷⁸. ??

⁷⁷ Capacity building activities were a fundamental element of this ISP. As well as considering whether these activities were relevant to the needs of staff, this objective should also consider whether they improved service delivery and accessibility to the justice system for the wider public.

⁷⁸ A mainstreaming approach was incorporated into the MJCA ISP at its inception to consider and address human rights, gender, environment, and HIV/AIDS. These mainstreaming themes, and including conflict prevention, should be considered and discussed across the evaluation process.

- To what extent have these intended outcomes been achieved and what unintended outcomes have resulted from the Programme (including the differential outcomes for men and for women, and where relevant, the poor and vulnerable)?
- What were the key strengths and key constraints to achieving the ISP's intended outcomes?

Objective 3: Assess the efficiency of the Programme.

- Was the ISP managed efficiently and effectively; were the processes used efficient and effective (taking into account the needs of key stakeholders and effectiveness of partnerships)?
- Were the inputs, budgets and costs for the programme adequate and reasonable in relation to the achievement of programme outcomes?⁷⁹

Objective 4: Assess the likely sustainability of any benefits from the Programme.

- To what extent will MJCA be able to sustain practices and processes or other changes and outcomes gained under the ISP, with or without future donor funding?
- What are the sustainability issues/risks for MJCA in transitioning to a new funding modality (i.e. from an institutional strengthening programme to the law and justice sector programme) with new partners and new ways of working?
- To what extent have the outcomes from the original 1999-2004 ISP been sustained?
- What factors appear to support better sustainability and how can these lessons be incorporated into any future law and justice sector programme?

Objective 5: Identify significant gaps that should be addressed through future support (specifically through the law and justice sector programme).

Objective 6: Assess the key lessons from this Programme.

- What lessons can be learned from this ISP to assist NZAID to tailor support for other institutional strengthening activities in Samoa or other Pacific Islands countries; and for the Government of Samoa to take into consideration for any further institutional strengthening interventions?

Note: The high-level evaluation questions should be used as a guide as to what information is required, but should not be seen as limiting or prescribing the scope of the evaluation.

5. Methodology

The Evaluation Team will develop an evaluation plan for the assignment, addressing the questions in Annex 7 and the objectives in Section 4. The plan will be discussed and finalised with the Steering Committee within a week of the start of the assignment.

To ensure the objectives of the evaluation are achieved, it is important that the principles of partnership, transparency, independence and capacity building are integrated throughout the evaluation design and implementation. It is equally important that the assignment gives strong consideration to the aid effectiveness principles.

The evaluation will use a participatory approach which (at a minimum) includes a pre-evaluation

⁷⁹ A Feasibility Analysis should be considered for this question.

briefing with key stakeholders, participatory information gathering, and the validation of key findings and interpretations with informants and key stakeholders in-country. Is a Reference Group envisaged?

While the Evaluation Team will determine the appropriate methodology to meet the objectives of the evaluation, it is expected that they will undertake a literature review to identify effective ISPs in the justice sector, and justice practice, in the Pacific region. The Evaluation Team is expected to draw on a range of international and regional background studies, reviews and publications to effectively contextualise the report and strengthen the recommendations. Annex 2 provides an indicative list of Government of Samoa, MJCA and NZAID reference documents⁸⁰.

The final report should make clear any limitations and constraints, including the extent to which these affected the ability to draw findings and conclusions for specific areas parts of the evaluation.

6. Governance and management

A Steering Committee has been established for key decisions-making about the evaluation (coordinated by NZAID). The Committee comprises members from MJCA; the Ministry of Finance (Aid Coordination Unit); AusAID; NZAID (Strategy, Advisory and Evaluation Group and Samoa Programme). Committee members have not been involved closely in the ISP implementation. The Steering Committee will:

- approve the TOR
- approve the evaluation plan
- address issues that arise during the assignment
- provide written comment on a draft report
- approve the final report.

The Evaluation Team will be led by an independent consultant with strong and relevant evaluation skills and experience. The Team may also include an NZAID or AusAID ISP or Law and Justice adviser and representatives of MJCA and MoF (Aid Coordination Unit or Planning Unit). Preferably also these members would not have been involved closely in the ISP implementation.

The Steering Committee (or a representative of the Committee) will agree on the selection of contractors for the Team. NZAID will be the commissioning agent for the Evaluation, with the contract being managed by NZAID's Samoa Development Programme Officer based in Wellington and the Samoa Development Programme Coordinator in Apia managing the in-country aspect of the assignment.

The governance and management functions of the evaluation will respect the independence⁸¹ of the Evaluation Team in carrying out their functions. Any suggested changes to the evaluation plan and draft/final report will respect this independence and will be for the purposes of clarifying expectations, and ensuring good evaluation practices and standards.

The Evaluation Team will keep the Steering Committee informed on progress (weekly update) and any issues arising, or matters requiring changes, to the agreed evaluation plan.

⁸⁰ The reference list will include MJCA's completion report and internal evaluation of the ISP.

⁸¹ For more information, see the DAC's definition of Evaluation Independence (p. 24, 'Glossary of Key Terms in Evaluation and Results Based Management')

7. Outputs

The Evaluation Team will provide the following outputs:

1. Evaluation plan to be submitted to and signed-off by the Steering Committee within one week of the assignment commencing.
2. Presentation and discussion of findings, including submission of an Aide Memoire, to the Steering Committee and other key stakeholders prior to the evaluation team leaving Samoa.
3. Final draft report submitted to the Steering Committee for comment and feedback⁸².
4. Final report submitted to the Steering Committee, incorporating agreed stakeholder feedback (while protecting independence). The Evaluation Team should address feedback on the draft report as a matter of priority and submit the final report within a short period of time (no later than late November). Any further required changes should be made promptly, with the final report submitted by the end of February 2010⁸³.
5. The consultant/s will provide hard and electronic copies (PDF and Word) of the final report⁸⁴.
 - i. The report length should be no longer than five pages for the executive summary and around 30 pages for the main body of the report (excluding annexes). The executive summary should be written in such a way that it could be read as a standalone document. The report will include background; outline of the evaluation purpose and objectives, methodology, approach and limitations; findings; conclusion and recommendations. Annexes to the final report should include the assignment terms of reference; evaluation plan, compilation of survey and interview responses, and statistical data, to support analyses; lists of stakeholder meetings, interviews and/or consultations; and bibliography.
 - ii. The content of the report should meet the terms of reference and evaluation plan.

The final report will be considered for public release by NZAID's Evaluation and Research Committee (ERC). As the report, or any part of the report, may be made available publically (e.g. on NZAID's website), any information that could prevent the release of the report under the New Zealand Official Information Act or Privacy Act, or would breach ethical standards, must be placed in a confidential annex.⁸⁵

8. Milestones/timeline

It is expected that this assignment will take up to four weeks and will be completed by the end of February 2010. Contract start and end dates, as well as milestone dates, will be negotiated with the successful consultant/s and confirmed on finalisation of the evaluation plan.

Milestones must be of a high quality standard acceptable to the Steering Committee.

⁸² The final draft report will be peer reviewed and NZAID will collate feedback from key stakeholders. The Steering Committee will advise the consultant if further work and/or revision of the report is required if, for example, the report does not meet these terms of reference or the quality is not of an acceptable standard.

⁸³ The final, approved report is required by the end of February 2010 as it will feed into the law and justice sector programme due to commence early to mid 2010.

⁸⁴ The report will comply with the NZAID Guideline on the Structure of Review and Evaluation Reports and DAC Evaluation Quality Standards. (NZAID will make these available to the consultant/s.)

⁸⁵ An appraisal of the report will be prepared to help inform the Committee's decision.

What should the timeline be? How long should the evaluation plan be?

Milestones	Tasks	Payment
Milestone One	Agreed evaluation plan	10%
Milestone Two	Final draft report submitted to the Steering Committee for review and comment. The submitted draft report should be of a quality accepted by the Steering Committee Presentation of the findings and recommendations, including an Aide Memoire, to key stakeholders.	40%
Milestone Three	Final report, incorporating agreed stakeholder comments, submitted to the Steering Committee	40%
Milestone Four	Final report, to a quality accepted by the Steering Committee, signed off by Steering Committee	10%

9. Required skills and experiences

All members of the Evaluation Team will contribute to data collection and analysis, and report writing. The consultant/s must have a proven track record in delivering high-quality work and will demonstrate the following skills, knowledge and experiences:

- significant evaluation skills and experience using participatory methodologies, including a sound understanding and application of evaluation ethics
- qualitative and quantitative data analysis skills
- experience in evaluating public sector institutional strengthening strategies and initiatives in the Pacific
- relevant law and justice sector experience, preferably in the Pacific
- cross cultural communication skills
- working knowledge of the application of aid effectiveness principles.

10. Evaluation follow-up

Following acceptance of the final report, NZAID and Government of Samoa (Ministry of Finance and Ministry of Justice and Court Administration) will meet to discuss the findings and recommendations. These discussions may include AusAID in relation to future work under the law and justice sector programme.

Annex 3: List of people consulted

MJCA ISP Evaluation key: JM – James McGovern; LM – Lorenz Metzner; and MBA – Ms. Mareva Betham-Annandale, MJCA Representative. EP – Ms. Elena Procuta accompanied the Evaluation Team on meetings in Wellington in early March.

Date and location	People consulted	Evaluation Team Members
Monday, 1 March, 2010		
NZAID Programme Offices, Wellington	Development Programme Officer, Samoa, Pacific Division, NZAID Programme, MFAT, Wellington; Evaluation Advisor, NZAID Programme, MFAT, Wellington.	JM, LM
Teleconference	(Programme Advisor, NSW Australia.	JM, LM, EP
Tuesday, 2 March, 2010		
Teleconference	Development Program Coordinator, NZAID Programme, MFAT, Apia.	JM, LM, EP
NZAID Programme Offices, Wellington	Service Design Project Manager, District Courts, Ministry of Justice, Wellington; Development Programme Manager, Samoa, Pacific Division, NZAID Programme, MFAT, Wellington.	JM, LM, EP
NZAID Programme Offices, Wellington	Clerk Assistant (Select Committees), Office of the Clerk of the House of Representatives (formerly with the Office of Film and Literature Classification.	JM, LM, EP
Department of Corrections Offices, Wellington	National Manager, Maori Service Development, Department of Corrections Head Office, Wellington.	JM, LM, EP
	Evaluation Advisor, NZAID Programme, MFAT, Wellington.	JM, LM, EP
Wednesday, 3 March, 2010		
Wellington	Development Programme Officer, Samoa, Pacific Division, NZAID Programme, MFAT, Wellington;	JM, LM
	Travel to Apia	JM, LM
Wednesday, 3 March, 2010		
NZ High Commission, Apia	NZAID Manager, NZAID Programme, MFAT, Apia; Development Program Coordinator, NZAID Programme, MFAT, Apia.	JM, LM
MJCA Building, Apia	Initial briefing with MJCA Executive; ACEO, MJCA; ACEO Corporate Services, (former MJCA ISP Coordinator); ACEO Criminal & Civil Court Division; ACEO Lands & Titles Division; ACEO Policy, Planning and Sponsorship, and MJCA Evaluation Team Representative.	JM, LM
Thursday, 4 March, 2010		
Apia	Development Program Coordinator, NZAID Programme, MFAT, Apia.	JM, LM
Samoa Police Service HQ, Apia, Samoa	Coordinator, Samoa-Australia Policing Partnership.	JM, LM
Friday 5 March, 2010		
MJCA Building, Apia	ACEO Corporate Services, MJCA;	JM, LM
	Principal Probation and Parole Officer, MJCA;	JM, LM
	Senior Court Registry Officer, District Court (FF);	JM, LM
	ACEO Mediation & Registration LTC;	JM, LM

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	(Research);	Principal Warrants and Parole Officer.	JM, LM
		Deputy Registrar, Lands & Titles Court.	JM, LM
		Deputy Registrar, Lands & Titles Court.	JM, LM
		FACEO Lands & Titles Division.	JM, LM
Saturday, 6 March, 2010			
Apia	Report writing		JM, LM
Sunday, 7 March, 2010			
Apia	Report writing		JM, LM
Monday, 8 March, 2010			
MJCA Building, Apia		Senior Activity Manager, Development Cooperation, AusAID, Apia, member of the MJCA-ISP Evaluation Steering Committee.	JM, LM, MBA
P.A.M. Building, Tamaligi, Apia		President of the Law Society of Samoa.	JM, LM, MBA
Teleconference, Port Vila.		former ISP DoC Coordinator	JM, LM
Tuesday, 9 March, 2010			
Ministry of Finance, Apia		FACEO Aid Coordination, Ministry of Finance.	JM, LM, MBA
LJSS Office		Sector Coordinator, Law and Justice Sector.	JM, LM, MBA
SUNGO Offices, Apia		President SUNGO, CEO SUNGO.	JM, LM, MBA
SPS HQ		Assistant Samoa Police Service	JM, LM, MBA
	Commissioner.		
Lunch meeting		(NZAID Manager, NZAID Programme, MFAT, Apia; Development Program Coordinator, NZAID Programme, MFAT, Apia.	JM, LM
PSIF Office, Government Building		Manager, Facility Management Unit, Samoa Public Sector Improvement Facility, Ministry of the Prime Minister and Cabinet.	JM, LM, MBA
Teleconference, Wellington		Crown Law Office, GoNZ.	JM, LM
Wednesday, 10 November, 2009			
MJCA Building, Apia		Probation and Parole Community Justice Supervisors: Bishop, LDS Church; Catechist Catholic Church; Assembly of God Church; Sisal Vaitete Pou.	JM, LM, MBA
Ombudsman's Offices, Apia		Ombudsman.	LM, MBA
Fa'ataua-Le-Ola offices, Apia		Acting Director, Fa'ataua-Le-Ola (FLO).	JM, LM, MBA
Supreme Court Chambers, MJCA Building, Apia			JM, LM, MBA
Thursday, 11 March, 2010			
MJCA Building, Apia		Principal Censor, MJCA.	JM, LM, MBA
Attorney-General's Office		Attorney-General.	JM, LM, MBA
Teleconference		former Courts Advisor.	
District Court Chambers, MJCA Building, Apia	Judges.	District Court	JM, LM, MBA
Land & Titles Court Chambers, MJCA Building, Apia		President Land & Titles Court.	JM, LM, MBA
MJCA Building, Apia	PCC Meeting		JM, LM, MBA
MJCA Building, Apia	Samoa Victims Support Group [names]		JM, LM, MBA
Teleconference		Workplace Exchangee from DoC, GoNZ	JM, LM
Friday, 12 March, 2010			
Tuasivi, Savai'i	Travel from Apia to Tuasivi on Savai'i		JM, LM
Tuasivi		FACEO Tuasivi Courts Division, MJCA,	JM, LM
		Senior Accounts and Administration Officer, MJCA,	JM, LM

	Tuasivi		
MJCA, Tuasivi Office	Apia).	Principal Maintenance Officer (based in	JM, LM
		Senior Records Officer, Files Repairer (casual), File Repairer; Cashier.	JM, LM
		Deputy Registrar, Tuasivi Courts Division;	JM, LM
		Court Officer, (District Court and FF Court); Court Officer, (LTC); Probation Officer; Court Associate, LTC; Court Associate, LTC; Office Assistant.	
	One Probationer.	Community Justice Supervisor, Safotu Village;	JM, LM
		Community Justice Supervisor, Mauga Village.	JM, LM
Teleconference, Auckland		Ex-Principal Probation & Parole Officer, MJCA (now with DoC, GoNZ, Auckland).	JM, LM
Teleconference, Sydney		Quality Assurance Advisor.	JM, LM
<i>Saturday, 13 March, 2010</i>			
Teleconference		DoC, GoNZ	JM, LM
	Travel from Tuasivi to Apia		JM, LM
<i>Sunday, 14 March, 2010</i>			
Apia		Aid Memoire preparation	JM, LM
<i>Monday, 15 March, 2010</i>			
MJCA Building, Apia		Principal Maintenance Officer	JM, LM, MBA
		Former Principal Maintenance Officer, (currently Principal Sensor)	
MJCA Building, Apia		ACEO Criminal & Civil Court Division	JM, LM, MBA
MJCA Building, Apia		Principal Court Records Management Officer	JM, LM, MBA
MJCA Building, Apia		ACEO Corporate Services Division	JM, LM, MBA
<i>Tuesday, 16 March, 2010</i>			
MJCA Building, Apia		CEO MJCA	JM, LM
Sails Restaurant, Apia		Evaluation Team briefing to NZAID, Apia: NZAID Manager, NZAID Programme, MFAT, Apia; Development Program Coordinator, NZAID Apia.	JM, LM, MBA
MJCA Building, Apia		Presentation of initial findings to Programme Coordination Committee and MJCA ACEO Lands & Titles Court Division, (Chair); CEO, MJCA; ACEO, Legal, Policy, Planning and MJCA; ACEO Criminal & Civil Courts Division; NZAID Manager, NZAID Programme, MFAT, Apia; Development Program Coordinator, NZAID Programme, MFAT, Apia; ACEO Corporate Services Division, (former MJCA ISP Coordinator); PSC	JM, LM
Teleconference, Auckland		former ISP Probation and Parole IT Advisor	JM, LM

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<i>Wednesday, 17 March, 2010</i>		
MJCA Building, Apia	Debriefing with MJCA Executive CEO, MJCA; ACEO Corporate Services Division, (former MJCA ISP Coordinator); ACEO Criminal & Civil Courts Division; ACEO Lands & Titles Court Division; ACEO, Legal, Policy, Planning and Evaluation Division. MJCA; ACEO – Corrections, Enforcement & Maintenance Division; ACEO - Mediation & Registration, LTO	JM, LM
NZ High Commission, Apia	(Superintendent), NZ Police Liaison Officer, NZ High Commission, Apia	JM, LM
NZ High Commission, Apia	Final debriefing with NZAID, Apia; NZAID Manager, NZAID Programme, MFAT, Apia, Development Program Coordinator, NZAID Programme, MFAT, Apia;	JM, LM
	Travel Apia to Wellington via Auckland	JM, LM
<i>Thursday, 18 March, 2010</i>		
	Travel Apia to Wellington via Auckland (date change due to crossing dateline)	JM, LM
<i>Friday, 19 March, 2010</i>		
NZAID Programme Offices, Wellington	Debriefing with NZAID Development Programme Officer, Samoa, Pacific Division, NZAID Programme, MFAT, Wellington; Development Programme Manager, Samoa, Pacific Division, NZAID Programme, MFAT, Wellington; Institutional Strengthening Advisor, Strategy, Advisory & Evaluation Group, NZAID Programme, MFAT, Wellington.	JM, LM
Teleconference, Wellington	Legislative Drafting Advisor.	JM, LM
<i>Saturday, 20 March, 2010</i>		
	Travel Wellington to Sydney & Brisbane.	JM, LM

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OFFICIAL INFORMATION ACT

Annex 4: Aide Memoire

Aide Memoire
MJCA ISP Evaluation
16 March, 2010

1. Purpose of this Evaluation

Following completion of the Samoa Ministry of Justice and Courts Administration (MJCA) Institutional Strengthening Programme (ISP) in October 2009, the purpose of this evaluation is to assess the results achieved under the ISP for learning and accountability, and to inform MJCA and the law and justice sector (LJS), and potential other donors of the LJS, about outstanding institutional strengthening priority needs, including any gaps that have not been previously identified. The evaluation will also contribute to the Government of Samoa (GoS) and Government of New Zealand (GoNZ) learning about ISPs, in general.

2. Initial findings

Relevance: Design and implementation of the ISP were strategically relevant to both GoS and GoNZ, according with priorities identified under the GoS, GoNZ, Government of Australia (GoA), Joint Samoa Program Strategy 2006-2010, the GoS Strategy for the Development of Samoa 2005-2007, and the MJCA's strategic and corporate plans. The focus on support to improving quality of specialist technical capacity, including legislation (*Young Offenders Act 2007*, *Community Justice Act 2008*, and amendments to the censorship legislative framework), integration of Fa'a Samoa into probation and parole services, and moderate capital expenditure (vehicles and equipment) was highly relevant to the MJCA's needs. An additional focus on process, including middle management training at the National University of Samoa (NUS), case management procedures, strategic policy, planning and evaluation, human resources development, human resources management, and quality assurance processes were also highly relevant to MJCA needs. The ISP's flexibility and responsiveness increased relevance to MJCA needs,⁸⁶ although some instances of externally driven timings for TA personnel inputs reduced the relevance of those inputs. Although members of the judiciary indicated satisfaction with the ISP's support, it was not relevant to ongoing judicial education needs, particularly regarding new legislation supported through the ISP. The ISP was also marginally relevant to the needs of the Maintenance Division and land and titles jurisdiction, one of the most complicated in Samoa. However, the combination of technical and systemic focuses, although not clearly articulated in the Programme's design and implementation documents was relevant to supporting the MJCA's contribution to the emergence of the LJS Plan.

Effectiveness: Establishment of an ISP Task Force was effective by housing responsibility for decision-making and implementation directly with in-line managers. The combination of the ISP's focus on technical and process issues was effective. Support to strategic planning has assisted the MJCA to plan for and better meet its service requirements. The streamlining of criminal and civil registry procedures, improving the MJCA's interaction with the public and the legal profession, was effective in increasing access to justice. Similarly, the significant support to probation and parole, including support to establishment of Community Justice Supervisors, was effective in increasing access to justice. Support to revised legislation and procedures in the censor's office, together with procurement of a vehicle increased its effectiveness.⁸⁷ Approach of some technical assistance (TA)

⁸⁶ The MJCA's substantial involvement in the design process and the Task Force's decision to redirect Programme resources (initially allocated to send a small number of MJCA staff offshore) toward supporting middle management training at NUS is a good example of this flexibility.

⁸⁷ The NZAID-funded vehicle appears to have been reallocated.

personnel and workplace exchanges diluted the effectiveness of their inputs, with some returning early. Work place attachments in New Zealand were considered effective where the working environment was relevant to the MJCA's needs. The middle management training at the NUS was also seen as very effective in supporting the MJCA's senior staff. Although some Tuasivi office staff benefited from middle management training and benefited from ISP-supported MJCA-wide process enhancements, support to improving access to justice at Tuasivi office was not prioritised, with only limited engagement of TA personnel. The GoS' consideration of transferring responsibility for maintenance to the Ministry of Women, Community and Social Development (MWOSD) resulted in the ISP adopting a holding pattern on this; inclusion of maintenance in the ISP even if the section was later transferred would have had increased access to justice. Insufficient focus on centralised records management affected ISP effectiveness in increasing access to justice.

Efficiency: The ISP's NZD2.3 million budget was largely efficiently deployed through a combination of budgetary support for procurement of capital expenditure, contracted TA personnel through a management services contractor (MSC), and secondments through MOUs with NZAID. Reallocation of resources to train 32 mid-level managers through a specifically designed management training course at NUS was a highly efficient use of available resources and appears to be a decision which was Task Force led. MOU-facilitated TA personnel inputs cost the same as contracted inputs. Timing of TA inputs was sometimes not stakeholder driven, resulting in poor use of this resource. Due to budgetary constraints, some contracted TA inputs did not meet expectations, resulting in ongoing unmet needs in key areas, such as the offender management system (OMS) for probation and parole. The Task Force as a management structure aligned well with MJCA internal processes, and allowed efficient use of time by managers for decision-making and follow up. The ISP's reporting and financial requirements did not align well with MJCA processes, and proved onerous for the Task Force. The PCC as a vehicle for wider consultation on and oversight of the ISP was not efficient. PCC members indicated that staff with better knowledge of ISP processes and expected outcomes would have been better able to track progress. The existence of both an Programme Advisor and a GoNZ Department of Corrections (DoC) Coordinator, both of whom were externally contracted and not GoNZ Agency staff, and neither of whom was permanently present in Samoa, was an inefficient means of supporting ISP coordination and communication.

Sustainability: Ongoing interest by probation and parole staff on integration of Fa'a Samoa and continued revision of probation processes evidences a high degree of sustainability of ISP efforts in this area. Inputs on revising the parole act, however, were not continued, pending finalisation of other legislation funded through the PSIF. Key technical improvements, in particular in legislation and Court processes are sustained following the ISP, as are improvements in capacity and legislative framework of the censor's office. Stakeholders external to the MJCA largely noted increased efficiency in the MJCA's external face, and an increased sense of enthusiasm and professionalism on the part of MJCA staff. The ISP's inputs into process, including training on policy and planning, HRM and HRD also appear likely to be sustained through the leadership of the CEO. Some reallocation of resources from the censor's office has affected sustainability of the ISP's inputs into this office. Task Force decisions to prioritise support to Apia Courts and rolling out to Tuasivi (at a later time), to remove maintenance from the ISP, and to prioritise support for probation and parole have meant that sustainability of ISP inputs outside Apia is weak. Although this may be due to the ISP's design and phasing of activities the rationale for these decisions is not clear. Absence of support for judicial education has meant that sustainability of legislative changes is yet to be fully realised. The use of the Task Force is a highly sustainable outcome from the ISP, with the MJCA executive management team unanimously supporting this approach. Relationships with key GoNZ Agencies, particularly the DoC are likely to be sustained, providing a resource for probation and parole division.

3. Future support and lessons

3.1 Future support

Any future GoNZ support to the LJS needs to be within the framework of the LJS Plan. As a concrete work programme to operationalise the LJS Plan is yet to emerge from the LJS Secretariat (LJSS), GoNZ support is suggested to target the MJCA to both realise its objectives under the LJS Plan and to further strengthen its systems. Possible areas for NZAID support include:

(v) Strengthen systems and processes

Under Goal 2 of the LJS Plan (Access to Justice) the MJCA is the lead agency for the strategy of strengthening systems and processes, such as establishing case management systems and computerised information management system (IMS) for the Sector.

Improve records management: The MJCA has identified a need for further technical support to records management in the ministry and in the Courts, which remains a key issue. Records management is culturally significant in administration at the Land and Titles Court (LTC), where records evidence genealogies, a factor with direct relevance to disputes about titles and land. This would support the establishment of IMS for the Sector.

Standardise Courts administration improvements in Apia and Tuasivi: Supporting the MJCA to continue to improve Court administration procedures, including registry processes, in the Apia Courts and a structured programme to roll out these improvements in Tuasivi also appears warranted.

Support small-scale capital expenditure: Minor support to MJCA capital expenditure (computers, vehicles) is suggested, as per need. Principles underpinning the use of any future assistance on capital expenditure would need to be agreed.

Strengthen corporate services: Targeted support to corporate services, in particular further development and employment of MJCA monitoring and evaluation (M&E) processes, is suggested.

(vi) Strengthen customary and community-based justice processes

Under Goal 3 (Customary and Community-based Justice) the MJCA shares the lead with the MWCSO for the strategy of increasing community awareness of formal and community-based justice systems, including public awareness on Court and village fono procedures.

Further integrate Fa'a Samoa into probation and parole: The MJCA has identified a need for further technical support to probation and parole policy development, including incorporation of Fa'a Samoa into probation and parole work. Fine tuning the design and operation of community justice supervision and of the probation and parole OMS, including through IT training and IT support is also needed.

Strengthen LTC procedures: The ISP benefited the LTC only through generic training. Given the importance of this jurisdiction in the Samoan legal context and the challenges to the administration of justice in the jurisdiction evidenced by the volume of cases reaching the LTC, consideration of measures similar to those developed for the registries in the Supreme Court and District Court is warranted.

(vii) Improve knowledge and practice

Conduct research and gather performance data: Establishment of LJS performance data through annual LJS performance reports would provide Samoan justice agencies with concrete information about their performance on a sector-wide level. This could be done through crime perception surveys and other data gathering, coordinated by the LJSS. As the LJS is developing, this activity could be

phased for Year 2 or Year 3 of any future support. In the interim, support for independent mini service delivery surveys (both internal and external) would help the MJCA to gather independent performance data, contributing to the development of this approach in the LJS. Other areas of research may be evident which could help drive the MJCA's efficiency measures.

Support judicial education:⁸⁸ Increased judicial employment of key legislation, such as the *Young Offenders Act 2007* and the *Community Justice Act 2008*, would improve sustainability of ISP outcomes. Supporting a regular schedule of judicial education on this legislation as well as other legislation notified by the OAG appears necessary.⁸⁹ Support for access by the judiciary to case law and research databases also appears necessary.

(viii) *Strengthen management and coordination*

MJCA manages Programme directly: It is suggested that the MJCA would lead management of any future GoNZ support. A Task Force model is suggested, with the CEO as chair. A GoS Ministry of Finance (MoF)-led PCC comprised of a smaller membership, including GoNZ and no more than two additional members, would improve engagement and oversight quality. The current PCC is not an effective vehicle for community consultation on implementation, and it is suggested that separate community consultation and feedback activities would achieve better results. One externally-contracted periodic TA is suggested for the Task Force to support prioritisation and work planning of MJCA objectives and to monitor progress. Ability to establish and maintain effective working relationships with a range of MJCA staff at various levels would be a key criterion of this position. The MJCA would coordinate the activities, with resourcing either from existing MJCA establishment staffing posts, or by contracting locally. It is suggested that the MJCA holds responsibility for procurement and management of all national and international TA personnel. Use of MJCA M&E processes is also suggested.

NZAID provides direct budgetary support: Subject to a fiduciary risk assessment, direct budgetary support to the MJCA through MoF for any future support is suggested. This would allow for donor support to align with GoS processes, increase efficiency, and develop MJCA's capacity in managing external assistance. Annual up-front allocations against agreed priorities are suggested to reduce contestability for limited additional resources. This process would mirror the MJCA internal planning and budget processes.

Harness GoNZ Agency relationships: Harnessing relationships between MJCA and GoNZ Agencies, such as Ministry of Justice (MoJ) and DoC would serve as sources technical expertise and advice, if required. Further work place attachments at GoNZ Agencies would also be of benefit for Task Force identified MJCA staff, particularly in Courts administration.

Harmonise LJS strengthening: GoNZ's support to MJCA to realise its LJS Plan objectives will provide opportunities for further dialogue with GoS and with other donors, such as GoA, on how best GoNZ can target support to strengthening the Samoan LJS as it emerges.

3.2 Lessons learned

Key lessons which can be drawn from the ISP include:

Target institution to lead design and implementation: A key success of the ISP was the integral involvement of the MJCA in the design process and through the Task Force and PCC in managing implementation. This approach appears to have maximised sustainability and strengthened the

⁸⁸ Judicial education activities do not feature on the LJS Plan, although it is recognised that the Plan is a 'living document' and future amendments may contemplate this important activity for the Sector.

⁸⁹ Coordination would be needed with the support provided through the regional Pacific Judicial Development Programme.

MJCA's confidence and ability to develop and manage its own continuous learning and capacity development activities.

Use existing systems to maximise efficiency: Use of existing systems for narrative and financial reporting on progress and for procurement reduces additional administrative burden on the target institution. Similarly, use of the target institution's monitoring and evaluation processes, or where these are weak, jointly developing processes which generate useful data for both the donor and the institution and promote relevance and sustainability.

Simplify coordination and communication arrangements: Support to the MJCA's coordination of the ISP appeared overly complicated and produced administrative burdens. One external focal point to support the target institution's coordination of the ISP reduces complexity. Communication between the donor and the target institution also needs to be as streamlined as possible. Contracting of TA personnel inputs needs to be uncomplicated and meet the needs and timelines of the target institution; externally driven timing of TA personnel inputs is ineffective and inefficient use of resources.

Adopt a phased approach: Clearly articulating stages of implementation of the ISP clarifies expectations for both the target institution and the donor, and provides a sensible mid-term reference point for parties to check progress. This approach also recognises that individual and organisational capacity development takes time.

Be flexible & responsive: A key success of the ISP was its flexibility and responsiveness to MJCA needs, such as the NUS middle management training course, and decisions about phasing of support to maintenance and the Courts at Tuasivi. This flexibility allowed the MJCA to maximise absorption of the ISP's benefits to meet its changing needs. The key development challenge in this context is maintaining dialogue with the target institution about prioritisation of its changing needs.

4. Methodology

The review evaluation included preparation of an Evaluation Plan, reviewed by NZAID and a Steering Committee for the Evaluation, followed by a review of documentation relevant to the ISP, including GoS strategic development plans, the Samoa LJS Plan. A field mission, conducted in Wellington, Apia and Savai'i between 3-17 March, 2010, provided an opportunity to interview primary and secondary stakeholders and activity managers, and to elicit observations from stakeholders and GoS representatives at national (Apia and Wellington), and local levels (Apia and Savai'i). The Evaluation Team also interviewed TA personnel from the ISP by telephone, as well as key NZAID staff, AusAID representatives, AFP representatives, and representatives from NGOs in both Apia and Savai'i. The Evaluation Team were: Mr. James McGovern, Team Leader; Ms. Mareva Betham-Annandale, MJCA Representative; and Mr. Lorenz Metzner, Team Member.

5. Disclaimer and acknowledgement

The findings in this *Aide Memoire* are those of the MJCA ISP Evaluation Team only and do not necessarily reflect the views of the Government of Samoa (GoS), the Government of New Zealand (GoNZ), or other partners. The Evaluation Team would like to thank all those consulted in Apia, Wellington and by telephone, for their generosity in sharing their views and experience and providing valuable advice and analysis. Special thanks are also extended to MJCA staff members, in particular the former ISP Coordinator Ms. Serah Skelton, the ACEO for Policy Planning and Evaluation, Ms. Mareva Betham-Annandale, and to NZAID staff in Apia and Wellington, whose support, encouragement and openness to the Evaluation allowed the field work to proceed smoothly.

Annex 5: Evaluation Plan

Evaluation Plan

Samoa Ministry of Justice and Courts Administration Institutional Strengthening Programme Evaluation

Acknowledgement

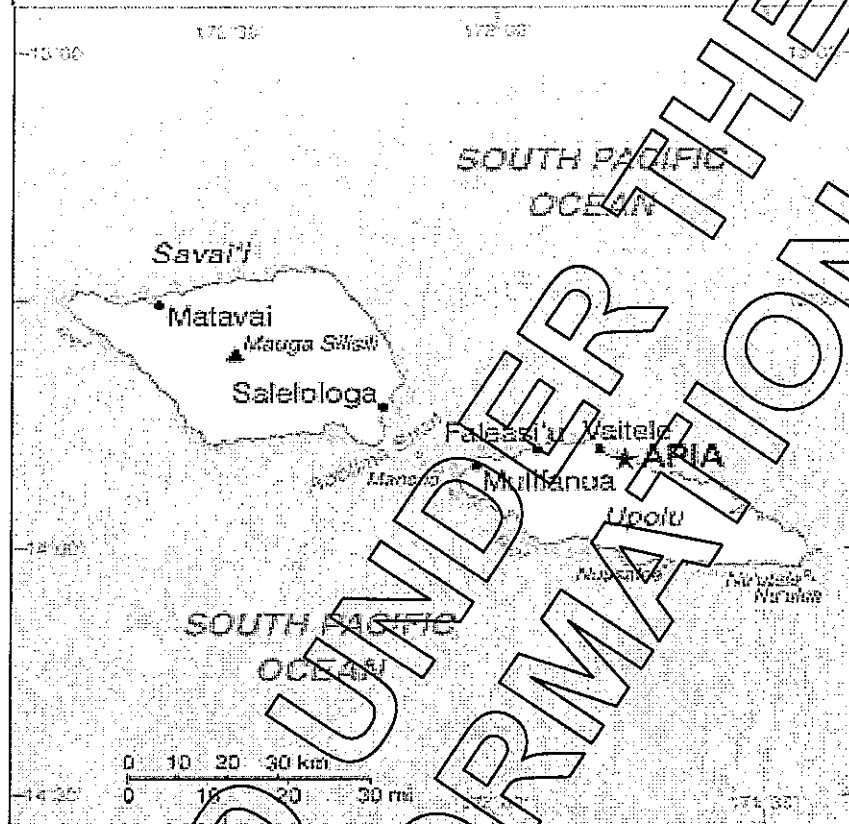
The assistance of the NZAID Programme and the MJCA in providing input into this evaluation plan is gratefully acknowledged. However, this evaluation plan does not necessarily reflect the views of the NZAID Programme, nor the MJCA Representatives.

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Map of Independent State of Samoa⁹⁰



Abbreviations and Acronyms

- ACEO - Assistant Chief Executive Officer
- AusAID - Australian Agency for International Development
- CEO - Chief Executive Officer
- DoC - Department of Corrections
- GoNZ - Government of New Zealand
- LJS - Law and Justice Sector
- MJCA - Ministry of Justice and Courts Administration
- MJCA ISP/ Programme - Samoa Ministry of Justice and Courts Administration Institutional Strengthening Programme
- MoJ - Ministry of Justice, New Zealand
- MSC - Management Services Contractor
- NZAID Programme - New Zealand's International Aid and Development Agency
- NZD - New Zealand Dollars
- OFLC - Office of Film and Literature Classification
- PCC - Programme Coordination Committee

⁹⁰ https://www.cia.gov/library/publications/the-world-factbook/maps/maptemplate_ws.html

Basic Programme Data

Country: Independent State of Samoa.
Activity Name: Samoa Ministry of Justice and Courts Administration Institutional Strengthening Programme.
Program: Bilateral.
Location of Activity: National level, Courts of Samoa, Probation Service, Censorship Office.
Counterpart Agencies: Ministry of Justice and Courts Administration (MJCA), Samoa Ministry of Finance, Aid Coordination Unit.
Managing Contractor: Kurrajong Hill Pty Ltd.
Programme Advisor Ms. Fiona Kotvojs
MJCA ISP Coordinator: Serah Skelton-Sokimi (Assistant Chief Executive Officer [ACEO] Corporate Service)
GoNZ Agencies: Department of Corrections, Ministry of Justice, and Office of Film and Literature Classification.
Evaluation Team Members: James Mc Govern (Team Leader); Mareva Betham-Annandale, ACEO Legal, Policy, Planning, Evaluation, and Censorship, MJCA, internal representative; Lorenz Metzner (Team Member).

Key Dates:

Design	October 2005 to April 2006
Implementation	May 2006
1 st Annual Plan	June 2007
2 nd Annual Plan	June 2008
Completion:	31 October, 2009.

Activity Costs:

Government of New Zealand:
Design Costs Estimate: NZD1.7 million
PID Costs Estimate: NZD1.8 million
Actual Expenditure: NZD[?]

Government of Samoa: WST x million

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Introduction

Purpose

The purpose of this independent evaluation of the Samoa Ministry of Justice and Courts Administration Institutional Strengthening Programme (MJCA ISP or the Programme) is to:

- (a) assess the results achieved under the Programme for learning and accountability;
- (b) inform the MJCA, the law and justice sector (LJS), and other donors about outstanding institutional strengthening priority needs, including any gaps that have not been previously identified;
- (c) contribute to learning about ISPs for the Government of Samoa (GoS) and the NZAID Programme.

This Evaluation Plan relates to a field mission to be conducted by an Evaluation Team, comprised of two independently contracted external members, and a representative of the MJCA. Team members are set out below:

- (a) James Mc Govern (Mr.), Team Leader, externally contracted, has experience designing and reviewing governance and law and justice Programmes in Africa, Southeast Asia and the Pacific. James has conducted LJS evaluations in Papua New Guinea, Solomon Islands, Kingdom of Tonga.
- (b) Lorenz Metzner (Mr.), Team Member, externally contracted, has experience in management, implementation and review of justice and judicial development programmes Asia, the Pacific and regionally.
- (c) Mareva Betham-Annandale (Ms.), ACEO Legal, Policy, Planning, Evaluation and Censorship, MJCA, internal representative.

Evaluation objectives are set out in Annex 2, which is a table listing draft evaluation questions under each objective and a draft approach for each question.

Activity to be evaluated

The MJCA ISP is a NZD2.5 million investment by Ministry of Foreign Affairs and Trade's (MFAT) overseas development assistance programme (NZAID Programme), with additional resources from other Government of New Zealand (GoNZ) agencies, including the Department of Corrections (DoC), the Ministry of Justice, (MoJ), and the Office of Film and Literature Classification (OFLC). A NZAID Programme Management Services Contractor (MSC), Kurrajong Hill Pty Ltd in collaboration with the MJCA ISP Coordinator and the ISP Taskforce provided technical and coordination support for the Programme. A Programme Coordination Committee (PCC) consisting of representatives from the MJCA, the NZAID Programme, key LJS agencies and civil society stakeholders provided overall strategic coordination oversight of the Programme.

The Programme design commenced in 2005, with implementation commencing in 2006 and was completed on [date] October 2009.

The Programme was designed by the governments of Samoa and New Zealand with a goal of realising "a justice system accessible to all in Samoa (i.e. one that is efficient, equitable, affordable and transparent) serviced by an effective MJCA." The Programme seeks to build the capacity of the MJCA to support the GoS' Strategy for the Development of Samoa.⁹¹ The MJCA's Corporate Plans from 2005-2007 and 2008-2011 described the MJCA's ambition to become the best Court administrator in the Pacific Region.

⁹¹ MJCA ISP PDD, p12.

The MJCA ISP was designed to include the following seven Components with objectives reflected below:⁹²

1. *To improve the efficiency and effectiveness of the Courts in Apia and Tuasivi.*⁹³
 - *Integrating criminal/civil registry and improving case management practices in Apia and Tuasivi Courts.*
 - *Improving systems and process to support increased fines collections and civil debt enforcement by the Apia Court Warrant Section.*
2. *To develop a probation service that integrates international best practice with Fa'a-Samoa for both adult and juvenile offenders.*
 - *Probation and Parole Section providing required information to the Courts and Parole Board.*
 - *Probation Service's legislative framework integrates international best practice and Fa'a-Samoa.*
 - *Probation and Parole Section managing offenders appropriately.*
 - *Community groups (including traditional structures) and individuals participating in planning and delivery of probation.*
3. *To satisfy the needs of maintenance clients by way of effective processes and prompt enforcement.*⁹⁴
 - *Improving case management practices in Apia Court Maintenance Section.*
4. *To improve the efficiency and effectiveness of Mulinu Court.*⁹⁵
 - *Improving case management practices in Mulinu Court and developing a proposal to establish a non-judge led mediation service.*
5. *To improve the effectiveness of the censorship office in the classification of material, enforcement and education.*
 - *Regular monitoring and enforcement.*
 - *Implementing revised systems and procedures.*
 - *Censorship's legislative framework appropriate and integrates international best practice with Samoan community standards.*
 - *Censorship capacitated to effectively conduct censoring services.*
 - *Conducting educational activities.*
6. *To strengthen MJCA's capacity in policy, planning and evaluation.*
 - *Strengthened Policy, Planning and Evaluation, (PPE) Section supporting Justice Sector Policy development and improving operational service.*
 - *MJCA ISP being implemented sustainably.*

⁹² The Programme was described in the Programme Implementation Document (PID) in eight Components. In 2008 this was reduced to seven Components to reflect the MJCA's Strategic Plan, although Programme documents tend to use the original numbering.

⁹³ MJCA decided that ISP support should focus on Courts in Apia and changes be rolled out to Tuasivi later.

⁹⁴ During the PID process, MJCA made a decision that specific support from the ISP to Maintenance would be removed so that support could concentrate on Courts and Probation and Parole Services.

⁹⁵ During the first year of implementation, MJCA made a decision that specific support from the ISP to the Lands and Title Court at Mulinu should be removed so that support could concentrate on Courts and Probation and Parole Services.

7. To strengthen MJCA's capacity in selected core areas: quality assurance; human resource management and information technology.
- Establishing an integrated records management system for all Courts and improving file management practices.
 - Implementing a completed Information Technology (IT) Strategy and IT Section Plan.
 - MJCA effectively recruiting, performance managing, and developing its human resources (core HRM).
 - MJCA's QA processes and business assurance programme operating.

Evaluation Design

Scope

The scope of the evaluation of the Programme's Components and activities will include

- (a) evaluation of the Programme's preparation and design between October 2005 and April 2006;
- (b) evaluation of the Programme's implementation between May 2006 and October 2009; and
- (c) examination of sustainability of outcomes from the Programme's first phase between 1999 and 2004 to identify lessons learnt for the Samoa Law & Justice Sector Plan (2008-2012).

Approach

In conducting this evaluation, care will be needed to ensure that independence of the evaluation aspects of the field mission are maximised. As the term of the field mission is short (two weeks) and information elicited is expected to feed into thinking about any future GoNZ contribution to the Samoan LJS through the sector-wide approach contemplated in the LJS Plan, the Evaluation Team will need to work closely with NZAID Programme staff in Samoa and MJCA to ensure that their participation in the field mission can be maximised without compromising independence. Care will be taken to ensure that stakeholders are provided with interview environments which enable frank discussion and reflection on the Programme, including the MJCA, the Programme and NZAID Programme management and approaches. Through the questionnaire, interviewees will be provided with an opportunity to provide confidential feedback, and individual Evaluation Team members will remain available for informal discussions, if required. The Evaluation Team will track information and opinions elicited during interviews. This will enable attribution and evidence for the Evaluation Report, however, confidentiality of information elicited will be maintained in respect of third parties and where interviewees provide information or feedback on a confidential basis,

While the evaluation is contracted by GoNZ, planning, preparation, and design of the evaluation will aim toward a participatory approach. MJCA has participated in the development of the terms of reference and the MJCA representative on the Evaluation Team will be integrally involved in the evaluation's planning, approach and implementation. In addition, the Evaluation Team will have the benefit of pre-evaluation briefing with GoNZ and its key stakeholders in Wellington and Apia, participatory information gathering in Wellington and Apia, and the validation of key findings and interpretations with informants and key stakeholders in Samoa (in particular through the involvement of the MJCA representative as a core Evaluation Team member). Where a participatory approach is not possible, the Evaluation Team will consult with GoS stakeholders to the maximum extent possible, given limitations. By ensuring that data and feedback are triangulated from multiple sources in an interactive manner, it will be possible for the Evaluation Team to confirm and verify information received, thereby, promoting the accuracy and value of the evaluation outcomes.

The Evaluation Team will conduct a rapid appraisal of the Programme. The evaluation will not be a joint evaluation, (accordingly to DAC-OECD criteria), although a representative of the MJCA is a part of

the Evaluation Team. A strengths-based approach will be used to ensure that lessons learned are framed in a way that is useful to the MJCA, to the NZAID Programme, to GoNZ Agencies and to other stakeholders. As a number of GoNZ Agencies provided technical and coordination support to the MJCA, supporting the Programme, exploration of the quality and relevance of this technical and coordination support will include modalities of delivery for both the NZAID Programme and for GoNZ agencies, etc.

The Evaluation Team will seek to identify and clarify at an early stage the assumptions made by Programme participants at the outset (during Programme design) about how programmed activities would lead to change (the theory of change). The Evaluation Team will identify whether concrete tangible steps were programmed and set against timelines with expected results (outcomes), and whether the mid-term landscape in terms of change was accurately identified (and monitored). The Evaluation Team will also explore whether these concrete tangible steps were realised and whether the results were as expected and whether they had the effect which was expected (and if not, why not) – i.e. the connections between the activities as implemented and the outcomes.

For input into the LJS Plan, information elicited during the field mission, together with further investigation and reflection following completion of the field mission will be required. This further investigation and reflection will include a literature review to identify effective ISPs in the justice sector and justice practice with a focus on the Pacific region. Close consultation with GoS, the NZAID Programme, GoNZ Agencies and stakeholders will be required. It is anticipated that interviews conducted during the field mission will have three parts in line with the three elements of the scope of the evaluation set out above. The first part would be a rapid appraisal of the Programme's design and preparation (evaluation). The second part would be a rapid appraisal of the Programme's implementation, and the third part would be an exploration of the existing development problem for the MJCA in delivering on its goal of access to justice for all Samoans (assuming the goal remains unchanged) following completion of the Programme, whether any future assistance is required, and, if so, how GoNZ could best provide that support.

In addition to the criteria set out above for the evaluation, the Evaluation Team will take into account aid effectiveness principles, with particular reference to key principles of management for development results. This may include examination of whether the focus of the dialogue between GoS and GoNZ about the Programme at all phases has been on achieving results for GoS and its stakeholders. This will include planning and design, implementation and completion. Further, the Evaluation Team would examine whether the Programme's implementation and monitoring and evaluation activities were aligned with the expected results of the Programme, with particular reference to the monitoring and evaluation framework. In doing this, consideration of the degree of simplicity (or complexity) of the reporting system will be considered, including its cost-effectiveness, how easily it could be used by stakeholders and managers alike, and whether it corresponded to the internal reporting obligations of the MJCA. Consideration of whether the Programme's management has sufficiently focused on the desired outcomes and impacts of the activity will also be conducted. The Programme will also be assessed from a management perspective as to whether the results generated were used for learning and Programme improvement, in addition to reporting and accountability. In particular, examination of the degree to which the Programme was founded on solid research and analysis, and whether ongoing research and analysis if conducted was integrated into decision-making about Programme activities. Given the recent emergence of the LJS in Samoa, consideration of the degree to which the Programme was aligned with GoS LJS priorities will also be explored.

With respect to outcomes from this Programme, the Evaluation Team will examine whether the GoS has exercised, or had the opportunity to exercise leadership over the direction of the Programme and

its strategies and has been able to coordinate it. Further the Evaluation Team will consider whether GoNZ targeted its support sufficiently through the GoS national development strategy, and used GoS processes and institutions. In terms of harmonisation, the Evaluation Team will consider whether GoNZ through this Programme harmonised its efforts with those of other donors, such as Government of Australia and with multilateral agencies, such as UNDP, and whether its actions were sufficiently transparent and collectively effective. The Evaluation Team will also consider whether the Programme managed resources effectively, whether there was a sustained focus on outcomes and impacts in decision-making, and whether both GoNZ and GoS can be held accountable for results.

Criteria

The Programme will be assessed against five criteria.

- **Relevance:** to assess whether the activity contributes to higher-level objectives of the aid Programme (outlined in country and thematic strategies).
- **Effectiveness:** to assess whether the activity achieves clearly stated objectives and outcomes.
- **Efficiency:** to assess whether the activity is managed and has processes in place to get value for money from inputs of funds, staff and other resources, and to continually manage risks.
- **Sustainability:** to assess whether the activity appropriately addresses sustainability so that the benefits of the activity will continue after funding has ceased, with due account of partner government systems, stakeholder ownership and the phase-out strategy.
- **Lessons learned:** to identify and draw lessons from the Programme which will assist GoS and GoNZ to improve the delivery of programmatic support of this kind, and which can feed into the upcoming LJS Plan. The Evaluation Team will draw out lessons from its assessment of each of the evaluation criterion that may be relevant for future LJS activities.

The Programme's impact will not be assessed at this time, as it is considered that insufficient time has passed for impact to be evident.

Methods

The Evaluation Team will conduct field work in Wellington, Apia and Savai'i, including attendance at MJCA offices, Apia and Courts and GoS offices to view facilities and operations and to conduct interviews with MJCA staff, Court staff as well as other stakeholders involved in the administration of justice in Samoa. Further, it is expected that the evaluation will also include interviews with representatives of civil society, such as community work supervisors, who play an important role in the realising justice in Samoa.

The following methods will be used to conduct the evaluation and to elicit information which will be used to inform the Evaluation Report.

- **Programme Document Review** – review of documents prepared by the ISP, the NZAID Programme, GoNZ Agencies, GoS, MJCA and others relevant to the development, implementation and management of the Programme will be reviewed by the Evaluation Team and used to provide evidence against the evaluation criteria.
- **Literature Review** – Evaluation Team will conduct a literature review to identify effective ISPs in the justice sector and justice practice in the Pacific region. The literature review will draw on selected international and regional background studies, reviews, and publications to identify current practice within LJS in the Pacific region to effectively contextualise the report and strengthen recommendations.
- **Semi-structured interviews** – stakeholders in Samoa, New Zealand and Australia may be interviewed using semi-structured interviews. Performance questions to support the evaluation will be developed based on the NZAID Programme's guidance and evaluation questions developed by the Evaluation Team. Interviews may also include secondary stakeholders, such