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Building better legal systems in Cambodia and Vietnam

Prof. Bill Neilson, Director and Law Chair of UVic's Centre for Asia-Pacific Initiatives (CAPI), is a key player in separate \$5-million Canadian projects in two Southeast Asian nations to help lawyers, officials and parliamentarians develop their respective legal systems.

Cambodia and Vietnam are revising their legal systems in order to make them more transparent, rules-oriented and consistent with their membership in various regional and international organizations. Providing assistance are Neilson and CAPI Assistant Director Helen Lansdowne.

In Cambodia, CAPI has just completed the first year of its CIDA-supported project with the National Assembly and Senate. With its project partner, the Ottawa-based Parliamentary Centre, CAPI has been working with the secretariats of the two chambers and the lawmakers to improve their capacities for developing a democratic parliament in Cambodia.

"The project is making considerable headway," says Neilson, "despite recurring acts of political violence which are happening too often in the lead up to July's national elections."

CAPI is responsible for the

legislation part of the project. Working with the staff and various committees of the two houses, the project partners have developed three parliamentary assessment templates which the staff and the lawmakers are starting to use in their review of draft bills put before them by the government for passage into law. These include rule-of-law norms (tests to ensure compliance with, for example, laws governing basic rights and freedoms) and gender impact assessment guidelines.

The third instrument provides parliamentary legal staff with the tools to brief their lawmakers on the legal significance of draft bills.

Each document has now been accepted by the parliamentary leadership for inclusion in the project's best practices handbook.

"How Parliament conducts its business will be a bellwether of Cambodia's acceptance of democratic governance principles," Neilson explains.

The Vietnam project is partnered with their Ministry of Justice. A four-member Canadian consortium, including CAPI, successfully competed for the CIDA project last year.

Neilson, who has been working on law reform and legal education projects in Vietnam for the past 10 years, oversees all legal services provided to the project and directs two of three parts of the project: helping the ministry rationalize and administer a nationwide system for enforcing civil judgments, and helping researchers to better evaluate overseas laws and advise on their adaptability to Vietnam's law reform requirements.

"Establishing an effective nationwide system for enforcing civil judgments is a serious challenge that faces all transitional governments as they move from a state-managed economy to a mixed market system with independent courts," Neilson explains. Experience in Eastern Europe, the former Soviet Union and China attests to the difficulty of the task.

"The foreign law component," observes Neilson, "requires our team to go beyond traditional comparative law analysis to the practical assessment of the suitability of foreign precedents for local adoption. The ministry has acknowledged serious shortcomings in its staff's capacity to make these critical evaluations."

The project will bring some staff from the ministry's Institute of Legal Research and the Hanoi Law University to Canada for a combination of work study placements and graduate studies.

"This is fascinating work because we are working with keen, bright partners," says Neilson. "Both projects are really human resource development projects which, at the end of the day, is what being a law professor is all about."

Diana Nethercott photo



Neilson and Lansdowne

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- www.capi.uvic.ca includes a wealth of information about the people and research programs of UVic's Centre for Asia-Pacific Initiatives. Throughout the year, CAPI presents a wide range of conferences, lectures, workshops and other public events relating to the Asia-Pacific region.

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