

# Legal Aid of Cambodia Annual report 2002



## Legal Aid of Cambodia

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## **1. Introduction**

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### **1.1 Internal Organization**

Legal Aid of Cambodia (LAC) is a non-profit, non-governmental organization, has its main office in the heart of Phnom Penh and eight branch offices in the provinces. The head office has various units, including the General Lawyers Unit, Land Law Unit, Juvenile Litigation Project, Juvenile Unit and Labor Unit. LAC's total number of staff in December 2002 was 70.

LAC is administered by a four-member Cambodian Management Team. The Advisory Board is made up of four lawyers from the international community and three Cambodians to advise the Management Team on important issues.

At the end of 2002 the present three-year funding agreement (2000-2002) with the principal donors Novib and the Netherlands Embassy in Bangkok expired. It was also the final year of the strategic three-year plan. Choices have been made for the future strategy and development of LAC.

### **1.2 New activities and priorities**

As time goes by, LAC gradually expanded its activities to other provinces. In 2002, LAC started with a project for legal representation in Ratanakiri province by a lawyer from Phnom Penh main office.

In 2002, LAC also formed special program focus on labor, land ownership and children's issues. This program corresponds with LAC's shift from representing initially men accused of crimes to representing more victims of criminal offences and human rights abuses. As a result, LAC lawyers spend more time on civil matters (land, labor and family law) and legal representation of women and children who are the victim of sexual offences, human trafficking and labor violations.

In 2002, the Juvenile Unit had a new project on monitoring the implementation of children's rights in 8 provinces and attending the court hearing. What is more, Juvenile Unit tried its best to promote the respect of child rights according to the Convention on Children's Rights and to promote the court to conduct fair trials.

The Land Unit focused on providing legal representation to groups of poor people whose

lands are being seized by the wealthy and powerful or who are displaced by large development projects.

The Juvenile Litigation Project (JLP) focused on both the victims and the accused. JLP not only promoted and protected the children's rights in court, but educated those children to behave as good people, and to know their rights and obligations.

The Labor Unit expanded its efforts from representing garment factory workers to represent also employees in tourism, hospitals, universities and construction. In addition, Labor Unit trained employees, workers and union leaders to understand the Cambodian Labor Code and advocate for workers' rights.

Other new activities were the launch of a quarterly newsletter, a new website and the start of a comprehensive staff capacity building program.

### **1.3 Important Events**

In July 2002 LAC's renewed Advisory Board and Management Team met to discuss important issues and strategies for the future. In October LAC had its traditional annual conference, this time dedicated to discuss enforcement of criminal and civil judgements, to train the staff on gender and to have an organizational-wide discussion on the recommendations from the external evaluation, conducted in August/September 2002. At this occasion a Planning Committee was created, that assisted the Management Team in developing a Four-Year Strategic Plan for the future.

## **2. Organizational development**

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### **2.1 Progress to plan**

#### **2.1.1 Introduction**

On the level of organizational and human resources development, the general goal for 2002 was to improve the overall administration and to develop the capacities of all LAC personnel in order to strengthen the organization. In the operational plan 2002, the following performance indicators were identified:

- The renewal of the Advisory Board to make it better equipped to its advisory role;
- Improved cooperation between the Management Team and the Advisory Board in order to improve the performance of the organization as a whole;
- Capacity building of the Management Team;
- Completion of the revised Statutes and Internal Regulations;
- A wide variety of LAC personnel will develop their capacities and perform their jobs with greater effectiveness.

In 2002 LAC made considerable progress in the field of organizational development, but did not manage to achieve all goals. The activities, output and results are described below. At the end of this chapter we will analyze the results and constraints.

#### **2.1.2 Evaluation**

As the year 2002 was the final year of the three-year agreement with its core donors, Novib had planned to conduct an external evaluation early 2002. Due to unknown circumstances this evaluation was not started before August 2002 and the evaluation report was submitted in

October 2002, which left LAC very short time to discuss the outcome of the evaluation and to prepare a strategic plan for next period. Nonetheless, LAC managed to have an organizational-wide discussion on the outcome of the evaluation during the annual staff conference on 21 October 2002 and to set up a planning committee to assist the Management Team in drafting the Four-Year Strategic Plan (2003-2006). The strategic plan was submitted to Novib before November 1, 2002. Unlike last (1999) evaluation, this time LAC staff was actively involved, was able to comment on the draft evaluation report and received a Khmer translation of the most important parts of the report. The Four-Year Strategic Plan was also translated and distributed to the staff. During the monthly meetings a discussion was initiated on how to achieve the goals set in the plan.

### **2.1.3 Advisory Board**

In the agreement made in June 2001 between the Executive Committee of the Board and the Management Team it was planned to restructure and partly localize the Advisory Board in 2002. The new Advisory Board would consist of 7 members and include 3 Cambodian nationals. At least four of the Advisory Board members should be based in Cambodia. At the beginning of the three-day meeting in July 2002 LAC was proud to welcome four new, Cambodian-based Advisory Board members: Mr. Thun Saray (President of Adhoc), Dr. Lao Mong Hay (renowned advocate for democracy and human rights, Head of the Legal Unit at CSD), Mrs. Oung Chanthol (Executive Director of CWCC) and Mr. Nick Rine (Teacher at the Faculty of Law University of Michigan and legal consultant at CWCC). During the first meeting with the renewed Advisory Board the topics for discussion included the newly drafted Statutes, Internal Regulations and Case Intake Policy, LAC's future strategy and the caseload of the lawyers. Apart from this meeting the Management Team frequently consulted the Advisory Board by email. All new plans and funding applications were submitted to the Advisory Board for their comments. The Advisory Board was also informed about outcomes of donor meetings and received progress reports.

### **2.1.4 Management Development**

According to the operational plan, in 2002 the Management Team with the assistance of the legal consultant planned to work out a detailed plan to further enhance its management capacities. In May 2002 the legal consultant had discussions with all individual Management Team members to define their roles and responsibilities, identify strengths and weaknesses and prioritize learning needs. The Management Team concluded that it wanted to renew the application to ICCO for an administrative consultant and would join training courses on strategic and operational planning, monitoring and evaluation, report writing and English language. In December 2002 all Management Team members participated in a weeklong customized report writing training course facilitated by VBNK. In 2002 all Management Team members also took English language classes. Additionally, the Director participated in a computer course. The Administrative Vice-Director finished her bachelor degree of law and was admitted to the Cambodian Bar Association. The Financial Officer continued his accounting studies. Due to time constraints other courses and the application for an administrative consultant were postponed to 2003.

### **2.1.5 Statutes and Internal Regulations**

Conform the operational plan, revised Statutes were drafted, submitted to the Advisory Board for approval, discussed with the staff and adopted by LAC in August 2002. Revision of the Internal Regulations proved to be a long and time-consuming process. A first draft was discussed with the Advisory Board. The recommendations from the Advisory Board and some additional suggestions from the external evaluators resulted in a second draft, consisting of more than 130 articles. Currently the Internal Regulations are discussed in the monthly

lawyer's meeting. At the end of 2002 this process was still ongoing. Before the new MT elections in June 2003 the Internal Regulations need to be finalized and adopted.

## **2.1.6 Human Resource Development**

By enlarging and improving its efforts from previous years, LAC developed a capacity building program, which means that LAC sought out appropriate educational and training programs for all staff members according to their position and previous educational and working experience. For this part of work LAC received US\$ 40,000 from the Soros Foundation.

### **2.1.6.1 Legal Training**

As a part of this program, the legal training during the year 2002 consisted of the following events:

- From 31 July to 1 August 2002 all LAC lawyers, legal assistants and investigators participated in a 2-day tailor-made training on the new **Land Law** adopted in 2001, which helped them to familiarize with the new regulations and the new procedure to solve land disputes.
- The annual staff conference held in Sihanoukville 18 – 21 October dealt with the **Enforcement of Criminal-Civil Judgments, Law on Aggravating Circumstances and Gender**. It consisted of a 3-day training equal for the whole staff and one-day workshops especially arranged for the different needs of the different staff groups according to their positions. All LAC staff participated in a 1-day training on Gender provided by Gender and Development for Cambodia on 19 October 2002.
- All LAC lawyers participated in a 1-week training provided by the Cambodian Bar Association concerning **legal writing and case methods**.
- Five staff members were able to enlarge their legal knowledge by studying for a **Bachelor Degree at the Faculty of Law**, at least partly paid by LAC.
- Mr. Ouk Vandeth, the Legal Vice-Director, among others participated in UN-meetings in Phnom Penh on subjects as **Criminal Procedure** and **Land Disputes**.
- Most of LAC lawyers attended a workshop organized by CDP on **Judicial Reform and the Role of the Lawyer**.
- Three legal assistants passed the Bar Exam and were admitted to the newly established **Lawyers Training School**. Two of them continued to work part-time with LAC, one decided to leave LAC.

For members of the specialized Units, additional training opportunities could be found according to their particular field of activity:

- Mrs. Lean Chinda from the Labor Law Unit participated in three workshops with the topics **Equality of Women in Employment, Arbitration and Union Leadership in Cambodia**.
- Lawyer Mr. Huon Chundy from the Juvenile Litigation Project attended a workshop on the **Prevention and Anti-raping Behavior of Women and Children**.
- All lawyers from the Juvenile Litigation Project joined a two-day in-house training by LAC on the **UN Convention on the Rights of the Child** and **case preparation for trial**.

- Legal Assistant Mr. Meas Samnang participated in a workshop on the **UN Convention on the Rights of the Child** provided by Save the Children Norway.
- Mrs. Yim Simene from the Land Law Unit attended two workshops on the new **Land Law** provided by the Ministry of Land Management and LICADHO. She also commented in a seminar conducted by the Ministry of Agriculture on a **draft Sub-decree on Fishery Law**.

In addition all legal staff were able to improve their capabilities by attending small workshops, discussions on legal issues and case studies during regularly held meetings. The tradition of a monthly meeting at the LAC head office in Phnom Penh attended by the lawyers from all provincial offices was continued. Here lawyers were able to exchange their experiences with the courts, discuss difficult cases as well as organizational issues and coordinate and improve cooperation.

### **2.1.6.2 Administrative and Organizational Training**

Administrative staff received tailor-made training to perform their jobs with greater effectiveness and to improve organizational work:

- The **financial training** included a 2-day training by the Financial Officer and Financial Assistant to all eight receptionists during the annual conference in Sihanoukville.
- All security guards received a 2-day training on **LAC policies and security** in Sihanoukville.
- The director and the financial officer participated in a seminar on **financial management**.
- Twenty-four staff members, including the Management Team, all legal assistants and investigators, took part in a tailormade course on **Report Writing Skills** provided by VBNK from 2 - 6 December 2002.
- Thirty staff members received **English language** training. Four staff members received **computer training**.

### **2.1.6.3 Training Worldwide**

In addition some staff members were able to enlarge their skills by attending trainings, seminars and conferences abroad:

- Legal Assistant Mr. Meas Samnang from LAC's Juvenile Unit attended an Asia-wide conference in Laos where he himself also spoke about Juvenile Justice in Cambodia.
- Land Law Unit Lawyer Mrs. Yim Simene completed a 3-month internship at the Legal Aid Society of Hawaii in the US.
- Legal Assistant Ms. Min Tith Malis from the Land Law Unit took part in two ADB (Asian Development Bank) meetings in Manila and Shanghai to discuss the consequences of ADB projects in Cambodia on land issues.
- Labor Law Unit Lawyer Mrs. Lean Chinda undertook study-visits to Japan, the Philippines and Thailand concerning Equality of Women in Employment after having attended a workshop on this topic in Phnom Penh.
- Mrs. Lean Chinda also participated in a 3-day workshop on Sexual Harassment in Bangkok.

### **2.1.7 Staff Changes**

Leaving staff members:

- Mr. Chea Chamreun, investigator from LAC's Kampong Cham Provincial Office passed away.
- George Cooper, former Legal Consultant to the Land Unit, in November accepted a position with GTZ. George continues to work with LAC on a voluntary basis.
- Land Law Unit Legal Assistant Eang Sopheak passed the bar exam and left LAC to study at the Lawyer's Training School.
- Mrs. Chan Sovan Nideth, former receptionist at the Phnom Penh Head Office, left LAC to join her husband in the US.

Newly recruited staff:

Ms. Sok Sokha became the new receptionist at the Phnom Penh Main Office.

Ms. Heng You Leng was recruited as a new translator.

Mr Un Sam was hired as a new driver.

Mr. Yang Sarom was recruited to work as investigator in the Labor Unit.

Staff rotations/internal promotions:

- Mr. Chin Bunthan, former lawyer at the Kampong Cham Provincial Office, moved to the Land Law Unit at the Phnom Penh Head Office.
- In countermove lawyer Mr. Prak Phin from Phnom Penh's Juvenile Litigation Project changed to the Kampong Cham Provincial Office.
- Lawyer Meach Sam On changed from the Land Law Unit to the General Lawyers Unit.
- Para-Legal Mr. Mon Keo Sivin from the Phnom Penh Office replaced the investigator at Kampong Cham Provincial Office, Mr. Chea Chamreun.
- Ms. Heng Youleng, former LAC translator, was promoted to work as a legal assistant to the Land Unit.

### **2.1.8 Launching the Newsletter**

As foreseen in the 2002 operational plan, LAC started to issue a newsletter (English and Khmer edition) to inform all staff, donors, NGOs, and individuals who have relations with LAC about LAC's activities and recent legislative developments. Four newsletters were issued in 2002, containing articles describing high-profile cases, training and educational activities and analyzing new laws including the Land Law and the Law on Aggravating Circumstances. The purpose of this newsletter is twofold: to provide information to the staff, in particular the staff in LAC's provincial offices and specialized units, about activities of other LAC units and branch offices and to update them on new legislation and on the other hand making the organization and its activities known to civil society and donor organizations.

LAC received many positive reactions on the newsletter from readers as well as suggestions to improve layout and presentation. While in 2002 contributions to the newsletter almost exclusively came from the head office, in 2003 the newsletter team will try to involve the provincial staff more in writing articles and will organize a workshop for the provincial lawyers and head office staff on how to write newsletter articles.

## **2.1.9 Website updated and localized**

The information on LAC's website dated from 1997 and required an urgent update to reflect the developments and expansion of LAC's activities in recent years. Since the old website ([www.laoc.org](http://www.laoc.org)) was hosted by an Alaska-based company we were depending on foreign technical assistance for updates. Therefore LAC decided to create a new, Cambodian-based website which can be easily maintained and updated by LAC. After LAC's computer specialist received training on website development he designed a new website ([www.lac.org.kh](http://www.lac.org.kh)) with assistance from one of LAC's summer interns. It is now possible to find information on all units and provincial offices and the latest newsletters and annual reports on the website.

## **2.1.10 Analysis of results**

As can be seen above LAC made considerable improvements on organizational development but there continues to be room for further improvement.

In 2002 LAC welcomed four domestic members on its Advisory Board and all participants concluded that the annual meeting between the Advisory Board and Management Team in July 2002 was fruitful. Further localization of the Advisory Board, clarification on the roles and responsibilities of the Board and a system for periodic reporting by the Management Team to the Board needs to be discussed in the 2003 meeting.

The Management Team worked on building its capacities by participating in various training courses. Unfortunately the proposal for recruiting a management consultant had to be delayed to early 2003. After the Management Team elections in June 2003, the newly elected Management Team will continue its capacity building program.

LAC succeeded in writing and adopting new Statutes in 2002, whereas the Internal Regulations were still under discussion in December 2002. LAC plans to finalize and adopt the Internal Regulations before June 2003. LAC realizes that after finalizing the documents, it is essential to distribute and explain the new rules to all LAC staff so everyone in LAC will know and respect the organization's rules and structures.

As for development of its human resources, in 2002 LAC developed a capacity building plan, received considerable funding from the Soros Foundation and managed to organize a variety of legal and administrative training courses for all staff. LAC recognizes that capacity building of its staff is the key option to improve the performance of the organization and will therefore continue to seek training possibilities for its staff.

The newsletter and new website will better inform staff, donors, international and local organizations as well as individuals working in the field of legal aid and human rights about LAC's activities and legislative developments. LAC will continue to improve the quality of these sources of information.

## **3. Financial section**

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The year 2002 brought no significant changes with regard to funding policy and financial management, but LAC followed two recommendations from the financial auditor, including:

- The organization should be able to monitor the inter-project transactions per type of income/expense on a monthly basis;
- The organization should ensure that complete documentation as approved by the

government/tax department can be shown as evidence for any tax assessment: LAC has obtained letters from expatriate staff stating that any payment of Cambodian income tax is their responsibility and not the responsibility of the organization.

LAC continues to have two core funders: NOVIB and the Netherlands Embassy in Bangkok. In addition LAC has a number of project donors. New donors in 2002 were the Finland Embassy in Bangkok and the Soros Foundation (OSIDEV). LAC does not receive funds from local organizations or the government. The organization does not have own income because our legal aid services are free of charge.

#### Overview of income in 2002

<b>Project</b>	<b>Proposed budget</b>	<b>Donors</b>	<b>Approved budget</b>
Core project	USD 342,379	NOVIB	USD 180,000
		Netherlands Embassy	USD 100,000
Juvenile Unit	USD 20,772	Save the Children Norway	USD 20,086
Land Law Unit	USD 90,104	The Asia Foundation	USD 35,000
		Finland Embassy	USD 34,764
		Oxfam GB	USD 20,000
Juvenile Litigation Project	USD 26,906	European Union through DanChurchAid	USD 26,396
		UN-COHCHR	USD 15,000
Staff capacity building	USD 26,776	Soros Foundation (OSIDEV)	USD 40,000
Labor Unit	USD 19,559	ACILS	USD 19,559

There were no significant variances between planned and actual expenditures. Small variances are explained in the budget comparison (Appendix III). The costs of the Advisory Board/Management Team meeting in July 2002 were covered by core funding, not by additional funds as in 2001. The Ratanakiri project was also paid from core funding.

Investments done in 2002: LAC bought one (second-hand) car, replaced the photocopier and bought two new computers. We also set up a new LAC website.

At the end of the year 2002 we had an accumulated surplus of USD 45,097 in the core budget, due to remaining funds from previous years and income from contributions to administrative costs by project donors. Both core donors decided to continue funding LAC for the next period. Novib pledged to financially support LAC for another four years. At this moment the Netherlands Embassy has not yet decided how much funds it is going to provide in the coming years. Therefore it is impossible to predict if LAC will have any liquidity problems during the next period of time.

## **4. Activities**

### **4.1 Progress to plan**

#### **4.1.1 Introduction**

The year 2002 was the last year of LAC's three-year agreement with Novib and the Netherlands Embassy. The general objective formulated in the operational plan 2002 was to provide legal representation to poor Cambodians in criminal as well as in civil cases and to strive to ensure that due process of law is followed to the greatest extent possible. Specific objectives were to increase the number of civil cases to 50% of the total, to limit the caseload of the lawyers and put more emphasis on the quality of the work, to implement a new case intake policy and to start providing legal representation in Ratanakiri in 20 to 30 cases. The activities, output and results are described below.

#### **4.1.2 Core legal work**

LAC continued to provide legal services to the poor in criminal and civil cases in Phnom Penh and eight provinces where LAC has its branch offices, including Svay Rieng, Kandal, Sihanoukville, Siem Reap, Battambang, Koh Kong, Kratie and Kompong Cham.

In addition, the lawyers from the specialized units [Land Unit, Labor Unit and Juvenile Litigation Project] provided legal aid in their field of service throughout the country.

In Appendix I we documented a number of high-profile cases handled by LAC in this year. Appendix II provides facts and figures on numbers of cases and beneficiaries.

LAC additionally did some casework in two other provinces: Prey Veng and Kompong Chnang. On request by the President of Prey Veng Provincial Court, three lawyers and one investigator from LAC's general lawyers unit provided legal representation to accused in 27 felony cases. Additional funding was generously provided by UN-COHCHR. LAC tried to encourage the court to respect legal procedures with regards to detention and fair trial. As a result in two cases the suspects were released and in several cases the sentence was reduced because of mitigating circumstances. However, in some cases the Court applied the new Law on Aggravating Circumstances, which resulted in high sentences. For instance, an 18-year old boy was sentenced to 15 years imprisonment for attempted rape.

In Kompong Chnang the legal vice-director successfully handled 9 cases, several of which were complaints of poor people against government officials, like military police, district chief and the forestry chief. In other cases clients who could not pay back a loan were arrested and charged with a criminal offense. After discussion with the court they were finally released.

#### **4.1.3 Criminal/civil cases**

In its Three Year Strategic Plan 2000-2002, LAC decided that 50% of the time should be spent on criminal cases and 50% of the time on civil cases. LAC aimed to shift emphasis from mainly criminal defense of adult men to do more civil cases and more cases on behalf of women and children. Unfortunately we did not fully achieve this goal. In 2002, 65% (1846) of the total number of open and closed cases (2853) was criminal cases and 35% (1007) was civil cases. Included in this figure are the 155 cases LAC handled outside the court, all being civil cases (labor and land cases).

Why was this goal not achieved?

*Possible external reasons:*

- Due to funding restraints CDP stopped accepting ordinary criminal cases, reason why the number of people asking LAC for representation increased;
- CWCC recruited three lawyers who handle many divorce cases;
- In the provinces the number of civil cases reaching the court is very low;
- Most civil cases involve wealthy people (business and contract disputes, divorces);
- The Courts never appoint a lawyer in civil cases, only in criminal cases;
- Possibly people do not know LAC as a provider of legal services in civil cases;

*Possible internal reasons:*

- In many provinces the LAC lawyer is the only lawyer in the province. He spends most of his time on criminal cases, after being appointed by the court;
- Before our new case intake policy, LAC used to accept all criminal cases;
- Most LAC lawyers have more expertise in criminal law so they might be hesitant to accept civil cases;
- Most of LAC's civil cases are labor and land cases, handled by our specialized units. Only very few general LAC lawyers know how to handle these cases.

Therefore, in the course of 2002 LAC decided to limit the number of criminal cases by adapting the case intake policy. We will only accept criminal cases where the accused is in pre-trial detention and will only accept appointment by the court in felony cases if the court complies to article 76 SOC Law (the lawyer should be appointed at the first preliminary hearing by the investigating judge). LAC also plans to organize various training courses on civil law in the coming years to familiarize LAC lawyers with these fields of law, including training courses on Land Law, Labor Law, new civil and civil procedure code, forestry and fishery laws.

LAC also concluded that a 50/50 mix is simply not realistic, due to abovementioned factors. Thus LAC set as a goal for the next four years to have a mix of 60% criminal and 40% civil cases.

Although we might not have reached the specific goal, the number of LAC's clients

in civil cases is much higher than the number of clients in criminal cases. Especially in land and labor cases, one case has an impact on many people, because many families or labor union members are affected by the outcome of the case and have increased awareness of their rights.

#### **4.1.4 Limited caseload**

According to the operational plan 2002 LAC aimed to decrease the caseload and put more emphasis on the quality of the lawyer's work. We estimated that in 2002 LAC would close 950 cases, less than in 2001. But in reality the total number of closed cases in court in 2002 (1427) was higher than in the previous year. This is because LAC recruited 5 more lawyers: two in the Land Unit, two in JLP and one in the General Lawyers Unit. The caseload per lawyer however slightly decreased. This was achieved by changing the case intake policy, intensified monitoring of the lawyers and by the MT stressing the importance of conducting thorough investigation in cases during monthly meetings. The legal vice-director and consultant occasionally advised lawyers in Phnom Penh and provincial offices to stop taking new cases and concentrate on finishing old cases. The Land Unit also had a case intake stop

for a period of time.

#### **4.1.5 Case intake policy**

In the operational plan 2002 LAC described its newly drafted case intake policy that would be applied starting from January 1, 2002. Soon it turned out that this case intake policy still was not clear enough for other NGOs. During the Board meeting the case intake policy was discussed and the Board gave a number of recommendations how to improve it and use it as a tool to limit the caseload. The Board also suggested that each unit develop its own case intake policy and that the case intake policy would not be included in the internal regulations. This way the case intake policy could remain flexible and reflect LAC's current goals and strategies. After the Board meeting LAC started to revise its case intake policy with input from all lawyers and specialized units. In October 2002 this case intake policy was finalized and adopted. LAC organized a meeting with relevant NGOs to explain and discuss the new case intake policy. The case intake policy was also disseminated to all provincial courts.

The new intake policy contains both clarifications and changes to LAC's prior policies. On an organizational level, LAC has clearly and specifically defined the criteria for representation for the two broad groups of potential clients eligible for representation: the poor, and organizations or individuals with legal disputes arising from human rights work. Some of the more important changes, LAC's General Lawyers Unit will now only represent criminal cases in which the accused remains in pre-trial detention, and will accept court references only where the court has adhered to Article 76 SOC Law. This restriction does not apply to NGO employees accused of an offense or to vulnerable persons (women, children, and persons who have been abused by powerful or wealthy people) who are victim of a crime. Furthermore, the General Lawyers Unit has specified the category of clients eligible for civil representation. For example, in divorce cases LAC will represent the party who has no control over the marital property or has lost the right to control this property. The General Lawyers Unit will only represent clients in small land disputes, referring larger land disputes to LAC's Land Unit. Each individual unit [Juvenile Litigation Project, Land Unit, and the Labor Unit] has devised its own policy.

#### **4.1.6 Advocacy and legal reform**

In 2002 LAC conducted advocacy in many of its cases by writing letters to the National Assembly, relevant Ministries or the Prime Minister, contacting Embassies, publishing press statements by itself or through the Human Rights Action Committee and occasionally requesting the King for intervention. LAC commented on various draft laws. For instance LAC lawyers participated in draft law discussions organized by the Ministry of Justice on the civil code and civil procedure code, provided comments on the draft Fishery Law on request by Oxfam GB, commented and pushed for adoption of the draft Law on Domestic Violence and Trafficking. During LAC's Annual Conference LAC urged the Ministry of Justice to amend the Law on Aggravating Circumstances that has unacceptable consequences for child offenders and perpetrators who acted out of self-defense. LAC's lawyers continued to push the courts to adhere to article 76 SOC Law (automatic appointment of a lawyer before the preliminary hearing). LAC's specialized units also commented on draft laws and sub-decrees in their own field.

#### **4.1.7 Legal aid in Ratanakiri**

A new project in Ratanakiri was conducted as planned and was considered successful. After requests from the UN Cambodian Office of the High Commissioner for Human Rights, local NGOs and the chief of prison, LAC provided legal representation in Ratanakiri in order to

promote legal and judicial reform. In 2002 LAC has send a lawyer three times from Phnom Penh to Ratanakiri to provide legal aid in a small number of criminal cases. The lawyer investigated and provided legal representation during trial in 16 cases and gave legal advice in 13 other cases. In addition, the LAC lawyer participated in Human Rights Day celebration and taught 80 participants from Lumphat district about human rights and the law. He also provided a one-day training on criminal law and criminal procedure to police officials.

In 90% of the cases the outcome was considered satisfactory, meaning that the client was acquitted or the punishment was reduced as a result of mitigating circumstances brought forward by the lawyer. All cases were adjudicated within the legal time limits for pre-trial detention, while before LAC's presence excessive pre-trial detention was common practice. LAC cooperated well with Adhoc, the prison and local authorities. The lawyer noticed a change in the court's practice concerning observation of legal procedures in the course of time. Generally the court officials seemed susceptible to pleas from the lawyer to respect the rights of the accused during investigation and trial. The prosecutor in Ratanakiri court, who was reportedly corrupt and did not respect the role of the lawyer, was finally removed from his position after LAC encouraged and assisted a victim of his corrupt practices to file a complaint against him with the Ministry of Justice.

Due to limited funds and other priorities LAC will only be able to continue this project in 2003 if additional funding can be found.

#### **4.1.8 Juvenile Litigation Project**

The Juvenile Litigation Project (JLP) commits itself to serve the best interests of children as the main objective. JLP has four lawyers and two legal assistants supervised by Attorney Huon Chundy. In 2002 JLP has been separately funded by the United Nations Cambodian Office of the High Commissioner for Human Rights (UN-COHCHR) and the European Union through DanChurchAid.

#### **Achievements**

In 2002, the JLP handled a total number of 275 cases. 156 were closed during the year, 119 are still open. In these cases the JLP represented 324 children, more than twice as high as expected in the operational plan. Female beneficiaries made out a percentage of 26 %.

JLP conducted thorough investigations in each case. JLP's staff has traveled everywhere - even to remote districts - to gather sufficient evidence such as interviews with local authorities and witnesses. In addition, JLP proactively looked for cases: when the unit received information from newspapers about the victims or accused, they went to conduct an investigation.

In cases with children involved, JLP cooperated with other IOs/NGOs and local authorities such as Ministry of Social Affair, Labor, Vocational Training and Youth Rehabilitation (MOSALVY), UNICEF, LAC Branch offices, Cambodian Women Crisis Center (CWCC), UNCOHCHR provincial office network and judicial mentor offices, Cambodian Center for the Protection of Children's Rights (CCPCR), Human Rights Action Committee and AFESIP (Agir Pour les Femmes En Situation Precaires).

JLP has expanded its efforts to represent children and assist in the development of legal system on the principle equal justice. JLP not only promoted and protected children's rights, but also educated those children to behave as good people, and to know their rights and obligations to the society in the future. In other words, JLP is the important key to the door of juvenile justice and the interests of the children.

JLP's work focuses on both the victims and the accused. Among the victims represented by

the JLP were especially young girls as victims of rape and sex trafficking.

JPL also has a good relationship with local authority and the court officials in order to easily conduct investigation and research. This is especially important because most of the rape victims living in remote districts are poor and illiterate.

JPL's lawyers were also able to collect experience from abroad such as Hong Kong, Philippine and USA. This helped the lawyers to get sufficient knowledge and develop strategies to defend a client so as to win the case. JPL's lawyers could present strong legal argumentation in courts.

According to several NGOs collaborating with JLP, people have developed trust in JLP lawyers and their work and regard them as qualified legal representatives. This also includes some court officials who tend to be more cooperative and increase respect for the JLP lawyers in recent times.

### **Obstacles**

Due to the new Law on Aggravating Circumstances many accused received relatively high sentences, so clients were not satisfied with JLP's work.

JLP observes that the majority of rape cases has been arranged with money and closed without proceeding to courts.

Some court officials did not cooperate with JLP because of involvement in corruption. They also did not pay much attention to legal assistants when they went to the court to ask for additional information. Many court officials are unaware of international agreements such as the Convention of the Rights of the Child (CRC).

Finally, Cambodia still lacks special juvenile courts and institutions for children's rehabilitation in provincial areas.

### **4.1.9 Juvenile Unit**

With support from Save the Children Norway in 2002 the Juvenile Unit continued to implement its project "Promotion of the UN Convention of the Rights of the Child". Objective of the project was: Children who are victim of any kind of abuses and exploitation and children accused of committing offences in the eight provinces where LAC maintains its permanent offices receive proper legal protection and assistance from judges, prosecutors, police, lawyers, military police, prison officials and relevant NGOs.

Activities in 2002 included monitoring a number of child cases (victims of any kind of abuse/exploitation as well as children in conflict with the law in 8 provinces, including Koh Kong, Sihanoukville, Svay Rieng, Kandal, Kompong Cham, Kratie, Siem Reap and Battambang) as well as providing legal consultation on child rights and carrying out a needs assessment for a Children's Ombudsman in Cambodia.

### **Expected results**

- Records from monitoring are documented and used as a tool for the next training in other provinces and municipalities;
- 30 child offenders and child victims have received proper legal procedures and access to safe place through the intervention of the Juvenile Unit;
- Possibilities for the establishment of an Ombudsman for children are studied and analyzed based on the experience from other countries and in accordance to the

Cambodian situation;

#### **Achieved results**

- All records for the monitoring process (investigation and hearing for law consultation with lawyers) are documented and will be used to provide legal advice in the 2003-2005 project. These records will also be used as information for the bulletin that will be published in 2003-2005;
- 54 child cases (25 cases related to child offenders and 29 cases related to child victims) were monitored and documented. Most of the cases of child offenders are related to theft and most of the child victims are victims of rape. Of the child offenders' 19 children are waiting for trial, whereas the cases of 20 children are closed. Of the victim cases, 18 children are waiting for trial, whereas the cases of 11 child victims are closed. Some of these children are at home and some are in the NGO center for vocational training.
- Report on Ombudsman research is finished, printed and disseminated to the interviewees, relevant NGOs and government ministries.

#### **Impact/sustainability**

As a result of the project, among 20 child offenders in which the cases are closed, there are 4 children are released home. Others are serving prison sentences for a period of time according to the crime they committed. Among the child victims both who are waiting for opening trial and closed, there are at least 7 child victims under coordination by LAC's Juvenile Unit and LAC Battambang are sent to NGO Phtas Toek Dong for counseling and vocational training.

#### **4.1.10 Land Unit**

##### **Objectives**

The primary objective of the Land Law Unit is to provide quality legal representation to the largest number of poor Cambodians possible whose lands are being seized by the wealthy and powerful. Therefore the Land Unit concentrated on *major* land cases, meaning those in which someone powerful is an opponent, and reduced *minor* cases. *Minor* cases are those pitting poor families against poor families. LAC lawyers outside of the Land Law Unit handled especially minor land cases.

A secondary objective is to provide input on drafting new laws.

##### **Facts and Figures**

During 2002, the Land Unit had 7 staff members and was financially supported by The Asia Foundation, the Finland Embassy and Oxfam GB.

In the year 2002 LAC, including lawyers from provincial offices, handled a total of 669 land cases, 307 cases were opened and 285 were closed. LAC won 109 land cases and lost 75. Of these, highlights of cases won were: the victory on behalf of 3 villages in Ratanakiri against a general (see Appendix 1 for a case description) and persuading ADB to order the Cambodian Government to compensate affected people by Highway Mekong to border of Vietnam.

In the 67 major cases that were ongoing the Land Unit represented 9,415 families. (Note that the general statistical report for LAC only counts the representatives in each case, not the total number of families involved). By using the number 5.2 as the average number of people per family in Cambodia according to the 1998 census for Cambodia, this means a total of 48,958 persons. In minor cases the Land Unit represented 1,648 people, so that at the end of the year

a total of 50,606 people directly benefited from the Land Unit's work. It can be estimated that about 52% percent of the family members are female (According to Who's Who 2003, females make up 52% of the Cambodian population).

### **Casework**

During 2002 there was important casework in Prey Veng province involving the substantial ADB-funded improvement of National Highway One between Neak Loeung and the Vietnamese border. The NGO Forum and LAC are jointly assisting 99 families in 3 groups who are being displaced by the work. In accordance with an ADB directive requiring IRC officials to provide the occupants of the land (whether or not they have a land title certificate) with equivalent land, LAC was able to successfully negotiate the relocation of one group of families on a plot of land chosen by the families. LAC will continue to negotiate on behalf of the many other families being displaced by the roadwork.

In general, LAC attempted to keep major land cases out of court, preferring provincial land dispute commissions or direct negotiations with military officers or the authorities. Land dispute commissions are preferred by LAC because they are more susceptible to pressure from public opinion and major funders than are judges who still are often reportedly corrupt and ignorant. With cases involving the military there is often no choice but to deal directly with officers and strike the best deal possible.

### **Obstacles**

The most difficult cases invariably involved in the military. Many military officers are involved in land grabbing and are difficult to reason with. In general where it has been possible to make headway in dealing with land seizures by the military it has been because of Yim Simene, a Land Unit lawyer who has been able to establish working relationships with certain officers. Even with her best efforts, though, in general it has been possible to retrieve only part of the land seized.

Certain courts have continued their practice of dividing land cases involving entire villages into many individual cases, making legal representation and judicial determination nearly impossible.

There are a number of cases at standstill. This is usually because of such great resistance by opposing parties that LAC has made little or no headway. The influence of such mighty opponents may also often be the cause for languid procedure at the courts despite LAC's strong efforts to speed up a process. Where LAC clients are not in possession of the disputed land, this situation constitutes a kind of loss in that over time, whoever is in possession, tends to deepen their hold on the land. In some cases this leads people to pay money to the opponent to regain some or all of their land. Of course, on the other hand, LAC has cases where LAC clients are in possession and where the clients and/or LAC try to use this fact to its advantage.

Threats or money finally solves still many cases, so the clients withdraw their complaints.

### **Drafting New Laws**

Several Land Law Unit members, especially lawyer Ea Sopheap, prepared comments on a draft sub-decree on a new land dispute resolution process adopted by the Council of Ministers on 24 May 2002. Ea Sopheap provided training on the sub decree for LAC.

Foreign Consultant George Cooper wrote a 1<sup>st</sup> draft of a paper on land conflicts in Cambodia for the North-South Institute, which is conducting an 8-country study for the World Bank. Lawyer Yim Simene was invited to be a speaker on the workshop training about New Land

Law at LICADHO and Sor Sor Troung (SST). Yim Simene was also invited to comment in a seminar conducted by the Ministry of Agriculture, Forestry and Fishery on a draft Sub-decree on Fishery Law.

### **Capacity Building on the new Land Law**

From 31 July to 1 August 2002 LAC and especially its Land Law Unit in cooperation with the Community Legal Education Center (CLEC) and the Cambodia Defenders Project (CDP) organized a training seminar on the new Land Law at the CLEC. The seminar attracted 50 participants who work as lawyers, legal assistants and investigators for LAC and some staff members from related NGOs.

### **Plans for 2003**

LAC Land Unit plans to continue its practice of primarily handling many major cases while reducing small cases as much as possible. The staff will also engage in drafting new law.

#### **4.1.11 Labor Unit**

Thanks to continued support from the American Center for International Labor Solidarity (ACILS), the Labor Unit carried on its successful work from previous years, consisting of promoting employees, workers, employers and union leaders to be aware of Cambodian labor code and fighting for workers' rights.

#### Achievements

Primarily, the Labor Unit has served Cambodian workers who are involved in labor disputes and has helped them lodge complaints to the Ministry of Social Affairs and Labor, the Ministry of Women's Affairs, the Council of Ministers and the Court.

In 2002, the Labor Unit closed 28 cases, 6 in court and 22 outside the court by negotiation and mediation. In the closed cases the total number of clients represented mounts to 11,220 (6,638 women, 4,580 men and 2 children). On 31 December 2002 the Labor Unit had 6 ongoing cases, representing 606 clients (404 women and 202 men).

In addition, the Labor Unit focused on training workers about their right to form independent union federations to negotiate with employers and to defend the interests of workers as stated by the law. The Labor Unit trains workers and union leaders about collective bargaining that aims to achieve fair and adequate wage and salary in order to develop good working relationship between employees and union leaders. Examples for these efforts are training sessions about Civil and Criminal Court Procedure in connection with labor law, signing and execution of a Labor Contract and difficulties in the implementation of Cambodian Labor Laws to union leaders, workers and journalists.

While most cases still concern workers in garment factories, in the year 2002 the Labor Unit expanded its efforts to represent employees in the tourism sector, hospitals, and universities as well as construction workers. A special focus was set this year in assisting the Sex Workers Union in organizing itself, representing its members in labor disputes and in advocacy to prevent abuse of power by police officials. In this connection a public forum on Prostitution and Human Rights was held 27 February 2002 where the LAC Labor Lawyer taught sex workers about their rights.

The Labor Unit closely cooperates with the ILO, the U.S. Embassy, Cambodian courts and national and international NGOs.

#### Obstacles

However, the Labor Unit also experienced some difficulties when implementing the Labor Law. For example, some officials of the Ministry of Social Affairs do not want to cooperate and do not serve and protect the interests of workers. The Labor Unit also had to fight against negative impact from corruption and the ignorance of court officers about new laws and court procedures.

Garment factories regularly violate the labor law and some of them are simply unaware of labor law. For example, they do not pay overtime wages to workers, do not offer severance payment or fire workers unlawfully. Employers impose sanctions against the use of union federation rights and force workers to work overtime. Sometimes even pregnant women are forced to execute heavy labor or are dismissed from work.

Some difficult cases also involve government authority, when in case of a labor strike garment factory owners hire officials to protect their property. In addition, the garment factory owners often cooperate with high-ranking officials.

Finally, even some union leaders serve political interests rather than workers interests, for instance by accepting money from political parties or corrupt officials in ministries.

#### **4.1.12 Analysis of results**

Although the goal of increasing the amount of civil cases up to 50% of the caseload has not been fully achieved, we now have a more balanced mix of criminal and civil cases than before. Drawing on lessons learned, LAC adjusted the objective for the next four years to a more realistic mix of 60% criminal and 40% civil cases. LAC accomplished a modest reduction in the caseload of the lawyers but realizes it will be a continuing matter of concern. As for the new case intake policy, we trust it will contribute to increased quality of our legal services and a more effective cooperation with other NGOs.

#### **Beneficiaries**

The total number of direct beneficiaries of LAC's work (including cases inside and outside the court) is 15,896 people, including 8,179 women, 7,356 men and 361 children. (For an estimation of the total number of people who benefit from the Land Unit's work see paragraph 4.1.10). This means 52% of the direct beneficiaries, the clients of LAC, are women. This percentage corresponds exactly with the percentage of women in the total Cambodian population. The Labor Unit has many female clients since LAC's labor unit mainly represents garment workers, the majority being women. It is estimated that at least 52% of the clients of the Land Unit are women as the Land Unit represents a large number of families. From the clients of the JLP, 26% are female victims of sex crimes. Since the general lawyers in Phnom Penh and the provincial offices mostly do criminal defense work, the majority of their clients are men. It is estimated that the number of female clients will increase the coming years due to a further shift towards more civil casework.

## **5. Lessons learnt**

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As mentioned before a comprehensive evaluation was carried out in 2002, revealing a number of fields where work is still required. The most important recommendations were:

In the area of organizational development

- Further strengthen strategic and operational management skills of the Management Team
- Deepen levels of staff participation

- Further need for program integration
- Improve mechanism of checks and balances in the organization
- Increase gender awareness and sensitivity
- Continue the discussion on LAC's identity

In the area of activities

- Develop an overall advocacy and lobbying strategy
- Increase LAC's role in promoting legal and judicial reform
- Seek beneficiaries' participation in designing strategies
- Strengthen the role and increase the impact of LAC's provincial offices
- Seek new ways for cooperation with other NGOs

Other lessons learnt from LAC's experiences in 2002 are:

- To be realistic in setting goals and objectives
- Staff participation in developing plans and strategies is essential, so starting from next year LAC will have an annual staff planning workshop
- Gender is not only focused on women's rights but deals with roles of women and men in society: therefore LAC decided to set up a gender committee comprised of female and male staff

After discussing the recommendations and experiences in a staff workshop in October 2002 LAC developed a Four-Year Strategic Plan that includes new strategies to improve weaknesses in the organization. This way LAC hopes to build a stronger organization in order to improve its effectiveness and its role in providing legal aid and promoting the rule of law in Cambodia.

## **6. Support by donors**

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LAC highly appreciates the financial and technical support given by its donors. Thanks to this support LAC is able to continue its important work for Cambodia's poor. We particularly appreciate efforts from donors to establish links with other relevant organizations in- and outside of Cambodia to share experiences and develop best practices and would welcome more opportunities to do so, for instance by exchanging staff and conducting study visits with other organizations.

We also welcome feedback on the report and will be glad to answer further questions or supply more information on request.