

Legal Aid of Cambodia

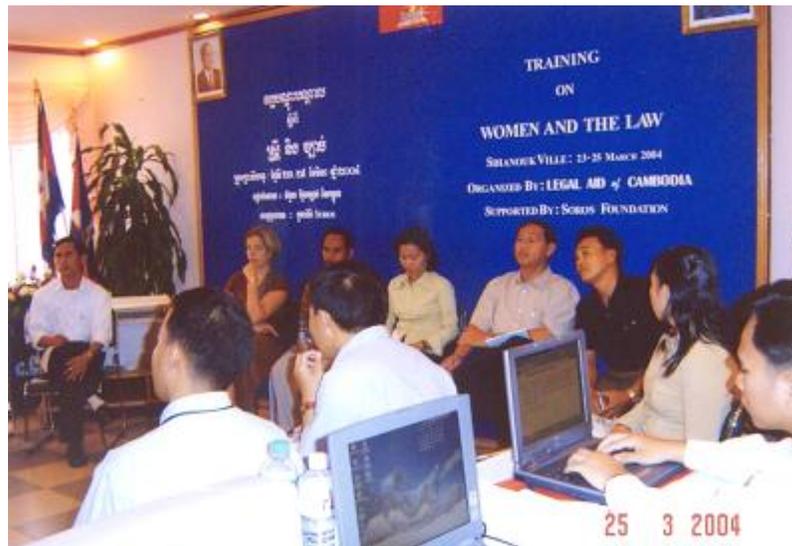
Annual Report 2004



Novib Project No. KAM-501584-0000674

Project Name: Legal Aid of Cambodia Core Project

From January 01 to December 31, 2004



OUR VISION

LAC envisions a Cambodia in which there is great understanding of and respect for the rule of law and human rights and all that these concepts imply

OUR MISSION

- ☐ Promote and develop the rule of law and a democratic and legitimate society in Cambodia.
- ☐ Promote judicial reform and guarantee the rights of the Cambodian people stipulated in the Cambodian Constitution, national laws and international laws, especially human rights, woman rights and the international convention on the rights of the child

Table of Contents

1 INTRODUCTION	4
1.1 Internal Organization	4
1.2 Activities	4
1.3 Important Events.....	5
LAC Re-election.....	5
Evaluation	5
Management Advisor.....	6
Staff Conference 2004.....	6
2 ORGANIZATIONAL DEVELOPEMENT	6
2.1 Progress to plan	3
2.1.1 <i>Introduction</i>	3
2.1.2 <i>Management Team</i>	4
2.1.3 <i>The role of the Board</i>	4
2.1.4 <i>Advocacy</i>	4
2.1.5 <i>Stronger Financial Policies</i>	5
2.1.6 <i>Case Management Policy and Database</i>	5
2.2 Management and Staff Development	6
2.2.1 <i>New Consultants</i>	6
2.2.2 <i>Statute and Internal Regulation</i>	6
2.2.3 <i>Human Resource Development</i>	6
2.2.4 <i>Seminar Nationwide and Worldwide</i>	7
2.2.5 <i>Networking</i>	7
3 STAFF URNOVER	7
Departing staff members	7
New Recruits.....	8
Staff rotation/internal promotion	8
4 ANALYSIS OF RESULTS	8
5 FINANCIAL SECTION	9
Overview of income in 2004	9
Overview of Financial Contribution	9
6 ACTIVITIES	10
6.1 Progress to plan	10
6.1.1 <i>Core legal work</i>	10
6.1.2 <i>Criminal and Civil case</i>	10
6.1.3 <i>Advocacy and legal reform</i>	11
6.1.4 <i>Publication</i>	12

7 ACTIVITIES..... 12
7.1 The Juvenile Litigation Project (JLP) 12
7.2 The Juvenile Unit (JU) 15
7.3 The Land Law Unit (LLU) 18
7.4 The Labor Unit (LU)..... 21

8 ANALYSIS OF RESULTS..... 25

9 LESSON LEARNED 26

10 SUPPORT BY DONORS 27
CONCLUSION 27
APPENDIX I.....
APPENDIX II
APPENDIX III.....

INTRODUCTION

1.1 Internal Organization

Legal Aid of Cambodia (**LAC**) is a non-profit, non-governmental organization. Its main office is based in Phnom Penh, and it has eight branch offices in the municipal and provinces. The head office has various units, including the General Practice Lawyers, Land Law Unit, Juvenile Litigation Project Unit, Juvenile Unit and Labor Unit.

A four-member Cambodian Management Team composed of Director, Legal Vice-Director, Administrative Vice-Director and Financial Officer administers LAC.

The Supervisory Board is made up of four experts from the international community and two Cambodians to advise the Management Team on important issues.

The strategic four-year plan (2003-2006) is the main guidance for LAC's activities. LAC's principal donor is Novib (OXFAM Netherlands) and until the Netherlands Embassy announced that it would cease funding LAC in August 2004, it was the second largest long-term donor to LAC.

1.2 Activities

In accordance with LAC's strategic plan, LAC's focus is on providing legal representation to clients in both criminal and civil cases, apportioning 60 % of its resources to criminal cases and 40% to civil cases. In criminal cases, LAC provides legal services to both adults and juveniles who are accused of committing a crime or who are victims of offenses, with a focus on indigent clients who are in pretrial detentions. In civil cases LAC's focus is on land, fishery and children's issues. As a result, LAC lawyers provide legal services on civil matters (land, labor and family law) and legal representation of women and children who are victims of sexual offences, human trafficking and labor violations.

The General Practice Lawyers' unit and the offices in the province form LAC's backbone. The lawyers in this unit represent clients in criminal and civil cases.

The Juvenile Unit (**JU**) works on advocacy issues and provides legal assistance to children who have suffered abuse and exploitation and children accused of offenses through the justice system. In order to achieve this, the Juvenile Unit provides legal advice/training to police, commune council members, village chiefs and others on Cambodian laws and regulations and the international instruments related to children. The project ensures that victimized children and children accused of crimes have access to the services needed such as legal representation through court system, mediation system and working system with the ministry of justice and interior in forming children protecting network in commune level and towards the existing of mediation system in the juvenile justice system.

The unit works to raise awareness of legal issues relating to children and seeks to have juvenile issues addressed properly in the Cambodian legal system. It goes without saying that juvenile offenders are different from adults. The unit has sought to introduce measures in the Cambodian legal system to address the unique needs of juvenile offenders. One such measure the unit is promoting the creation of a mediation system for the petty crime in the Cambodian Justice System. The first phase for the unit is to develop skills in relation to juvenile victims and offenders at all locations where Legal Aid has offices which will be shared and discussed with government agencies and NGOs. This experience can then be translated into public education and advocacy at a national/political level (i.e ministries and Parliament).

The Land Law Unit (**LLU**) implemented a pilot project to assess the need for legal representation in fisheries communities involved in fishing disputes with local and government authorities. The unit provides legal representation and assistance to members of fishery communities involved in fishing disputes. The Land Law Unit also assists in the representation of indigent clients in land disputes brought before the newly created cadastral commissions (Mediation System). The work of the LLU has raised the public's awareness of the 2001 Land Law and the functions and operation of the Cadastral Commission.

The Juvenile Litigation Project (**JLP**) focuses on both the victims and the accused juveniles. JLP does not only promote and protect children's rights in court, but also educated those children to behave as good people, and to know their rights and obligations. The JLP also worked on finding compensation for the victims, which is traditionally unavailable through Cambodian courts. The Unit submitted a joint project proposal of three organizations (DanChurchAid, Legal Aid of Cambodia and LICADHO) to the European Commission. The EIDHR (European Initiative for Human Rights) project was approved to start on 15 July 2004.

The Labor Unit (**LU**) focuses on fair working conditions and disputes related to employment. The Unit recently expanded its efforts from initially representing only garment factory workers to also representing employees in tourism, hospitals, universities, construction, hotels and teacher associations. In addition, the Labor Unit conducted workshops with employees, workers and union leaders in relation to the provisions of the Cambodian Labor Code and has advocated for workers' rights.

1.3 Important Events

This past year was a difficult one in which LAC faced changes and development within the organisation. A summary of these difficulties is set out below.

•LAC Re-election

As mentioned in the LAC 2003 annual report, in accordance with the Statute and Internal Regulation the new MT election was held on June 30, 2003. The new MT was elected and Mr. Chhoeun Sokha was elected as director. Due to the fact that one of the two principal donors, Netherlands Embassy in Bangkok (**NEB**), had specified five requirements for further funding, particularly that a new director be chosen, a new LAC director was elected on June 28, 2004. The election was opened only to director's position because the other MT members had not completed their mandate. Mr. Ouk Vandeth, former legal vice-director was elected as the director. Because his former position had become vacant, Mrs. Peung Yok Hiep was elected as the new legal vice-director. Mr. Meas Samnang remained in the Administrative position.

All LAC staff from the eight municipal and provincial offices and Phnom Penh office participated in this election process and Nick Rine, member of LAC's board, observed the process. Although LAC responded with commitment to meeting the requirements of the NEB, it nonetheless had to face delay in receiving funds from the NEB. Although in its agreement dated January 2004 with NEB would provide USD 50,000.00 in January 2004 and a further USD 50,000.00 in July 2004, in fact, LAC received only USD 20,086.00 on December 02, 2004. As a consequence, LAC had to operate on a tight budget including not paying its staff salaries for a number of months and was forced to cut a number of operational activities such as investigations and reduced case load.

•Evaluation

With funding support from Novib, a 14-day evaluation on LAC is conducted in November 2004. This is the third evaluation since Novib has supported this organization in late 1995. The evaluators conducted this evaluation based on the Term of Reference (ToR) made by Novib and shared commends by the LAC's MT. The main objectives of the evaluation were to assess the progress made by LAC during the last 2 years and how Novib could continue to assist LAC. LAC's staff participated in the process including LAC's MT members and LAC's staff members. Some key stakeholders including people from relevant government ministries, especially Ministry of Justice; courts; prison officials; Cambodian Bar Association and NGOs.

•Management Advisor

With funding support from the *Interchurch Organisation for Development Co-operation* (ICCO) LAC has been provided with two management advisers. VBNK, a training institute for manager of non-government organisations working for the development of Cambodia designated as an external management adviser and another one as internal management assistant. The tasks of the two advisers are to consult the Management Team and Heads of Unit on management development and other issues relating to planning, fund raising, evaluation and monitoring, designing gender policy and providing advocacy skills and improving staff participation and accountability to the staff.

In fall 2004, LAC applied for another consultant whose focus was on the development of advocacy and a computerized case or file database. The proposal was accepted by ICCO and Miss Julia Fromholz was selected and came to LAC to design an advocacy plan for LAC.

•Staff conference 2004

From the core funding support from Novib and NEB, a three-day annual conference was conducted in Sihanoukville from June 8 to 10, 2004. All 68 staff, including MT members, consultant, lawyers, legal assistants, assistants, investigators, receptionists, driver and guards (except 3 lawyers absent due to their mission in the trial in Phnom Penh) participated in the conference.

The first day the conference focused mainly on the annual activity report from the Management Team and the assisting committee consists of the Gender Committee, Planning Committee, Finance Committee and the Human Resource Development Committee. The MT and the four committees reported focusing on the activities, achieved results, changes, challenges and strategies in the future.

On the second day and the third day the conference focused mainly on the strategies and communication between the staff and the MT, strategies between the MT and the Advisory Board and the communication between the MT and donors. During these last two days, the conference also spent time discussing on the MT reelection based on the LAC's Statute, Internal Regulations and especially based on the recommendation set by the Netherlands Embassy in Bangkok and Novib. In primary concept the MT reelection supposed to start in Sihanoukville after the conference finished but there was an opposition from some staff members that the election should not take place in Sihanoukville but at the Head office of LAC as stated in the Statute and Internal Regulations of LAC.

2 ORGANIZATIONAL DEVELOPMENT

2.1 Progress to plan

2.1.1 Introduction

On the level of organizational and human resource development, the general goal for 2004 was to achieve the objectives set out below, improve the overall administration and to develop the capacities

of all LAC personnel in order to strengthen the organization. In the operational plan 2004, the following goals were identified

- Providing quality legal advice/legal consultation and providing legal representation in court.
- Improving understanding in the field of law in Cambodia by providing training and consultation to people and to practitioners in the jurisdiction by legal training and media disseminating.
- Actively participating in law and judicial reform advocacy.
- Capacity building of the Management Team and Head of Units
- Revising and completing the Statutes and Internal Regulations;
- Developing all LAC personnel's capacities in order to perform their jobs with greater effectiveness.

These goals have been met, despite the organizational challenges during the reporting period.

2.1.2 Management Team

As set out above, LAC experienced some difficulties with its former director who has now been replaced. The new MT has been actively working to improve the organization since its election.

2.1.3 The role of the Board

In July 2004 the Board met with the new MT and had a very fruitful meeting. The Board's role has been strengthened to be "supervisory" rather than merely "advisory" and it has greater powers to ensure the effective management and operation of LAC. The new MT and Board actively sought to address the five main concerns expressed by NEB and Novib at the 2003 Board meeting.

- LAC's Statute and Internal Regulations had been improved and updated to ensure that a proper set of checks and balances are in place. The Board has supervisory powers and the right to dismiss MT members for both misconduct and incompetence. With regard to the MT elections, the Board reserves the right to approve/disapprove of a list of potential MT candidates before the election took place. A Board-approved list of candidates will then be sent to an election committee for general elections by LAC staff members. After lengthy discussions, both the Board and MT agreed to adopt a policy establishing a maximum of two terms for all MT members (Except the finance officer). The first term is three years in length, the second term two years.
- In cooperation with her consultant and VBNK the management team has built upon LAC's existing Operational Plan 2004 (previously submitted to donors) and the implementation of a logical framework. Clear definitions of LAC's mission, objectives, core competencies and vision for the future were articulated in the operational plan.

2.1.4 Advocacy

A legal aid related advocacy plan is crucial to the work of LAC. The Supervisory Board plays an important role in advising LAC on the content of its plan going forward. LAC's advocacy activities will be more structured in the future. LAC has mainstreamed advocacy throughout its general and specialized legal units. At the Board's suggestion LAC hired an extra consultant Miss Julia Fromholz who is supported by ICCO to start with the advocacy working group as they relate to new topics

including, domestic violence, and new laws on criminal law and procedure, human trafficking and labor law.

From this support a working group called LAC Advocacy Working Group has been formed consisting of 9 people including one MT member, lawyers, legal assistants, translator and consultants. The Working Group is currently discussing the focus of its work going forward with a view to selecting only one or two principal issues at first and gradually taking on more issues as the Group becomes more experienced at advocacy work.

- ◆ Judicial reform
- ◆ Illegal pre-trial detention
- ◆ Mitigating factors to be allowed in sentencing of children
- ◆ Creation of time limit in which appeal must be decided
- ◆ Land reform
- ◆ Improving Cadastral Commission's efficacy
- ◆ Criminal complaint or case not to be settled out of court without the offender being prosecuted.
- ◆ Criminalization of civil cases such as criminal defamation/insult or breach of trust which should properly be subject of civil litigation.
- ◆ Defendants not present at trial because police failed bring them from jail
- ◆ Inefficient Bureaucracy and corruption causing the acquitted not to be released in timely manner
- ◆ Workers are kept on probation after the probationary period under their contract has expired without being made permanent employees.

Once it selects the principal issues it will focus on (from the list above), the Working Group will identify partners (among other NGOs and governmental agencies) to work with and devise training or advisory opportunities to help design the campaign.

2.1.5 Stronger Financial Policies

With regard to financial policies, the Board is satisfied that sound fiscal procedures (including adherence to LAC's internal Financial Management and Policy) are now being followed. The 'recommendations for improvement' made by auditors at Price Waterhouse Coopers, have also been followed. In January 2005 Mr. Peter McCanny, a financial consultant came to assess LAC's financial system. He provided several recommendations and the finance staff members are implementing these at the moment of writing.

2.1.6 Case Management Policy and Database

With the support from ICCO, Miss Julia, a consultant who is also the LAC consultant on advocacy work, has been hired to develop the case management policy and database. Due to the fact that a case management policy did not exist at LAC and each lawyer was responsible for his / her own cases and was required to only report the number of closed and open cases to the head of unit. Many lawyers felt overworked. A case management database would support and complement the implementation of a new case management policy and the database would allow lawyers, legal assistants and MT to have better overview of what was going on in each case. The database vendors who is just computer program suppliers have been hired to develop this system in April, 2005.

2.2 Management and Staff Development

2.2.1 New Consultants

As set out above, LAC now has an external management advisor, an internal management advisor and a consultant to assist with advocacy work and the development of a case management system/database.

2.2.2 Statute and Internal Regulations

Conforming to the Operational Plan 2004, LAC has now adopted its revised Statute and Internal regulations.

2.2.3 Human Resources Development

LAC, through its Human Resource Development Committee, received funding from the Open Society Institute (OSI) in 2004 for the Capacity Building Program which is summarized below.

■ Training course on Women and the Law (March 2004)



LAC's staff in the Women and the Law Training

The 3-day training course on women and the law was conducted from March 23-25, 2004. This training was held in Sihanouk Ville and

facilitated by a number of speakers from the Appellate Court, Ministry of Justice, PADV organization, ILO, Kandal Provincial Court and Gender Committee of LAC. 71 staff members participated in this training. The training course on Women and the Law provided an understanding of international

conventions, constitutional provisions, and domestic laws that impact on the legal status of Cambodian women. The conference raised many issues that will be included in the future strategic planning of the LAC's Gender Committee.

■ Training course on land dispute resolution under the Land Law 2001 (May 2004)

Lawyers working in LAC's Land Unit conducted a 3-day training course on Land Law and solutions to land disputes in Kampong Cham province from 4th-6th of May 2004. The workshop's speakers included members of the Community Legal Education Center (CLEC), a judge from the Appeal court, a member of the Kampong Cham provincial Cadastral Committee, a representative from the Ministry of Land Management, Urban Planning and Construction, lawyers from the Cambodian Defenders Project and from the Land Law Unit of LAC. The participants were LAC lawyers, legal assistants and investigators.



LAC staff's participation in the Land Law Training

▪ **Training course on draft criminal and civil law and procedure (September 2004)**

A 5-day training course on the draft criminal and civil code and procedure was conducted from August 30 to September 3, 2004. This training was held in Phnom Penh and speakers included members of the Appeal Court, Ministry of Justice, LICADHO, Supreme Court, VBNK and LAC staff. Participants included the MT, lawyers and consultants. During the conference there were also training sessions for LAC staff regarding gender issues and core values of LAC.

2.2.4 Seminar Nationwide and Worldwide

• In-Country Meeting/Seminar/Conference

In 2004, LAC staffs including MT, lawyers, legal assistants and investigators have participated in sharing comments, ideas and experiences in the meeting/seminar/conference held by NGOs and Government ministries. Moreover, some key staff were invited to attend as speakers or facilitators. The meeting/seminar or conference focused on advocacy on land issues; criminal hearing process; children's justice, sex trafficking and domestic violence; forum on Cambodia and ASEAN; national decentralization forum; seminar on freedom to information...etc.

• Conference/Seminar Worldwide

In June 2004, the head of LAC Juvenile Unit, one representative from ministry of justice and one from the ministry of interior who are working with LAC as representatives to join in the project had enlarged their experience and skills by attending study visit on Diversion and Mediation System in Cebu, Philippines. Moreover, Op Vibol, the head of LAC-Juvenile Unit was invited to attend the 4th meeting on Children's Justice Working Group (CJWG) from September 10th to 11th, 2004 in Bangkok.

2.2.5 Networking

In order to achieve the results in providing legal services to the poor as set up in the Annual Operational Plan 2004, the MT's members and staff have participated in the Civil Society Networking such as:

-Ouk

Vandeth, LAC's director is a member of sub-committee of investigation of Human Rights Action Committee. He is also a member of Management Committee of NGOs Forum, a Board member of COMFREL and the Board of a NGO called Chun Chas Chorea.

-Peung

Yok Hiep, LAC's legal vice-director is the Board member of PADEK and Cambodian Social Development (CSD). She is the LAC's representative to join the networking with Project Against Domestic Violence (PADV), CEDAW Committee and WCCO.

-Meas

Samnang, administrative vice-director is the vice-chairperson of the NGO Committee on the Rights of the Child (NGOCRC) and he joins as member of the Executive Committee of ECPAT Cambodia.

3 STAFF TURNOVER

➤ Departing staff members:

Due to several different factors, especially the unrest in the (previous) management and the establishment of new legal litigation units with a higher budget, some LAC staff left the Organization in the period of 2004. Often LAC staff depart to open their own legal practices or to join other

NGOs, contributing to the further development of the legal system and human rights in Cambodia. These people are:

- A former head of the JLP unit, two lawyers and two former legal assistants.
- A former legal assistant from the JU has left.
- Three former lawyers from the Phnom Penh General Practice unit.
- The three former heads of Koh Kong, Kratie and Svay Rieng provinces have also resigned from their position.
- A former head of the labor unit.
- A former lawyer from the land unit also resigned from the unit, and opened a private law firm.

➤ **New Recruits:**

Due to the shortage of staff as a result of abovementioned circumstances, we have recruited some more new staff with their previous experience with NGOs.

The heads of units that left LAC were replaced by some internal candidates for a moment, with the exception of the new head of the Juvenile Litigation Project Unit, Mr Khou Long. The JLP engaged in large new project cooperation, which builds on its previous activities. This is supported by the European Commission through DanChurchAid and is a joint project with LICADHO and DanChurch Aid on securing children's rights. LAC has recruited three new qualified lawyers and two legal assistants. The Juvenile Unit recruited Miss Hok Meng Eam as their new lawyer.

LAC appointed Ms Seang Boravy as the new labor lawyer and Head of Unit. Mr. So Nimul was recruited as the legal assistant and Man Phearak was recruited as an investigator. Mr So Nimul Worked a few months before he was awarded a scholarship to study in France and he was replaced by Mr. Tep Net

➤ **Staff rotations/internal promotions:**

Because of American Center for International Labor Solidarity (**ACILS**) terminated funding in September 2004, three staff in this unit including one lawyer, one legal assistant and an investigator were moved to work in the PP general practice lawyer unit. Mrs. Peung Yokhiep was assigned as the head of the Land Unit but after the MT re-election on June 28, 2004, she has reelected as the Legal Vice-Director. Mr. Chin Bunthan, lawyer was selected as the head of the land unit.

4 ANALYSIS OF RESULTS

LAC made considerable improvements on organizational development after the MT reelection on June 28 and the fruitful MT and Board meeting in July, 2004 based on the conditions set by the Royal NEB but there continues to be room for further improvement.

The new Management Team worked on transparency, openly with strong commitment and in a close and good cooperation with the LAC's Board in building LAC's reputation and the quality of its service and capacities in providing legal services to the Cambodia's poor.

As for the development of its human resources, in 2004 LAC continued to use funds from the Soros Foundation. At the same time LAC continued to develop a capacity building plan for 2005, to receive

considerable funding from the Soros Foundation in providing 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 were regularly updated and 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 intended to continue to improve the quality of these sources of information. Moreover, the Juvenile Unit, with funding support from the Save the Children Norway-Cambodia Office, published a bi-annual newsletter entitled *Children and the Law* and distributed to its project target groups.

5 FINANCIAL SECTION

Set out below are significant changes to funding policy and financial management at LAC made following recommendations by LAC's auditor.

- All advances given to all levels of staff are supported by relevant documents and recorded in the books.
- A cash advance schedule has been established to maintain, control and monitor cash advances made to staff.
- The organization already included the specific amount of the basic allowances in each employee's employment contract and has updated contracts with changes to allowances.
- To properly monitor the fixed assets, a physical count and verification were performed by the organization and compared with the results of the fixed assets register. Any discrepancies were reconciled and investigated immediately. The results of the investigation and reconciliation have been documented in the account sheets.
- The fixed assets register was reviewed and approved by the finance officer and administrative officer.
- The management has taken steps to ensure that all transactions are reviewed for completeness and accuracy
- Quarterly and monthly budgets and financial reports have been prepared [**confirm**].
- LAC has not yet obtained government/tax department documentation to enable foreign consultants to obtain a tax credit.

Overview of income in 2004

Overview of Financial Contribution.

Project	Proposed Budget in USD	Donors	Approved Budget in USD	Received amount in USD	Remark
Core Project	184,446.66	NOVIB	184,446.66	184,436.66	23-03-2004
	100,000.00	Netherlands Embassy	100,000.00	20,086.00	12-02-2004
Juvenile Unit	50,900.00	Save the Children	50,900 .00	49,459.00	January to October 2004

		Norway			
Land Law Unit	89,124.48	Finland Embassy	EUR50,000.00	\$57,839.14	01-10- 2003
		Oxfam GB	27,205.40	19,318.00	Left over amount from last year are being used for this year 2004
		The Asia Foundation	10,700.00		Revised in 2003
Juvenile Litigation Project	87,381.00	European Union through DanchurchAid	EUR 87,381.00	EUR 43,849.00	17-12-2004
Labor Unit	20,268.00	ACILS	20,268.00	20,268.00	October 2003-September 2004
LAC capacity building	40,597.44	Soros Foundation	30,000.00	29,909.53	05-05-04

6 ACTIVITIES

6.1 Progress to plan

6.1.1 Core Legal Work

In 2004, LAC continued to provide quality 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, Kompong Cham and through the other specialized Units including General Lawyer Unit, Juvenile Unit, Juvenile Litigation Unit, Land Law Unit and the Labor Unit provided legal aid in their field of service throughout the country.

6.1.2 Criminal and Civil Cases

As indicated in its Four-Year Strategic Plan 2003-2006, LAC aims to have 60% criminal and 40% civil cases by the end of 2006, according to its aim to achieve a more balanced mix of criminal and civil cases. As confirmed in the Operational Plan 2004, LAC intended to maintain the similar number of civil cases as in 2003. The percentage of civil cases including total beneficiaries, female beneficiaries, and civil cases were shown as below target in the Annex I of this report. According to what LAC achieved in 2004 was that LAC received the total amount of cases for both criminal and civil cases amounting to 2,618 cases that 1613 of criminal cases representing to 61, 61% in which 707 were closed and 906 were still ongoing. LAC also received 1005 civil cases representing to 38, 39%, 292 of which were closed and 713 cases still ongoing. From this result, LAC provided legal services to 16, 726 poor people 4, of whom were male beneficiaries represented to 26.55%, 212 beneficiaries were children represented to 1.27% and to 12, 074 were female beneficiaries represented to 72.19%.

Percentage of civil cases

Total beneficiaries	16,726
Percentage of female beneficiaries	72%

Percentage of civil cases	38%
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In increasing the civil caseload LAC's general lawyers, especially those working in the provincial offices needed to handle more civil cases, such as small land disputes, labor conflicts, family cases and forestry and fishery matters. A closer cooperation with the human rights NGO's in Cambodia was ensured to have these NGO's refer cases to LAC on these issues. Therefore, this year LAC increased the number of female beneficiaries up to 12,074 represented to 72% of the total beneficiaries due to the fact that LAC received more civil cases as stated in the LAC's Case Intake Policy and female clients were prioritized.

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: 1) the poor, and 2) organizations or individuals with legal disputes arising from human rights work.

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 have 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 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 their own policy.

6.1.3 Advocacy and legal reform

Conforming to the Annual Operational Plan 2004 and recommendations from the donors, especially as raised in the MT and Board meeting, LAC has taken steps to make an advocacy plan for the whole organization.

The Juvenile Litigation Unit sought a solution outside the court in order to get some compensation to the victims. From 2003 to date (and due to continue through 2005), the Juvenile Unit continued with its pilot project called Protecting Children in the Cambodian Justice System in Battambang province. The Unit closely cooperated with the Ministry of Justice, the Ministry of Interior, LAC's offices in the eight provinces and the Juvenile Litigation Project. Their work focused on advocacy work by training all police personnel, commune council members, chief of villages, concerned Government agencies, villagers, and NGOs about the Cambodian laws pertaining to children and the Convention on the Rights of the Child.

The principal aim was to set up a Mediation System to the petty crimes and misdemeanors thus avoiding the justice system in Battambang province. It is intended for this program to be initiated at the national level in 2005.

The Land Law Unit and the Labor Unit implemented their projects in linking to the advocacy work by lobbying key people from the government ministries, National Assembly and the UN agencies along with negotiation and mediation outside the courts.

Also in the context of judicial reform, the Legal Vice-Director has stressed the recent legal and judicial development in Cambodia especially adoption of the new land law, civil and criminal procedure as well as some sub-decrees. The LAC's Legal Vice-Director also joined his work with the council for legal and judicial reform of the Council of Ministers.

Regarding the topic of possible roles in the Khmer Rouge Tribunal, as requested by Task Force, LAC could provide information on Khmer Rouge tribunal to the public and give orientation to the international staff of the tribunal on Cambodian laws. The new Management Team, except the finance officer, participated in the Video and Radio talk show in the field of law implementation, law reform and the judiciary reform, which were recognized as necessary advocacy activity.

6.1.4 Publication

LAC issues a LAC quarterly newsletter. We have received positive reactions on the newsletter from readers as well as suggestions to improve content, layout and presentation.

In 2004, under funding support from the Save the Children Norway the Juvenile Unit published a bi-annual newsletter entitled *Children and the Law* and distributed to its project target groups. For further publications all articles related to children issues would be inserted into the *Children and the Law* newsletter or bulletin that is published by the Juvenile Unit.

7 ACTIVITIES OF THE UNITS

This chapter describes the activities of the specialized Units of LAC (although these units had separated funding and did not receive funding from the core budget). Their work was crucial to the success and impact of LAC. Their specific activities were contributing to a wider understanding of the lawyers from the general lawyers unit and the lawyers in the provincial offices of the various issues that faced Cambodian's poor. The units worked closely with all of the provincial offices, depending on where their projects were being held.

7.1 The Juvenile Litigation Project (JLP)

The Juvenile Litigation Unit (JLP) consists of seven lawyers and two legal assistants and that 3 lawyers from this unit are based in Sihanouk Ville, Battambang province and Siem Reap province. The JLP unit of LAC works in close cooperation with DanChurchAid and LICADHO. The project aims at

- Access to legal aid for minors accused of offenses;
- A reduction in violations of the legal time limited for pre-trial detention;
- A push for fair trials and decisions;
- A reduction of torture by police on children when being interrogated during the police custody;

i Description of activities

•Investigation

When a child-related case was referred to JLP or accepted by JLP's lawyers based on *LAC's Case Intake Policy*, the relevant lawyer investigates the case, meets local authorities, members courts or other relevant NGOs; interviews clients, their relatives or witnesses; photocopies court files, investigation file; and follows through all proceedings including trial and appeals when necessary.

JLP's staff traveled to many parts of the country including remote districts.

It is crucial that JLP’s lawyers usually work in cooperation with lawyers of LAC branch offices in eight provinces. Once any incident regarding children comes to the attention of the local branch office, it is notified by those offices to JLP. Furthermore, the investigators in the regional offices also assist JLP’s lawyers in locating scene or clients’ house.

JLP also provided its clients with small amount of financial assistance. For instance, JLP paid for transportation to client and witnesses who were unable to afford to travel to the courts.

•Legal Representation

To achieve successful results in all represented cases, LP’s lawyers brought forward both testamentary and documentary evidence in the trial sessions after thorough analysis and in-depth investigation. Furthermore, they also cited relevant articles in the Convention on the Rights of Child, UNTAC law and other relevant laws. The main objective was to ensure that appropriate rehabilitation/ punishment or compensation was given to the clients.

In addition, when the court’s decision was erroneous/ unjust or the punishment was too stern, JLP’s lawyers filed appeals against the judgment.

•Participation in workshops/trainings

During the period of this report, JLP’s lawyers took part in many workshops organized by various NGOs working in Cambodia. The following information highlights workshops JLP’s staff attended.

- “Court Watch,” organized by the Center for Social Development
- “Training on New draft of Civil and Penal Code and Procedure,” organized by Legal Aid of Cambodia
- “Trial Techniques,” organized by Cambodian Defenders’ Project
- “International Court,” organized by EWMI
- “Juvenile Justice,” organized by Cambodian Defenders’ Project (CDP)
- “Lawyer Firm Management” organized by Cambodian Bar Association & JICA
- “Criminal Action Committee” organized by Adhoc
- “Gender” organized by Licadho
- “Lawyer Office Management” organized by the Bar Association of Cambodia

Radio Talk Show is also a program that the LAC-JLP participated in dissemination/raising awareness to the public understanding the legal rights of children victimized or child offenders.

Caseload

From January to December 2004, JLP has handled 183 cases with 236 clients. Of the 183 cases, 98 cases were closed.

	Victims		Accused		Total			Female		Male		Total	
Closed Cases	37	38%	61	62%	98	100%	Victims	63	78%	18	22%	81	100%
Opened Cases	34	40%	51	60%	85	100%	Accused	10	6%	145	94%	155	100%

Achievements and Obstacles

ii Achievements

In implementing the project from January to December 2004, JLP achieved the project results as shown in the following table:

Expected Results	Verifiable Indicator
Legal representation to minors accused of offences	120 cases a year
Appropriate compensation for victims or appropriate punishment/acquittal for defendants	<p>Appropriate punishment or acquittal in 60% of cases representing the accused</p> <p>Appropriate compensation in 50% of cases representing victims</p>
Reduced illegal pre-trial detention	JLP's lawyers filed pre-trial release motions in 50% of cases.

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In representing the accused, JLP's lawyers endeavored to advocate their clients' interests so that they were able to obtain, if not acquittal or withdrawal of the charges, appropriate punishment. The appropriate punishment refers to a punishment that takes into account submissions on mitigating circumstances, no record of prior offences etc.

In representing victims of crimes, JLP's lawyers attempted to convince the judges to take appropriate compensation for the victims into consideration. In addition, the lawyers did their best to present incriminating evidence in order those accused were found guilty.

•Noticeable Changes

➤ **Knowledge Improvement**

JLP has noticed that an increasing number of Cambodian citizens were more aware of their rights. When clients approached JLP's lawyers, the latter usually provided them with some legal advice and they shared this information with other people living in their communities.

More importantly, court clerks and judges also started, to some extent, to consider the best interest of children when faced with submissions by JLP lawyers citing not only provisions in Cambodian laws but also international law. The JLP lawyers often had recourse to the UN Convention on the Rights of Child.

➤ **Attitude Improvement**

When they had a problem, they sought assistance from NGOs. Similarly, they asked for assistance from LAC-JLP when they needed legal aid. Some clients came to JLP main office or LAC branch offices in person while others were referred to JLP by other NGOs like LICADHO. These people perceived JLP's lawyers as an important resource.

With the intervention of JLP's lawyers, court clerks and judges tended to deal with cases a bit more quickly than before. It is possible that they were afraid of being criticized by NGO's staff.

➤ **Professional Practice or Behavior of the Participants**

Faced with arguments from JLP lawyers that it is in the best interest of juvenile accused, judges often grant pre-trial release when JLP's lawyers file the bail motions with clear and sufficient grounds. The pre-trial release enables the juvenile accused had an opportunity to pursue their study while waiting for trial date.

We also noticed that in some cases, when a child was accused of committing a crime or a victim of a crime, court clerks contacted JLP's lawyers via phone in order to represent him/her in the court. JLP's lawyers always welcomed and positively responded to the request because they take the best interest of children seriously. This is a good sign that the judiciary is to a certain degree paying attention to children's rights.

iii Obstacles

Some parents of minors are uneducated and poor. When children are raped (or otherwise abused) they do not understand the importance of retaining evidence and often wash their children and clothers, making successful prosecution of offenders difficult.

The victims are often threatened by offenders not to tell parents or authorities so victims are afraid of telling their parents. Sometimes parents hide the fact of their daughters rape due to concern about the reputation of the family.

Victims sometime accept compensation to terminate the public action, and prosecutors do not respect the law on criminal procedure by dropping the charge on the ground that the accused willing to pay for compensation and the victims accept the offer and agree to revoke the complaint.

Some parents are not informed when their children are detained in prison, so it is hard for the lawyer to collect information.

Some activities were delayed due to the fact that funds were given late for the second semester of year 2004.

7.2 The Juvenile Unit (JU)

LAC-JU was established to support children rights especially the rights of children accused of offences and child victims. With funding support from Save the Children Norway (SCN) the Juvenile Unit continued implementing its project named "Promotion of the UN Convention of the Rights of the Child". The objective of the project is to protect children who are victim of any kind of abuses



Training to police in Battambang province by Juvenile Unit

and exploitation and children accused of committing offences to receive proper legal protection and assistance from judges, prosecutors, police, lawyers, military police, prison officials,

relevant NGOs, commune council members, children protection network and people.

The project ensures the access of victim children and children accused of offences to legal assistance and to develop a model of quality legal services at local levels and to strength the

efficiency of Cambodia legal justice system, especially the existing of the mediation system for petty crimes in the Cambodian Justice System instead of processing the cases through the justice system.

Currently, the Juvenile Unit is composed of five staff who responsible for running the project activities. Four are permanent staff from LAC, and one representative from the Ministry of Justice, Mr. Touch Chiva. The Juvenile Unit has both got funding support from its donor and technical assistance including capacity building from its donor such as training on Monitoring and Evaluation, Leadership, Preparatory Internal Evaluation, Monitor changes in Children's life, Quarterly Update, Child Rights and Press law and Village Safe Net.

Caseload

An estimate of minimum 60 (20 each year) children accused of criminal offenses and child victims in the eight provinces where LAC offices are located will receive legal justice.

In 2004 the Juvenile Unit started its litigation, which 50 cases were investigated 30 of which were child offenders and other 20 were child victims. 32 cases were ongoing, 20 of which were child offenders and 12 other were child victims.

i Description of activities

The JU investigated and gathered cases from child offenders/victim cases when receiving complaints from child offenders /victims. The records and other document were proved to the court so as to benefit to them during the trial. They were provided the legal consultation in the stage of arrest in police custody.

The JU provided legal advice on how to protect the rights of children in the Cambodian justice system at a day-and-a-half training session to police, commune council members, village chief and people. The training was the core work of the JU. Children must be protected, according to the domestic and international law and treated differently than the adult offenders/victims. The training attempted to change attitudes and to encourage police officials to help children when they were in trouble. The focus of this training was on 13 districts in Battambang Province.

In 2004, the JU continued to focus on building a relationship with the local villagers and government staff. The project staff aimed to develop trust with the local authorities, villagers, child protection network and people so that these individuals would give the JU more information. Monitoring visits were conducted two months after the training was provided to ensure whether the attitudes had really changed. If this was not the case, there was another meeting with some key people and an action plan would be drafted to improve the situation.

During their training sessions, the JU gathered evidence, and explained which organizations or people could help juveniles in trouble. Sometimes cases involving minor offences could be solved in the commune council or by the local police along with a process of mediation, but this was only acceptable when the rights of children are respected.

ii Achievements

In implementing its activities, the Juvenile Unit established a strong cooperation with the Ministry of Justice (**MoJ**) and the Ministry of Interior (**MoI**). The MoJ has sent one part-time representative to join the project:

82 child offender and child victim cases were received proper legal representation within the target areas. 50 cases were investigated, 30 cases were child offenders and 20 cases child victims. 32 cases were ongoing, 20 of which were child offenders and other 12 child victims.

387 police officers from 5 districts of BTB province and 288 participants including commune council members, head of school and village chiefs from 2 districts of BTB province were provided legal advice session on how to protect the rights of children in the Cambodian justice systems.

118 participants including commune council members, police, head of school, chief of health centers, village chiefs and village volunteer of commune child protection

network from 3 communes of BTB district and Moung Russey district in BTB province were provided training on the Convention on the Rights of the Child and relevant Cambodian law.

3559 people from 3 communes of 2 districts in BTB province were met and discussed about child issues and relevant laws.

150 participants including chief of Administrative Police Posts, head of communes, village chiefs were met and followed-up activities related to children after providing legal advice session.

73 child offenders in Siem Reap, Battambang and Kratie prisons and 30 street children/ children who commit light offenses in youth rehabilitation center were provided educational material.

1800 copies of legal books were copied and disseminated to participants during providing legal advice session and training in Battambang province.

1200 posters on combating criminal acts were printed and distributed to participants and people in Battambang province.

200 copies compiling juvenile cases and annual report 2003-2004 were produced and disseminated to relevant institutions.

Number of children reached directly:

82 child offenders and victims were reached directly in providing legal representation and investigation.

The Convention on the Rights of the Child was used as tool (reference) during the trials. Judges and police under the project coverage areas had gradually improved in attitude and accepted the rights and dignity of children charged with an offence in term of detention and pre-trial detention. Besides this, police, commune council members and village chiefs have changed their behavior in dealing with children in conflict with the law issues.

iii Obstacles

- Law on aggravating circumstances is difficult to implement
- Repeated offences of child offenders due to the lack of rehabilitation programs
- Corruption in justice system.
- Inconsistencies of legal interpretation.
- The number of bulletins is not enough for LAC's targeted readership.

- Security issues: clients and witnesses in justice system are afraid to cooperate with us.
- The public awareness of children's rights and children's issues is limited.
- Insufficient laws dealing with children's issues
- Little cooperation between local authorities

7.3 The Land Law Unit (LLU)

The Land Law Unit of Legal Aid of Cambodia consists of five staff members three of whom are lawyers and two other are legal assistants. The unit got funding support from the Finnish Embassy and Oxfam Great Britain.

i Description of Activities

- Interview clients and accept cases
- Legal advice to clients
- Investigate cases/claims
- Representation in courts
- Meet with local and provincial authorities
- File complaints and meet with Cadastral Commissions members on relevant cases
- Cooperation with NGOs/IOs in handling major cases
- Consultation and analyze and make recommendations on draft laws
- Provide assistance to clients who settle major cases to apply for land title certificates
- Provide information to the media, NGOs, IOs, Embassies and other organization about major cases
- Investigation into land cases covered by media reports;
- Provide vigorous legal representation until final resolution of the case;
- Assist clients in the enforcement of judgments;
- Assure accountability throughout the entire legal process (holding lawyers' responsible for commitment to clients, negotiating for the possible settlements, or, in the alternative, advocating for the best possible result in a trial setting).
- Maintain an open, transparent relationship with both clients and donors: in client relations, LAC will provide clients with information pertaining to their cases in a timely fashion, will relate any negotiated settlements to the clients to receive clients' permission for settlement, etc. In donor relations, LAC will provide open, transparent records of all accounts, inform donors of problems as they arise and make timely requests regarding proposed changes to activities or budget.
- Provide training in land laws/rights where necessary/appropriate.
- Advocacy efforts in collaboration with other organizations;
- Provide commentary on forthcoming sub-decrees from the Ministry of land management and encourage the MLU and the NCC to be more transparent and inclusive in all its dealings.



Investigating activity by the head of Land Unit on land case

•Networking and Cooperation

Since the past project cycle, the Land Unit has maintained its commitment to participate in community activities with other representatives of civil society engaged in land reform, land management and land dispute issues.

In June of 2003, Land staff participated in a Cambodian Land Dispute Round Table Discussion sponsored by Adhoc and Oxfam GB.

During this project cycle, LAC Land Unit has also worked to strengthen its relationship with the Community Legal Education Center Land Law Unit, in particular activities both units are working on in Ratanakkiri province. CLEC has also been invited to participate in the drafting of the sub-decree on indigenous land rights by the Ministry of Land Management and LAC lawyers have requested to be included in this process as much as possible.

During this time, we have also attempted to strengthen our ties with Adhoc Ratanakkiri and to start new collaborative efforts with NGOs in Odar Meachey, where legal assistance/training is very much needed.

LAC Land Unit continued our regular collaborative work with NGO Forum and the ADB Highway One Resettlement Project, as well as participation in local meetings addressing land issues, land management and legal/judicial reform.

ii Achievements

During the last twelve months (through 31 December, 2004), productive legal representation provided by the Land Law Unit of Legal Aid of Cambodia could not have been possible without the generous support from the Finnish Embassy and Oxfam Great Britain. As a result, the Land Law Unit acted in a total of 80 major land cases and 358 minor land cases; succeeded or reached settlement in 75 cases and lost 122 cases, all of which involved serious land disputes where LAC represented poor, disadvantaged plaintiffs against powerful and influential respondents.

As of September 30, 2004, the Land Law Unit had a total number of 438 land cases (both major and minor) and all cases were ongoing in Land Law Unit and closed a total number of 192 land cases.

This project cycle was not only a productive period of time in terms of representation in land dispute cases, but also covered the commencement of operations of the cadastral commissions, at the national, provincial and district levels. Several pilot projects were conducted by other non-governmental organizations, as well as the LAC the Land Law Unit, to assist in the representation of poor and vulnerable parties in land disputes brought before the newly created cadastral commissions (Mediation System). All this work has been essential in increasing representation of the poor and vulnerable in land dispute cases and improving the public's awareness of the 2001 Land Law and the functions and operation of the Cadastral Commission.

iii Obstacles

Over the preceding budget cycle, LAC Land Unit has encountered numerous constraints and challenges. A reoccurring challenge has been the development of effective methods to be used with a consistently corrupt and inept judiciary and how to develop a balance of power between disputing parties where there is an imbalance in power.

As mentioned in previous donor reports, mediating and litigating land disputes have been on-going challenge for the Land Unit. It is expected that with the implementation of the Cadastral Commission at the district, provincial and national levels will present an entire new set of challenges

for staff. LAC Land Unit has been working in cooperation with GTZ, the East-West Management Institute, as well as the Ministry of Land Management, as well as other organizations in preparation of the formation and operation of the commissions on all three levels.

One constraint that was encountered during this project cycle was a lack of lawyer resources. As our caseload and jurisdiction expands, we required additional legal support, both lawyers and legal assistants, to cope with case increases.

Another constant challenge is to assess the great number of cases at a virtual standstill, as can be seen after a review of the attached case table. This is generally the result of the great resistance by opposing party's result in little to no headway or movement in some cases despite LAC's best efforts. The influence of such influential opponents may also often be the cause for languid procedures in the courts despite our best efforts to speed up the process. Where LAC clients are not in possession of the disputed land, this situation constitutes a significant loss over time, as whoever is in possession tends to deepen their hold or claim on the land. Further, the party in possession generally prohibits the opposing party to cultivate the disputed land, therefore, resulting in financial hardship for the party not in current possession of the land.

In addition, many cases were finally resolved after threats, bribes to officials or inadequate compensation to clients, which results in clients withdrawing their complaints. For example, in one case, the director of a rubber plantation evicted people from land where they had lived and worked for twenty years. Some families accepted money as compensation because of threats and are no longer clients of LAC.

Another continual challenge and constraint on the LAC Land Law Unit lawyers and legal assistants are attempting to obtain a fair resolution within a system, judicial and administrative, that is corrupt and tainted by outside influences. LAC has learned to appeal to high government officials in the relevant ministries to intervene and support our clients' position when confronted with unjust judicial findings.

One final challenge that LAC Land Unit has faced throughout the past project cycle and will continue to address is the issue of indigenous people's land rights. Although indigenous people only comprise approximately one percent of the total population in Cambodia, in the provinces of Ratanakiri and Mondulakiri, they comprise a majority of the population. These tribal inhabitants are most likely the most marginalized and disadvantaged groups in Cambodia and they are extremely vulnerable to having their land taken by illegal means. Although there is a portion of the 2001 Land Law that addresses the rights of indigenous people regarding land, a sub-decree is required to fully implement the protective mechanisms required in the 2001 law. This sub-decree has not yet been drafted and the lack of this specific mechanism presents a great challenge to LAC lawyers and others concerned with protecting indigenous land rights.

•Lessons Learned/Program Adjustments

LAC Land Law Unit encountered many cases over the previous project cycle, which has resulted in some valuable lessons. These lessons and resulting program adjustments can be summarized as follows:

In some cases, we must combine judicial actions with petitions to the appropriate governmental entities to seek remedy. This requires our lawyers to rely on their past experiences in order to determine how far the judiciary may go in terms of providing remedies and when it is appropriate to seek governmental intervention.

LAC lawyers and legal assistants have learned that the most effective means of advocating a land dispute case involves the active participation and cooperation of the affected families. From the very beginning, villagers must be asked to designate family representatives and those representatives must be willing to assist LAC lawyers and legal assistants. Active participation and "ownership" of efforts towards resolution of land dispute cases is essential for a successful outcome.

LAC lawyers have an obligation to keep all clients informed as to the status of their cases. This is an on-going obligation and requires organization and monitoring of lawyers' cases. LAC is committed to improving its case management system in the next project cycle to overcome this weakness in our current operations.

In the future, it is anticipated that new cases will be assigned by the head of the unit to lawyers and legal assistants by geographical breakdown, to maximize travel and time resources. At present, there is no such geographical distribution of cases to lawyers and this has resulted in ineffective time management and travel expenses.

Finally, LAC Land Law Unit has learned the importance of strengthening communication between lawyers and legal assistants within the unit, thereby improving capacity and "team management" techniques. Although it is difficult to pull the entire staff together on a regular basis because of individual lawyers and legal assistants' heavy case loads and travel requirements, the Land Unit is committed to having regular, mandatory, monthly staff meetings. The head of the unit is also committed to conduct regular reviews and evaluations of the other lawyers and legal assistants' case files.

7.4 The Labor Unit (LU)

The Labor Unit of LAC is composed of three staff including one lawyer, one legal assistant and an investigator. The Labor Unit continued and expanded its activities with support from ACILS. In September 2004 however, the funding from ACILS stopped and LAC is currently looking for additional funding. The Unit also assisted the workers to file complaints with the Government concerning ministries and the court and also represented workers unions.

i Description of Activities

The Labor Unit of Legal Aid of Cambodia provides legal advice to unions and workers regarding all aspects of their employment, focusing on educating workers about their rights. The Labor Unit frequently mediates disputes between union and / or workers and their employers and has played a prominent role in achieving settlements between striking workers and their employers.

When workers are faced with a labor conflict, they are often referred to the Labor Unit by their labor unions or labor federations. They also learn about the Labor Unit through word of mouth. When clients come to the Labor Unit wanting to lodge a complaint against their employer, the staff first interviews the workers. In some cases, the staff then interviews local authorities, factory managers and government representatives.

The staff goes to the factories, NGOs, international organizations, the Cambodian Labor Organization, International Labor Organization and Union headquarters to conduct these interviews. Before a case goes to court, the parties must attend a conciliation meeting at the Ministry

of Social Affairs. Although the workers represent themselves at such a meeting, the Labor Unit helps the workers to develop a strategy before they enter the conciliation. If the conciliation is unsuccessful, the Labor Unit then takes the complaint to the Arbitration Council for trial.



Employees in a Garment Factory in Phnom Penh

If the parties are not favorable with this decision, the Labor Unit will represent the workers in court. To prepare for trial, the staff collects additional evidence, prepares the relevant court documents, and attends pre-trial conferences with the judge and the opposing party.

In addition to directly representing clients in labor disputes, the Labor Unit's staff has worked to

expand its knowledge and help educate Cambodia's labor force so that workers are aware of their rights

and take an active role in promoting their rights.

In 2004 four staff left the Labor Unit and three have been recruited and one has rotated from General Unit of Legal Aid of Cambodia.

Case Load

From January to December 2004, the Labor Unit has handled 39 cases, 12 of which were solved in the court system and 27 other were solved outside the court with 11912 clients. Of the 39 cases, 25 were closed, among 11912 clients there were 2003 men (17%) compared to the amount of 9909 women (83%). In principle we accept only the collective complaint, so each case has more than one client and most of them present by unions or the representatives.

STATISTIC REPORT FROM JANUARY TO JUNE 2004 (CASES INSIDE COURT)

Note:

M: Men

W:

Women

C:

Children

A:

Amount of the Cases

Closed Cases				Total A	Sub Total	Opened Cases				Total A	Sub Total	Grand Total A	Grand Total All
A	M	W	C			A	M	W	C				
2	3	0	0	2	3	0	0	0	0	0	0	2	3
1	1	0	0	1	1	0	0	0	0	0	0	1	1

STATISTIC REPORT FROM JANUARY TO JUNE 2004 (CASES OUTSID COURT)

Closed Cases				Total A	Sub Total	Opened Cases				Total A	Sub Total	Grand Total	Grand Total All
A	M	W	C			A	M	W	C				

18	106	58	0	18	6958	2	30	220	0	2	250	20	7208
	4	94											

STATISTIC REPORT FROM JANUARY - DECEMBER 2004

Cases inside court															
Closed Cases				Total A	Sub Total	Opened Cases				Total A	Sub Total	Total All M	Total All W	Grand Total A	Grand Total All
A	M	W	C			A	M	W	C						
5	254	800	0	5	1054	7	300	1500	0	7	1800	554	2300	12	2854
Cases outside court															
Closed cases				Total A	Sub Total	Opened Cases				Total A	Sub Total	Total All M	Total All W	Grand Total A	Grand Total All
A	M	W	C			A	M	W	C						
20	1099	6209	0	20	7308	7	350	1400	0	7	1750	1449	7609	27	9058
The total of cases and clients in side and out side courts												2003	9909	39	11912

ii Achievements

The Labor Unit of LAC has expanded its efforts to represent workers in garment factories, hotels, hospitals, universities, construction workers and restaurants.

Workers have developed increased trust in the Labor Unit's lawyer. They solicit the lawyer for assistance. They come to the Labor Unit because they are without financial resources and our reputation is very good.

LAC Labor Unit has participated in the process of Cambodiana Hotel's service charge case, and the Arbitration Council tried the employer to meet the union claim.

The Labor Unit helped and taught workers in establishing the unions such as WRUC union at Chou Sing factory.

Because of advocacy of other NGOs and LAC (LLU) regarding with workers rights and conflicts, The judges, MOSALVY and factories management pay attention the workers' rights, workers understanding on the rights is improving.

•Indicator's of success

➤ Knowledge Improvement

So far the Labor Unit has noticed that an increasing number of Cambodian workers are more aware of their rights. When clients come to Labor Unit's Office, the lawyer, legal assistant as well as investigator usually provide them with some legal advice. And the knowledge that they have learned from LLU staff would have transferred to other people living and work in their communities.

More importantly, court clerks and judges have also started taking the best interest of laborers into consideration because LLU's lawyer and legal assistant not only cite provisions in Cambodian laws but also international law.

➤ **Attitude Improvement**

When they had a problem, they usually solved their problems through their representatives such as leaders of union officials of Mosalvy, NGOs especially LLU. LLU remarks that more and more worker when she/he has conflicts with employer she/he individually seeks for help from LLU, this because of she/he know what to do where to go and who she/he has to contact for help.

The judges, MOSALVY and factories management pay attention the workers' rights, workers understanding on the rights is improving.

➤ **Professional Practice or Behavior of the Participants**

The officials of Mosalvy tend to pay attention on the workers' rights and solve problems for the workers who file complaints to them. Arbitration Council judges fairly and carefully on the collective cases, which are sent to trial unfortunately the award of the arbitration council is not bidding like the court is. However, workers usually do not provide fair trial from the judges; because judges are still corruptive and un-independent when the cases are filed to the court workers party usually lose.

iii Obstacles

Workers are impoverished and uneducated, and lack awareness of both their rights and the availability of legal aid services.

Employers frequently dismiss workers illegally, did not pay workers their wages, refuse to pay overtime, and do not allow workers to seek medical services when they were sick.

When workers form unions, they are often fired in case the factory owners or administrators discover that a worker has been elected as a president or representative of a union, they routinely declare that they have found a problem with the worker, no matter how insignificant, and fire the union worker. Subsequently, they do not pay the compensation required by the Labor Law. Therefore, it is difficult to create continuity and strength in the labor unions.

Some factory owners and security guards are highly uncooperative. When the lawyer or legal assistant is involved in a case and wants to meet them, they frequently do not allow the relevant LAC personnel to enter the factories.

It is often the case that factory owners violate labor law and take steps to disband unions.

Ministry officials also frequently fail to protect the interests of the workers.

The final obstacle that the Labor Unit faces is the judges' ignorance of the Labor Code, because it is a relatively new law (only six years old).

When there are complaints between the workers and employers, both parties do not respect the Arbitration awards, because the award does not really bind the dispute parties as the court does. Sometimes two parties agree to the decision from the arbitration council to solve it, but when the Arbitration Council issues the award, one party does not abide by it and the award is not enforceable.

The police often use the force to disperse demonstration of the workers rather than to allow them to conduct demonstration.

The court system in Cambodia is corrupt and most of the judges receive bribes from parties to a particular dispute, especially from the factory owners.

Some workers can not tell real issues because they are afraid of losing their job. In this case it is hard to collect enough evident to sue to the arbitration and the court.

8 ANALYSIS OF RESULTS

LAC now has a more balanced mix of criminal and civil cases than before and aims to continue to improve this.

Drawing on lessons learned, LAC has adjusted the objective for the next three years to a more realistic mix of 50% criminal and 50% civil cases.

LAC has 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.

With regard to the court clerks, prosecutors and judges, the fact that the people have legal representation puts pressure on court officials to consider the cases more carefully than if the people do not have a lawyer. Thus, judges are inclined to make decisions on cases more quickly if the parties involved have lawyers. Also, LAC lawyers' communications with local authorities, prosecutors, judges, clerks improved because the court officials are afraid of NGOs' staff criticizing them. As a result, court officials have better dealings with lawyers than they normally have with non-lawyers.

With respect to the clients, LAC's expansion into the remote provinces has increased contacts between people in need of lawyers and those who can serve them. When neighbors talk to neighbors, they share information about how to obtain legal services. In this way, JLP has touched many more lives. Now an increasing number of Cambodian citizens are aware of their legal rights. Additionally, when our clients have a lawyer, they are more confident that they will get more justice. If the people do not have a lawyer, they do not trust the administrative authorities or the courts to give them justice.

A constant challenge is to assess the great number of cases at a virtual standstill. This is generally the result of the great resistance by the opposing party's, which results in little to no headway or movement in some cases despite LAC's best efforts. The influence of such influential opponents may also often be the cause for languid procedures in the courts despite our best efforts to speed up the process.

In addition, many cases are finally resolved after threats, bribes to officials or inadequate compensation to clients, which results in clients withdrawing their complaints. For example, in one

land case, the director of a rubber plantation evicted people from land where they had lived and worked for twenty years. Some families accepted money as compensation because of threats and are no longer clients of LAC.

9 LESSON LEARNED

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
- Mechanism of checks and balances in the organization's Statute and Internal Regulation has already improved
- Increase gender awareness and sensitivity

In some cases, we must combine judicial action with petitions to the appropriate governmental entities to seek remedy. This requires our lawyers to rely on their past experiences in order to determine how far the judiciary may go in terms of providing remedies and when it is appropriate to seek governmental intervention.

LAC lawyers and legal assistants have learned that the most effective means of advocating a land dispute case involves the active participation and cooperation of the affected families. From the very beginning, villagers must be asked to designate family representatives and those representatives must be willing to assist LAC lawyers and legal assistants. Active participation and "ownership" of efforts towards resolution of land dispute cases is essential for a successful outcome.

LAC lawyers have an obligation to keep all clients informed as to the status of their cases. This is an on-going obligation and requires organization and monitoring of lawyers' cases. LAC is committed to improving its case management system in the next project cycle to overcome this weakness in our current operations.

In the future, it is anticipated that the head of the unit will assign new cases to lawyers and legal assistants by geographical breakdown, to maximize travel and time resources. At present, there is no such geographical distribution of cases to lawyers and this has resulted in ineffective time management and travel expenses.

Finally, LAC Land Law Unit has learned the importance of strengthening communication between lawyers and legal assistants within the unit, thereby improving capacity and "team management" techniques. Although it is difficult to pull the entire staff together on a regular basis because of individual lawyers and legal assistants' heavy case loads and travel requirements, LAC is committed to having regular, mandatory, monthly staff meetings. The head of the unit is also committed to conduct regular reviews and evaluations of the other lawyers and legal assistants' case files.

LAC firmly believes that the acknowledgement of these lessons learned during this past project cycle will result in a better-organized, efficient and responsive organization that maximizes its resources for legal representation in Cambodia.

In the area of activities:

- .We continue developing an overall advocacy and lobbying strategy
- .We continue increasing LAC's role in promoting legal and judicial reform
- .We seek beneficiaries' participation in designing strategies
- .We strengthen the role and increase the impact of LAC's provincial offices;
- .We seek new ways for cooperation with other NGOs

Other lessons learned from LAC's experiences in 2004 are:

- To be realistic in setting goals and objectives
- Staff participation in developing plans and strategies is still essential, LAC already had 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 already set up a gender committee comprised of female and male staff

10 SUPPORT BY DONORS

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. We welcome more opportunities to do so, for instance by exchanging staff and conducting study visits with other organizations.

CONCLUSION

2004 was the most difficult year for LAC since its foundation but it was also a fruitful year because LAC changed in the face of adversity. New Management Team members were selected, the Supervisory Board came to replace the powerless Advisory Board and what was more LAC was supported by ICCO with management and technical advisors who could help LAC to rebuild its reputation and renormalize its operation.

Although the Netherlands Embassy decided not to continue their funding and LAC had to operate within tight financial constraints, LAC still achieved its core objective as stated in the operational plan 2004 and its Four Year Strategic Plan 2003-2006 (although the total caseload presented slightly lower than that of 2003).

In the meantime, LAC staff members still enjoyed the benefits provided by LAC in terms of capacity building.

In this accession LAC would like to pay gratitude to all previous and present donors, especially Novib that have contributed their valuable financial resources to help Cambodia's poor, strengthen the Cambodian judicial system and help build democracy in Cambodia. Financial support to LAC is vital in order for LAC to continue representing the poor and disaffected in Cambodian society and promoting the rule of law, human rights the establishment of genuine democracy.

CASE DEMONSTRATIONS

108 Families Case

One hundred and eighty families had been living on the land peacefully since 1994 were forced off by Mr. Ou Sokha (Represent 9 families) claiming that they have land certificate issued by Ochrov District authority in 1993. 108 families occupied the land located at Kilomet No. 4, Stung Bot village, Poipet Commune, Srok Ochrov, Banteay Mean Chey province with the permission from local authority. After the Khmer Rough integration into the government in 1997, more people cleared the forest and de-mined the area; and then had been living on the land dangerously since that time. Some of them were killed by explosive mine. In 1998, ZOA organization helped develop Stung Bot village by planting profitable crops benefiting the people, digging well, water irrigation and construct the road. In 1999, with the increased of the people at the area, Ochrov District authority proposed to the Ministry of Interior to create Stung Bot Village separately from Kilomet No. 4. In 1999, there were more than one hundred families and the people

With the increased of the land price in 1999, land disputes with Poipet areas were prevailed. More and more poor and vulnerable people lands were seized by the rich and powerful.

In fact, 108 families had the original land certificate and one military general Mr. Ou Sokha had a fake land certificate. So, the Land Law Unit filed a complaint against Mr Ou Sokha who made a fake land title. What was more, LAC lawyer had filed a partition to the National Cadastral Commission (NCC) and the NCC ordered the Banteay Mean Chey provincial Cadastral Commission to investigate the land for clarification. Furthermore, LAC lawyer also filed a petition to the Ministry of Justice and the Prime Minister Hun Sen, but we did hear anything form them. It is important to note the Judge Sin Visal did not follow the procedure of the law and decided in favor of the military general, Mr. Ou Sokha.

So, LAC lawyer filed a complaint against Judge Sin Visal to the Council Magistracy and the Council of Magistracy supported Judge Sin Visal by clarifying that Sin Visal did not commit anything wrong. In this case, LAC's lawyers would not stop their struggle and encourage the people to appeal. Now the case is at the Appellate Court awaiting trial. The lawyers has found many more useful evidences and submitted them to the court for consideration. The lawyer still wants the Appellate Court to conduct expertise examination on 11 fake land titles in order to find out whether the titles are legally valid.

The lawyer thinks the Appellate Court will rule in favor for the people if the court is committed to respect the law and follow the due process.

Robbery Case

Mr. Hy Kimhour was robbed on August 29, 2003. Mr. Hy Kimhour, 17, was a high school student at Preah Sishuvat High School who drove a motor to school, was robbed at 5:10 AM by two unidentified offenders who drove motor model dream C100 series in 2001. The two criminals stopped and pointed a short gun at the victim's head and threatened to shot him and forced him off the motor violently. Then the offenders drove the motor away.

Hy Kimhour then filed a complaint to police about the robbery. On October 05, 2003 two suspects, Hean Hann and Ok Many, were arrested by the police. Hean Hann confessed that he actually robbed the motor model Cub 50 cc, blue color on the date Mr. Hy Kimhour was robbed (August 29, 2003). He added that he pointed the gun at the victim's head.

When interrogated, Ok Many said that he knew Hean Hann because they had rent a house near Saraton Hotel together for more than 2 months. He also confirmed that he was responsible for buying any motor robbed from Hean Hann and their accomplices. On the day they used Dream 125 cc and AK 59 to facilitate the robbery.

After the interrogation, the police sent the suspects to the court and after the preliminary hearing the two suspects were accused of armed robbery based on Article 6 of the Law on Aggravating Circumstances of Felony. Next the prosecutor forwarded the case to the investigating judge for further investigation. When finalized, the investigating judge still maintained the charge of the two accused and forwarded the case to the presiding judge for trial. The public and plenary hearing was opened on February 23, 2004.

During the trial, LAC's lawyer, Mr. Sim Sithan represented the 2 accused. After hearing live interrogation from the prosecutor and the presiding judge, and reading the file Mr. Sim Sithan presented his legal argumentations as follow:

- Responding to the facts, he requested the judge to drop the charge against his clients based on the grounds that it was a non-flagrant delicto crime (accused were not caught in red-handed); his clients were just only suspects; there were inadequate evidences; no witnesses; unidentified civil complainants; and what is more his clients were not at the scene at the time the crime committed..
- According to the law, anyone can be accused when he or she has intention to commit the crime; the conduct is against the law; there is provision of law, interest from the offense and reasonable linkage between causes and effects.
- The lawyer concluded that based on the fact and the law there was a high reasonable doubt in the case and according to the paragraph 6, Article 38 of the Cambodian Constitution states that "Any case of doubt, it shall be resolved in favor for the accused".
- Finally the judge decided to acquit the charge against Hean Hann and Ok Many.