

Legal Aid of Cambodia Annual Report 2001



Legal Aid of Cambodia

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1. Introduction

Internal

organization

Legal Aid of Cambodia (LAC) has its head office in Phnom Penh and eight branch offices in the provinces. Each branch office consists of one lawyer, one investigator and a receptionist. The head office has several distinct units, including the General Lawyers Unit, Land Law Unit, Juvenile Litigation Project, Juvenile Unit and Labor Law Unit. The total number of staff in December 2001 was 70.

LAC is administered by a four-member Management Team made up of Cambodians. An Advisory Board made up of lawyers from the international community supports and advises the Management Team on important issues.

New activities and priorities

In 1999 LAC started to shift its focus from mainly representing the accused in criminal cases to representing more victims and handling more civil cases. This shift continued in 2001 with the start of a new unit, the Labor Law Unit, which mainly represents garment factory workers and union representatives in labor conflicts. In this year, the staff of the Juvenile Litigation Project doubled, resulting in an increased number of cases involving children.

Major events

In June 2001 the Management Team and three members from the Executive Committee of the Advisory Board held a meeting in Phnom Penh, where they drafted new documents governing the profile and responsibilities of the Advisory Board and the communication between Management Team and Advisory Board. A new Advisory Board will be formed, consisting of seven members, among whom three will be Cambodian.

The mission of Legal Aid of Cambodia is to:

1. Promote and develop the rule of law and a democratic and legitimate society in Cambodia
2. Participate in the restoration and improvement of the judicial system in order to guarantee the rights of the Cambodian people and to assure respect for the Constitution as well as for the laws of Cambodia.
3. Provide qualified and competent lawyers at no financial charge to the poor who have legal conflicts.
4. Improve public understanding in the field of law in Cambodia by providing training and consultation to people in general and to legal practitioners in the jurisdiction.

2. Achievements in 2001

Number of cases

In the year 2001 LAC continued to represent a large number of people in legal conflicts. Attached as Annex I, is a statistical report with the number of cases and clients.

In 2001, LAC closed 957 criminal cases (with 878 men/152 women/219 children as clients)

and 284 civil cases (with 234 men/214 women/7 children as clients). 77% of the closed cases were criminal and 23% were civil. On 31 December 2001, LAC had 813 open criminal cases (with 654 men/196 women/88 children as clients) and 407 open civil cases (with 293 men/198 women/2 children as clients).

From the total number of open cases, 67% were criminal and 33% civil.

In its 3-year strategic plan, LAC established the goal of representing more women and children. The statistics show that this goal was generally achieved:

Closed cases in court involving women and children:

Year	Criminal		Civil	
	Women	Children	Women	Children
2000	159	62	120	7
2001	152	219	214	7

Open cases in court involving women and children:

Year	Criminal		Civil	
	Women	Children	Women	Children
2000	136	34	100	3
2001	196	88	198	2

Especially in civil cases, the number of female clients significantly increased. In criminal cases the number of represented children rose dramatically, thanks to the expansion of the Juvenile Litigation Project.

Not included in these figures are cases settled without going to trial. The Labor Law Unit represents large groups of - mainly female - garment workers who are in the process of organizing themselves by setting up labor unions or are already organized into labor unions. Most of these cases are solved after extensive negotiations with the factory owners, sometimes with intervention by a Labor Inspector from the Ministry of Social Affairs and Labor. Thus the Labor Law Unit represents thousands of female clients. Another unit that resolves a major portion of its cases by negotiation and mediation is the Land Unit. In the year 2001 the newly accepted cases involved more than 9,000 families. It is estimated that the Land Unit represents an equal number of men and women.

Legal education

Apart from legal representation, LAC also participated in legal training activities. LAC lawyers gave training to police officers and military police in several provinces on criminal law and criminal procedure. The Juvenile Unit continued to provide training on children's rights to law enforcement officials. The Labor Unit organized workshops on different labor issues for workers and union members.

Policy changes

Another aim of LAC in 2001 was to force courts to respect procedural safeguards in criminal cases. According to article 76 of the SOC Law on Criminal Procedure, a court has to appoint a lawyer automatically before the first hearing (48 hours after arrest) when the accused is suspected of having committed a felony and is not able to afford a defender. It is very

important that a suspect who is arrested receives legal representation as soon as possible in order to prevent forced confessions and corruption. But in many criminal cases courts used to appoint a lawyer at a late stage, sometimes only just before trial. To encourage courts to appoint lawyers in a timely fashion, LAC decided in 2001 not to accept any more appointments by a court after the first hearing. This change of policy already has had some effects. Several provincial courts now appoint a lawyer before the first hearing in accordance with article 76 of the SOC Law. However, Phnom Penh municipal court still disregards this procedural safeguard, even after this issue was discussed with court officials several times.

In December 2001 LAC also developed a general policy regarding the kinds of cases LAC lawyers can accept. This policy clearly defines the mandate of the lawyers and indicates in what situations the Management Team should be consulted before accepting a case. If any doubt remains, a consultation commission will decide whether to accept a case.

Materials

A private donation enabled LAC to provide all provincial offices with new computers and printers. Many provincial staff members took computer classes and now are skilled in working with computers. The computers will enable the LAC provincial staff to type legal and administrative documents and to improve their computer skills. Several branch offices already use computers to administer their finances.

3. Human resources development

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Seminars and workshops

In 2001 the tradition of a yearly seminar for all LAC staff was continued. From October 17 to 21, the lawyers, legal assistants and investigators from each of LAC's nine offices congregated in Sihanoukville for three days of seminars given by representatives of the Phnom Penh Faculty of Law, the Ministry of Justice, LAC and the Cambodian Defenders Project (CDP). During the seminar a number of subjects were discussed, including the practical aspects of criminal and civil procedure, criminal defense, investigation techniques, inheritance law and the new land law.

For the receptionists, office assistants and guards from each of LAC's nine offices, a three-day seminar was organized in November 2001 and consisted of financial training and computer training for the receptionists and training for the other staff on the general principles of LAC and gender issues.

On 14 September 2001 the Juvenile Unit organized a workshop at LAC's head office on children's psychology, facilitated by Dr. Adler, an Australian child psychiatrist, in which all LAC lawyers from the head office and medical staff from the Children's Mental Hospital in Kandal participated. The issues discussed during the workshop were methods for interviewing children and the different stages in children's mental development.

Monthly meetings at the LAC head office, attended by lawyers from all offices, were used for case studies or to discuss difficult cases or recurring problems with the courts. LAC lawyers and other staff also participated in multiple seminars, workshops and action committees. All LAC lawyers participated in the Continuing Legal Education Program organized by the Cambodian Bar Association.

In May 2001, LAC hired a foreign legal consultant through the Dutch NGO ICCO and with an additional grant from Lawyers for Lawyers. One of the tasks of the legal consultant is to help the lawyers improve their knowledge and skills. In 2001 the consultant investigated the educational needs of the lawyers by distributing a questionnaire to all LAC lawyers, after which she visited the LAC branch offices to interview the lawyers and observe trials. On the basis of these results she will provide on-the-job training to the lawyers and organize workshops on different legal subjects during 2002.

Other training activities in 2001

1. More than 50% of the LAC staff attended English classes or computer training in 2001
2. Five staff members studied at the Faculty of Law, financed by LAC
3. The financial officer attended a financial training program
4. Legal assistants from the Juvenile Unit received training in report writing

Going abroad

1. Labor lawyer Lean Chinda and legal assistant Thin Kouland attended a seminar about gender in Bangkok
2. One legal assistant from the Land Unit left LAC to continue her studies in the United States
3. A legal assistant from the Juvenile Unit attended a conference in Japan about children's rights
4. Administrative Vice-Director Peung Yok Hiep attended a conference on women's rights in the Phillipines
5. At the invitation of Novib, Director Chhoeun Sokha participated in a seminar on justice and accountability in the Netherlands
6. On 5 December 2001, Yim Simene, lawyer from the Land Unit, went to Hawaii for a 3-month internship at the Legal Aid Society Hawaii.

4. Juvenile Unit

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In January 1997, LAC created the Juvenile Unit (JU) to advocate for the legal rights of children, especially child offenders and child victims, in the Cambodian justice system. With support from Save the Children Norway-Cambodia Office (SCN-CO), the JU has conducted surveillance and collected information regarding the problems facing children in trouble with the law who are detained in prison and the problems facing child victims. The JU also conducted legal research by analyzing and comparing the international instruments of the United Nations, especially the UN Convention on the Rights of the Child, and Cambodian laws relating to children. As a result, a number of recommendations on law making and law implementation relating to children were developed. Lastly, the JU has trained judges, prosecutors, lawyers, police officers and military police, prison officials, government agencies and NGOs from 8 provinces on how to protect the rights of children in the Cambodian justice system.

Activities

In the year 2001, the activities of the JU included:

1. Providing training workshops to judges, prosecutors, lawyers, police officers and military police, prison officials, government agencies and NGOs in 5 provinces (Kratie, Koh Kong, Sihanoukville, Kompong Cham and Kandal)
2. Visiting the provinces to monitor the progress after the training
3. Visiting the provinces to investigate juvenile cases and to provide legal consultation to lawyers in cases involving child offenders or child victims
4. Reprinting the LAC handbooks relating to children's rights
5. Preparing a project proposal to SNC-CO for 2002
6. Preparing reports

Providing training

The purpose of the training workshops was to promote respect for children's rights by law enforcement. Supported by the Ministry of Justice, Ministry of Interior, local authorities and LAC staff, and funded by SCN-CO, 2-day training workshops were held in Kratie, Koh Kong, Sihanoukville, Kompong Cham and Kandal provinces from March to July 2001. 198 trainees, including judges, prosecutors, lawyers, police officers, prison officials, government agencies and NGOs from 5 provinces, received training about the UN Convention on the Rights of the Child and Cambodian law relating to children. This training aimed to make the trainees understand how they can help children and respect children's legal rights, and especially to persuade and encourage them to implement the laws and to ensure that children in trouble with the law and child victims receive legal assistance.

Monitoring the effectiveness of training

In 2001, the JU traveled to the 8 provinces where LAC has its permanent offices and where we conducted in 2000 and 2001 training workshops to monitor the effectiveness of the training. We visited these provinces 3 months after the training ended. This monitoring/follow-up was conducted by observing juvenile trials and interviewing judges, prosecutors, lawyers, police officers, prison officials, government agencies, NGOs, UN Human Rights Offices and child prisoners.

Investigation and legal consultation with lawyers on juvenile cases

In cooperation with the Juvenile Litigation Project (JLP), from Nov. to Dec. 2001, the JU traveled to Battambang and Kandal provinces to give advice to the lawyers involved in children's cases. As a result, 2 cases were investigated by both the JLP and JU. In addition, the JU participated and consulted with lawyers in trials of juveniles charged with robbery and theft in Kandal province. This activity will be continued in 2002 in the 8 provinces where LAC has its permanent offices.

Book publishing

Because of a shortage of documents to use in the training workshops, in the beginning of the

year 2001, the JU reprinted 180 copies of its comparative study of juvenile laws and 300 copies of its compilation of Cambodian laws. These books were disseminated to lawmakers, government agencies, NGOs and IOs, mostly during the training workshops.

Preparing the project proposal for 2002-2005

In June 2001, the LAC-JU prepared the 2002-2005 project proposal and submitted it to the LAC Management Team, after which it was sent to SCN-CO. The process of preparing the proposal required the JU to evaluate the success of its past activities and to set long-term goals. The proposal seeks to continue the work begun in 1999-2001 and has been approved already (see chapter 12).

Reporting

At the end of 2001, 290 copies of the report from the training workshops held in the 8 provinces were printed and disseminated to the trainees, LAC offices and SCN-CO. Reports about the monitoring activities were also prepared and will be disseminated. The JU is now preparing a report about the in-house training workshop relating to criminal-civil procedure, investigations and the new land law, organized by LAC in Sihanoukville.

Networking

A legal assistant from the LAC-JU was selected to be the chairperson of the NGO-Commission on the Rights of the Child (NGO-CRC). He has worked with the NGO-CRC to prepare the initial report and the supplementary report of the NGOs relating to the implementation of children's rights in Cambodia and submitted it to the UN in Geneva. The JU also is a member of the ECPAT Cambodia.

Other activities

The JU has fulfilled some tasks of the LAC head office like writing the report /proposal of LAC for the in-house training workshop and organizing the workshop. We have also cooperated with LAC head office lawyers and provincial lawyers on cases involving children arrested and detained in police custody for more than 48 hours. On such cases we cooperate with NGOs and the UNCOHCHR.

Human resources development

Mr. Touch Chiva and Mr. Meas Samnang from the JU participated in a report writing course and a TOEFL preparation class.

Overall progress

During our follow-up visits after the training workshops we found that court officials, law enforcement officials, lawyers, government agencies and NGOs were providing legal assistance to child victims. Most of the arrested children are not detained in police custody for more than 48 hours, are not beaten to obtain a confession and are quickly sent to court. In most of the cases, parents or legal guardians are informed when the police or military police arrest their children. Government agencies (especially provincial departments) cooperate with NGOs in providing centers to rehabilitate children who are convicted of crimes or exploited. Children receive legal protection and assistance from LAC lawyers in the JLP in cooperation with the LAC JU. Lawyers raise the UN Convention on the Rights of the Child when providing legal representation to children during juvenile trials. Links between the LAC JU and the Ministry of Interior, Ministry of Justice, local authorities and local NGOs have been established.

5. Juvenile Litigation Project

In the year 2001 the Juvenile Litigation Project (JLP) continued to serve the best interests of children by:

1. Ensuring access to legal aid for children in trouble with the law, for children who are victims of a crime, and for children who are in need of legal representation in court.
2. Urging the authorities who have arrested or detained children to file proper charges against them in accordance with the law, especially in compliance with the Convention on the Rights of the Child (CRC).

JLP Staff

In 2001, the JLP has increased from 3 to 6 staff members. The JLP has been funded by three donor organizations:

Funds from CIDA and UNCOHCHR cover the work of two lawyers (Mr. Huon Chundy and Mr. Ly Bunthieng) and one legal assistant (Mrs. Sim Souyeang).

Through DanChurchAid, the European Union financed the activities of two other lawyers (Mr. Prak Phin and Ms. Seang Boravy) and one legal assistant (Mr. Ouk Kimleng). Ms. Seang Boravy replaced Ms. Khun Kimlun who began handling adult cases in October 2001.

Activities

To promote effective representation of juveniles, investigations were conducted into each case. JLP staff traveled everywhere, even to remote districts, in order to collect information, including interviewing local authorities and witnesses and gathering documents and other relevant evidence. JLP staff visited children in prison and participated in trials. The JLP worked with LAC branch offices, government officials and relevant NGOs to ensure access to legal aid for children.

JLP lawyers participated in a forum held on 22 and 23 January, 2001 at the Ministry of Social Affairs. At the forum we raised the issue of the repeated violation of children's rights. We also pushed for the establishment of a special juvenile court, for strengthening the National Committee for the Rights of the Child and to initiate drafting new laws and amending current laws regarding the rights of children.

At LAC's annual seminar from 17-21 October 2001, lawyers, court officials and NGOs gathered to discuss a range of legal issues, including protecting children's rights. The JLP shared its experiences and drew the attention of the participants, especially judges, to the CRC.

Obstacles

The following problems are still prevalent:

1. Violations of the legal time limit for pre-trial detention. The law allows only a one-month detention for misdemeanor offenses and a two-month detention for felony offenses. However, children are sometimes detained for six months or ten months without trial, especially in Phnom Penh Court. Judges reject most of the bail motions.

2. Torture of children by police when interrogated at the police station.
3. Imprisoned children are incarcerated with adult prisoners.
4. Lack of CRC awareness. Some court officials still think the CRC is not applicable in Cambodia.
5. Many basic rights of the children are neglected, such as the right to a presumption of innocence.
6. More and more children are involved in the commission of offenses such as robbery, theft, rape, kidnapping and assault, because of poverty, lack of education, drug addiction, pressure from gang leaders and the general social environment.
7. Young female victims of rape or sexual assault are often forced to accept an out-of-court-settlement, thereby preventing the prosecution of the perpetrator.
8. Cambodia has not yet created a special juvenile court and related laws.

Achievements

In 2001, the caseload of the JLP increased considerably due to the expansion of its activities and its established reputation:

1. 67 cases (44 closed and 23 open) have been handled using the funds from DanChurchAid from January- December 2001.
2. 60 cases (39 closed and 21 open) have been handled from July to December 2001 using the funds from UNCOHCHR.
3. 99 cases (57 closed and 42 open) have been handled from July to December 2001 using the funds from CIDA.

Children involved with legal matters of any kind are continuing to have access to legal aid as a result of the JLP. The JLP is an important key to the door of juvenile justice. Although we did not achieve 100% success in promoting and protecting children's rights, JLP lawyers and legal assistants have been able to make considerable improvements in these areas, especially in the following ways:

1. To speed up trials for child detainees (especially in the provincial courts)
1. To raise awareness of the CRC among local authorities, especially the courts. The JLP did this through arguing during trial that judges should accept the CRC as Cambodian law.
2. To push local authorities (the police, the courts) to take prompt action upon receiving complaints from child victims.
3. To urge courts to charge police officials with assault and battery if they torture children for a confession. The JLP is handling one such case in Svay Rieng (#88-16/08/00).

Action Plan for 2002

From January to December 2002, the JLP estimates that we will close approximately 120 cases. The JLP aims to focus more on victims in remote areas. This will require the lawyers

to travel frequently and improve its contacts with local NGOs and local authorities. JLP also intends to cooperate more closely with prosecutors who are representing victims.

6. Land Law Unit

With the endorsement and financial support from the Asia Foundation, Oxfam GB, Oxfam America and Swedish International Development Agency (SIDA), the Land Law Unit has handled land disputes nationwide since 1999. Through its activities, the Land Law Unit has been able to help thousands of people whose land and houses were taken illegally by the powerful, the rich and public authorities every year. LAC has provided experienced and competent lawyers in order to represent innocent people whose land ownership rights were violated.

Statistics

In 2001, LAC accepted 362 land dispute cases involving 9,371 families, and was able to solve 199 cases, of which 129 were successful.

Obstacles

In spite of these good results, LAC has encountered the following obstacles:

1. People have very little understanding of the rights of land occupants and land users, and they do not trust the judicial system or the public authorities.
2. The powerful, the rich and public authorities use their power to seize people's land.
3. Presently, the Cambodian court system cannot guarantee a genuinely independent judiciary and justified or fair decisions.
4. The insufficiency of the old land law and inability to provide land ownership title to people.
5. Improper investigations by the courts or the local authorities before making decisions.
6. Although the new land law has come into force, some provisions and especially some sub-decrees required by the law have not yet been put into effect.

Participation in legal developments

LAC is very pleased that the new land law was promulgated and has come into force, demonstrating a great effort to guarantee and protect land ownership rights. This law contains clear provisions about state property, private property and land concessions. It also imposes strong punishments on misconduct by public officials.

LAC's Land Law Unit works cooperatively with the General Department of Cadastre in order to obtain land ownership titles for the poor after they have been granted the right of ownership after a land dispute through the assistance of our lawyers. LAC also cooperates with GTZ in a project to provide ownership titles to people throughout the country, including overseeing the titling procedure and process.

Besides the above-mentioned efforts, the Land Law Unit actively participates in legal development activities with other local and international NGOs namely Oxfam GB, UN, LICADHO, ADHOC, ADB, etc. LAC also was selected to make recommendations on the draft sub-decree regarding the establishment of a Land Dispute Solving Committee. Through experience acquired previously, our recommendations emphasized the need for clear procedures on dispute resolution and decision-making, the validity of decisions and lodging complaints of opposition with courts. The Land Law Unit continues to monitor the process of drafting this sub-decree in order to guarantee the effectiveness of the Committee and to protect the legal interests of the people in general.

Conclusion

The Land Law Unit has improved the standard of living of groups of people through combating land abuses by the rich, the powerful and some authorities who seize the lands and houses of innocent people without regard for the law. Moreover, LAC has helped thousands of people apply to obtain legal ownership or possession of land as provided for by Cambodian law. The Land Law Unit's efforts have led to the effective implementation and recognition of the new land law. The Land Law Unit is pushing to change the attitude of the courts, which previously considered money more important than evidence in deciding cases. LAC's persistence in urging courts to base their decisions on evidence, is gradually starting to have an effect. The Land Law Unit also works closely with public authorities, as this is remarkably important in solving land disputes. Lastly, LAC is actively participating in the drafting of the new sub-decree for establishing the Land Dispute Solving Committee, and is urging that this sub-decree is issued as soon as possible.

7. Labor Law Unit

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Although Cambodia signed several ILO Conventions and adopted a Labor Code in 1997, some private companies and government officials do not respect workers' rights guaranteed in national and international law. Cambodia also does not have a special labor court to solve labor disputes. With the financial support of the American Center for International Labor Solidarity (ACILS), in December 1999 LAC started a Labor Law Unit in order to serve Cambodian workers and to promote Cambodian workers' rights. The Labor Unit seeks every possible means to resolve workplace disputes, whether individual or collective, and focuses on protecting the freedom of association. The Labor Unit also helps other NGOs make sure their internal regulations are in compliance with the Labor Code and relevant regulations.

Activities of the Labor Unit

The main activities of the Labor Unit in the year 2001 included:

1. Provide legal representation to workers in 40 cases
2. Provided training to workers on International Women's Day.
3. Organized a workshop on International Labor Day.
4. Organized a workshop on Labor Law at the University of San Francisco Legal Education Center in Phnom Penh
5. Organized a workshop on codes of conduct for buyers at the World Vision Center.
6. Organized a workshop on Sexual Harassment at the Workplace at the Eden Hotel.
7. Participated in the workshop on wage negotiations, organized by the ILO.

The Labor Unit closed 3 civil court cases (with 2 men/1 woman as clients) and had 5 cases pending in court (with 2 men/3 women as clients). Cases not filed in court: 40 closed cases (with 1,065 men/1,802 women as clients) and 2 open cases (with 27 men/20 women as clients).

In all the cases, LAC's Labor Unit closely cooperated with other NGOs and local authorities such as:

1. The Ministry of Social Affairs, Labor, Vocational Training and Youth Rehabilitation
2. The Ministry of Women's Affairs
3. The Ministry of Commerce
4. The Human Rights Action Committee
5. The United Nations
6. The Garment Manufacturers Association in Cambodia
7. The ILO.
8. The Cambodian Labor Organization
9. All the union federations

Achievements and action plan for the year 2002

The Labor Unit's main achievement in 2001 was the expansion of its representation of workers in the garment factories, hotels, hospitals, universities and restaurants. The increased caseload is a result of the staff's prominence in the field, active outreach effort and improved contacts with the workers. The workers have developed trust in the Labor Unit's lawyer. They come to the Labor Unit to ask for help because they are poor and our reputation is very good. Workshops conducted by the Labor Unit have educated the workers about their rights, including freedom of association and other related issues.

Unfortunately, the implementation of Cambodian labor law is still limited due to powerful persons' disrespect of the law. The government and court officials usually stand by the factory owners.

International Organizations/NGOs and other relevant authorities will continue working with the Labor Unit to monitor the implementation of the Cambodian labor law.

In 2002 the Labor Unit will continue its past activities and will also start representing the teacher's union and help set up unions for workers in the construction and tourism sectors. The unit has also been asked to advise sex workers on how to organize themselves. Because of the increasing demand for legal representation from factory workers in Kandal and Kompong Speu provinces, the Unit's work will be extended into these provinces. Finally, the Labor Unit will try to increase its representation of victims of sexual harassment in the workplace.

8. General Lawyers Unit

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In 2001, the general lawyers unit in the Phnom Penh office closed 138 criminal cases (with 143 men/21 women/6 children as clients) and 82 civil cases (with 41 men/49 women as clients). At the end of the year, the unit had 187 open criminal cases (with 197 men/36

women/7 children as clients) and 146 open civil cases (with 103 men/51 women as clients).

A representative case

On June 20, 2001, at 8:30 PM a student from the National Institute of Management came home from school. As he approached the gate to his house, two men forced him by gunpoint to hand over his motorbike. When he informed the police of the crime, the police showed him some pictures to identify the robbers. The victim stated that he recognized both offenders from the pictures, after which they were arrested and charged with robbery.

When LAC lawyer Mr. Ea Sopheap visited the two suspects in prison, they assured him that they were innocent. Mr. Sopheap started to conduct an investigation and found out that there was no evidence against the suspects apart from the identification. He also visited the scene of the crime and saw that at nighttime it was so dark that the victim could not have seen the suspects clearly. Furthermore, he gathered statements from 5 people who confirmed that the suspects were at home watching television at the time of the crime.

On October 11, 2001 the Phnom Penh Municipal Court conducted the trial and, based on the arguments and evidence presented by the LAC lawyer, decided to acquit both suspects.

9. Provincial branch offices

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Battambang

The Battambang branch office closed 70 criminal cases (with 56 men/26 women/12 children as clients) and 44 civil cases (with 28 men/17 women as clients). The number of open cases at the end of the year was: 49 criminal (with 41 men/19 women as clients) and 14 civil cases (with 9 men/5 women as clients).

A representative case

K.S., a military police officer from Phnom Penh, received permission from his superiors to take care of his ill daughter. On his way home he was persuaded by three friends to go to with them to Pursat province, where they stayed the night in a guesthouse. Next day they all went to Mong Roeusey District (Battambang province) where K.S. and one friend stayed with the car while two others went to a nearby market by motorbike. Shortly after, the two came back carrying a black bag and making a sign to turn the car around and drive back to Phnom Penh. When they approached the next village they saw many police officers ahead so they stopped. The two friends on the motorbike pushed K.S. out of the car and forced him to drive back to Battambang on the motorbike, while they went by car to Phnom Penh. Next day K.S. was arrested in Battambang and accused of armed robbery, organized crime, battery with injury and weapons possession. The prosecutor claimed to have witness testimony that K.S. was seen at the scene of the crime. The LAC lawyer, Mr. Chim Dara, agreed to represent K.S. and conducted an investigation. He found several witnesses who confirmed that his client did not take part in the robbery. During the trial the lawyer defended his client by presenting the witnesses and arguing that his client was just a minor accomplice and had been threatened by his friends. The Battambang court decided to sentence K.S. to 4 years imprisonment for armed robbery and acquitted him of the other charges.

Kandal

The Kandal branch office closed 111 criminal cases (with 151 men/20 women/8 children as clients) and 11 civil cases (with 6 men/6 women as clients). The number of open cases at the end of the year was: 90 criminal cases (with 94 men/7 women/2 children as clients) and 19

civil cases (with 12 men/9 women as clients).

A representative case

In 1999 and 2000 Mrs. S. borrowed money with a monthly interest of 10% from Mrs. B. and promised to pay the loan back on demand. As collateral she gave her land title certificate to the creditor. In June 2000 she asked the creditor to give her back the land title certificate in order to sell her land and pay the loan back. After she sold her land she did not pay off her debt. The creditor reported this to the police, after which S. was arrested and charged with breach of trust. Asked to defend S., the LAC lawyer, Mr. Srey Sari, investigated the case thoroughly and found out that his client really owed the money to the creditor but did not have any criminal intention.

During the trial at Kandal provincial court he convinced the judge that this was not a criminal but a civil case, which resulted in a release of his client from prison and he helped the parties to agree on conditions for paying back the money.

Kompong Cham

In 2001 the Kompong Cham branch office closed 140 criminal cases (with 164 men/16 women/6 children as clients) and 30 civil cases (with 17 men/15 women as clients).

The number of open cases at the end of the year was: 151 criminal cases (with 108 men/51 women as clients) and 42 civil cases (with 31 men/16 women as clients). In addition, Kompong Cham office handled a number of land cases outside the court: 11 closed cases (with 25 men/20 women as clients) and 19 open cases (with 300 men/200 women as clients).

Siem Reap

In 2001 the Siem Reap branch office closed 96 criminal cases (with 99 men/14 women/10 children as clients) and 17 civil cases (with 7 men/11 women as clients). The number of open cases at the end of the year was: 41 criminal cases (with 35 men/11 women/2 children as clients) and 19 civil cases (with 10 men/10 women as clients).

A representative case

Three families had been living since 1985 on a small plot of land near a road. In 2001 the provincial governor of Siem Reap issued an order to the district governor to widen the road and replace pipelines, which would require the families to move their homes. Shortly thereafter, a third party, Mrs. Y.L. lodged a complaint to the court to force the three families to move their houses, claiming she was the actual owner of this land. Mr. Tep Sovann, the LAC lawyer who represented the three families, was able to gather 108 statements of witnesses confirming that the three families had lived on the land peacefully since 1985. According to articles 85, 86 and 87 of the 1992 Land Law, a person who has lived more than 5 years continuously and peacefully on a piece of land can be considered the rightful owner. During trial the lawyer presented all the witnesses' statements and claimed that his clients owned the land based on the Land Law. He furthermore indicated that his clients were prepared to move their houses to enable the development of the road if they would receive compensation for resettlement. Despite the strength of the families' cases, the judge decided to grant ownership of the land to the complainant, Mrs. Y.L. Naturally, the three families were disappointed with the unfair judgment. Therefore LAC filed an appeal on behalf of them.

Koh Kong

In 2001 the Koh Kong branch office closed 52 criminal cases (with 52 men/12 women/1 child as clients) and 8 civil cases (with 4 men/5 women as clients). The number of open cases at the end of the year was 99 criminal cases (with 68 men/31 women as clients) and 21

civil cases (with 18 men/9 women as clients).

A representative case

T., an 11-year old boy, was walking home from school when he saw a 5-year old girl playing in the water. Afraid that she might drown, he pulled her out of the water, but the girl reacted by cursing him. The boy got angry and pushed her backwards. When the girl fell, her head hit a pillar of the house. After this the boy hit her with a wooden stick and raped her. When he realized that the girl had died he hid her body under a nearby bridge. When the body was found, the boy admitted to the police that he killed the girl. During the trial the LAC lawyer who defended the boy, Mr. Sum Samoeun, stated that the boy was not criminally liable because of his young age. (The Penal Code Commentary issued by the Ministry of Justice says that children below the age of 13 years lack the capacity to commit criminal acts.) Furthermore the boy never intended to kill the girl and the fall of the girl probably caused her death. He also explained that the boy was an orphan who lived with his grandmother.

The judge did not accept the defense of criminal incapacity but decided to sentence the boy to one year imprisonment (suspended). In addition, the grandmother had to pay compensation of \$500 to the relatives of the victim.

Kratie

In 2001 the Kratie branch office closed 58 criminal cases (with 65 men/6 women/8 children as clients) and 13 civil cases (with 8 men/8 women as clients). The number of open cases at the end of the year was 43 criminal cases (with 52 men/11 women/2 children as clients) and 17 civil cases (with 11 men/8 women as clients).

A representative case

On February 22, 2001, at 9:30 PM, a woman was killed in her bedroom while sleeping. The week prior to the event, she had a conflict with Mr. S. about a payment of 5000 riel (\$1.25). The day after the crime, Mr. S. was arrested by the police and charged with murder. The 9-year old son of the victim had stated to the police that he woke up during that night and saw Mr. S climbing down from the roof of the house on the night of the murder. During trial Mr. Sun Eam, the LAC lawyer who represented Mr. S., argued that the boy could have been so sleepy that he misidentified the suspect. Furthermore, Mrs. S's wife testified that her husband came back from a party at 8:30 PM and stayed home all night. Finally, the lawyer argued that in accordance with article 38 of the Cambodian Constitution, any doubts should be resolved in favor of the accused. The court accepted the arguments of the lawyer and decided to acquit Mr. S.

Sihanoukville

In 2001 the Sihanoukville branch office closed 86 criminal cases (with 94 men/8 women/2 children as clients) and 6 civil cases (with 3 men/3 women as clients). The number of open cases at the end of the year was 27 criminal cases (with 18 men/11 women as clients) and 25 civil cases (with 11 men/14 women as clients).

A representative case

Two men went to consult a sorcerer in a nearby village. As the house of the sorcerer was not easily accessible they had to walk the last 1 km. When it started to rain heavily they decided to take shelter under a tree. After a while they continued walking through the forest. A cowherd who saw the men warned the village guards, who started shooting at the two because they suspected them to be thieves. The village guards arrested the men and beat them until they confessed that they were planning to rob the villagers. After that the men were brought to the police station. The prosecutor at Sihanouk Ville court charged the two men with attempted robbery based on the report of the police and the village guards. Mr. Lor Chunthy, the LAC lawyer who represented the two men, investigated the case and found out

that the accusation was not based on any evidence other than the confessions and that his clients only confessed after torture. He raised the absence of evidence during the trial, after which the court decided to acquit the two men.

Svay Rieng

In 2001 the Svay Rieng branch office closed 56 criminal cases (with 53 men/29 women as clients) and 16 civil cases (with 8 men/8 women as clients). The number of open cases at the end of the year was 51 criminal cases (with 42 men/19 women as clients) and 10 civil cases (with 6 men/4 women as clients).

10. Deviations from the 2001 operational plan

In the operational plan for 2001 it was estimated that the number of cases would decrease. Instead, the number of cases increased in 2001: the number of closed criminal cases was 957 (compared to 832 in 2000) and the number of closed civil cases was 284 (compared to 237 in 2000); the number of open cases was 813 criminal cases (compared to 626 in 2000) and 407 civil cases (compared to 277 in 2000). The increase in the number of criminal cases is due to the expansion of the Juvenile Litigation Project from 2 to 4 lawyers. The increase in the number of civil cases corresponds with the aim of LAC to increase the proportion of civil cases it handles. Unfortunately, LAC was unable to start a women's unit due to lack of funding.

11. Organizational developments

New role of Advisory Board

As mentioned in the introduction, the Management Team and the 3 members of the Executive Committee of the Advisory Board met in June 2001 to define the role of the Board. The new Advisory Board will provide advice and make recommendations to the Management Team with respect to strategic planning, policy making, expansion of activities, fundraising and other important decisions. The Board will have the right to have the financial records of LAC examined, by appointing an accountant if deemed necessary. Decisions about the recruitment and dismissal of long-term foreign consultants will need to be approved by the Board. The June 2001 meeting also resulted in an agreement to improve communications between the Advisory Board and the Management Team. The Advisory Board and Management Team will hold one annual consultative meeting and the Management Team will provide copies of all financial and narrative reports, statistics and budget proposals to the Advisory Board.

At the end of the year, the Management Team started to revise the Statutes and Internal Regulations of LAC, incorporating the latest agreements. The new Statutes and Internal Regulations are due to be finished in April 2002.

Staff matters

As of 31 December 2001, LAC employed 70 people, including the Management Team and the two foreign consultants. See annex II for a complete chart of the organization.

Newly recruited lawyers:

Prak Phin (JLP), Ly Bunthieng (JLP), Ms. Khun Kim Lun (General Lawyers Unit Phnom

Penh), Ms. Seang Boravy (Land Unit, now with JLP) and Meach Sam On (Land Unit).

Newly recruited non-lawyer staff:

Ms. Heidi Lichtevelde (legal consultant), Kao Dyna (translator), Chum Sensethea (legal assistant Labor Unit), Ms. Min Thit Malis (legal assistant Land Unit), Ouk Kim Leng (legal assistant JLP), Eang Sopheak (legal assistant Land Unit), Mrs. Sim Sou Yeang (legal assistant JLP), You Sovong (security guard).

Leaving staff members:

Net Sothay (translator) left LAC to work with the EU.

Thin Kouland (legal assistant Land Unit) left LAC to continue her studies in the United States.

The contract of Sim Sou Yong (legal assistant Juvenile Unit) could not be extended due to a lack of funds.

The contract of Phuong Rin (security guard) was terminated due to absence from work.

Staff rotations:

Ea Sopheap (lawyer): General Lawyers Unit ⇒ Land Unit

Seang Boravy (lawyer): Land Unit ⇒ Juvenile Litigation Project

Sim Sithan (lawyer): Sihanoukville ⇒ General Lawyers Unit Phnom Penh

Lor Chunthy (lawyer): Battambang ⇒ Sihanoukville

Nos Bophal (lawyer): Siem Reap ⇒ General Lawyers Unit Phnom Penh

Internships:

In 2001 LAC had 10 Cambodian interns (students from the Faculty of Law, Norton Law School and the Royal Academy of Administration) and four foreign interns (law students from the United States, France and Australia).

Evaluations

Staff performance

The legal vice-director is responsible for evaluating the performance of the legal staff (lawyers, legal assistants and investigators) and the administrative vice-director is responsible for the evaluation of the other staff (receptionists, office assistants, translators, security guards). At the end of 2001 they conducted written evaluations. All staff members were asked to assess their job performance, leadership skills, respect for LAC rules and policy, understanding of policy and goals of LAC and initiatives to reform the justice system. The heads of the units and provincial branch offices could also give their opinions about the performance of their subordinates. The results of the evaluations were generally satisfying, except for the understanding of LAC goals and policy. This is an issue that the Management Team will work on next year. The Management Team and the legal consultant also plan to develop a new, participatory method of staff evaluations in Fall 2002.

Activities

In 2001, no general evaluation of the activities of LAC was conducted. An external evaluation by Novib is due in 2002. LAC evaluated the annual seminar held in October by distributing a questionnaire to all participants. The respondents generally were satisfied about the quality of the seminar, but they indicated that the time was too short and they wanted to receive more training, particularly on the Land Law.

12. Plans for 2002

Pilot Project in Ratanakiri

LAC will start a non-permanent office in Ratanakiri, a remote province in the northeast of Cambodia where no legal aid is currently available. Depending on the demand, one or two 'flying lawyers' will travel several times from Phnom Penh to this province to provide legal representation to poor people, mainly ethnic minorities. It is estimated that 20 or 30 cases will be handled during this pilot project. If the project is successful, LAC plans to open a permanent office in Ratanakiri in 2003.

New 4-year project for the Juvenile Unit

Thanks to funding from Save the Children Norway, the Juvenile Unit will start a new four-year project in January 2002, named "Protecting the Rights of the Children in the Justice System and Ombudsman for Children in Cambodia".

In 2002 the project aims to do monitoring in the 8 provinces where the Juvenile Unit previously provided training. In addition, the Juvenile Unit will provide legal consultation on children's cases and start a needs assessment for a children's ombudsman in Cambodia. In 2003-2005 the project will also provide training to law enforcement officials in 16 provinces.

Expanding the activities of the Labor Unit

In the second year of its existence, the Labor Unit will expand its activities, representing workers in labor conflicts and advising labor unions during negotiations, to the provinces around Phnom Penh. Furthermore the Unit will help set up unions for workers in the construction and tourism sector and will try to increase its representation of sexual harassment victims.

Training of LAC lawyers

In 2002 the legal consultant and the legal vice-director will travel to the provincial branch offices to give on-the-job training by preparing cases for trial with the lawyers, observing trials and discussing general legal/technical issues with the lawyers and investigators. Workshops on legal issues and case studies will be held frequently during monthly meetings. LAC will also start to prepare a permanent plan for educating LAC lawyers and training new lawyers.

Preparing for the future

The year 2002 is the final year of the 3-year funding agreement with LAC's core donors, Novib and the Netherlands Embassy. In May 2002 LAC's Management Team will prepare a strategic plan for the next 4 years. This plan will be discussed during the July 2002 meeting with the Advisory Board and submitted to the core donors in September 2002.