Annexes

ANNEX 1
Terms of Reference ICCO Identification Mission
Democratization & Peace Building in Cambodia

1. About ICCO

ICCO is one of the largest Dutch co-financing agencies, founded 40 years ago by the protestant churches, but funded by the Dutch Ministry of Development Cooperation. ICCOs mission is to work towards a world without poverty and injustice. It holds an annual budget of 125 million euro, employs over 200 staff at its headquarters in Utrecht, and supports programmes in 50 countries. ICCO usually works without field offices, but is increasingly looking for ways to establish more meaningful and effective partnerships in the changing contexts of the countries where we work.

ICCO focuses on three themes:
   a) Access to Basic Services
   b) Fair Economic Development
   c) Democratisation and Peace Building (D&P)

ICCO started supporting the Cambodian people in response to decades of civil war and strife, including the regime of the Khmer Rouge. At first ICCO channeled support through international NGOs for relief and rehabilitation. During the 90's aid shifted to Cambodian NGOs working towards reduction of poverty and injustice. At present ICCO's portfolio contains mainly partnerships with Cambodian NGOs active working in the themes of Democratisation and Peace Building and Access to Basic Services. ICCO's yearly budget for Cambodia is approximately 2,2 million euro, of which 500,000 euro is Technical Assistance (mainly secondment of expatriate advisors to partner organizations). About 60% of the budget is allocated for D&P.

2. ICCOs policy framework

ICCO's business plan 2003-2006 emphasised the need for increased focus in ICCO's work in developing countries. In each country ICCO, in dialogue with its partner organisations, prioritised one policy theme, thus improving focus and coherence in the country programmes. In most countries ICCO developed a second policy theme in a sub-edited role and with a coherent strategy-relation to the first priority theme. In 2003 ICCO produced policy documents on the three main policy themes to provide an initial framework for their development, in the understanding that the process of implementation would bring further focus and innovation regarding the three policy themes. Dialogue with partner organisations was furthermore established as a fundamental mechanism in policy production.

Building on the initial policy document on Democratisation and Peace building (April 2003), during the last years ICCO has developed several documents on peace building and democratisation. In 2003 a short research pamphlet entitled 'Peace and Conflict: An Analytical Framework' (in Dutch) was written by I/C Consult in cooperation with ICCO. More recently, in December 2004, ICCO published a position paper on peace building ("Positioning ICCO in Peace Building"). It included a state-of-the-art discussion of the field of peace building, as well as an analysis of ICCO policy and practice in this field. In 2005 the following material was developed: a manual for conflict analysis (in cooperation with Centre for Conflict Studies), a discussion paper on the topic of Democratisation and Governance in Africa and the Middle East and a D&P policy document for Latin America.

ICCO has a long tradition of supporting partners that work on the defense human rights and democratisation, often in situations of violent conflict, or in war-to- peace transitions. Knowledge build-up and exchange on this topic aims to make ICCO's partnership with stakeholders in the South more systematic and effective. In 2006 a regional D&P policy document for the region of Eastern Europe, Asia and Pacific will be produced. Specifically relevant for ICCO's contribution to D&P in South-East Asia are: attention to the situation of indigenous people and women, the struggle for human rights in countries suffering from military repression and / or violent conflict and inter-religious dialogue.

3. Reasons for commissioning this consultancy

Until now the ICCO support towards Cambodia was an answer to urgent needs. In the present context it seems necessary and possible to answer to requests for continuing support with a focus on Democratisation & Peacebuilding, hence it has been identified as a leading theme for Cambodia. ICCO already supports activities of many Cambodian partner organisations who focus on this theme. These activities currently range from eg. human rights monitoring, pro-poor legal support services, fighting gender-based violence, to psychosocial care for traumatized people.

ICCO wishes to develop its efforts in D&P in a more coherent programme – a set of interrelated activities or projects which contribute to overarching objectives, creating a framework from which collaboration can grow. A programmatic approach to D&P in Cambodia is expected to bring higher quality in terms of analysis, learning, and results. In this programme ICCO assistance in the form of funding (Co-financing Department) and expertise (Department for Personnel Cooperation) will be supportive to the same overall-objectives. Current ICCO-supported Democratisation and Peace Building activities will have a place in this programme. The expected programme will provide a framework to guide future choices on: which partners to support, and on what type of support to plan for (eg. funding, capacity building, network strengthening).

A programmatic approach is also expected to optimize the coordinated use of different instruments available from ICCO, in particular co-funding and capacity building services such as provision of TA.

4. Expected results of consultancy

In order to develop this programme a reassessment of the context is required. The consultancy will provide an overview/mapping of current actors and stakeholders in this field (see 8.), including government and civil society, multi- and bilateral donors and international NGOs. An existing ICCO toolkit for analysing conflict can be used for this part of the task.

The consultancy is expected to provide an analysis of current needs in the area of Democratisation & Peace Building, including sub-areas of human rights, peace building, arbitration and mediation, and indigenous people. The consultancy will combine local analysis and local definitions regarding this theme with established international practice.

The consultancy shall suggest areas where ICCO's funding and expertise will best match the needs of (potential) partners. It will also recommend roles that ICCO should take on in order to maintain and establish effective partnerships in Cambodia.

As ICCO is both developing a new Country Strategy for Cambodia, and a new Business Plan for 2007-2010, it is expected that results of this mission will feed into policy development at ICCO.

ICCO has recently started a capacity development programme for most ICCO partners, implemented by VBNK. Liaison with VBNK is required to learn about the current capacity status of ICCO partner organizations. Liaison with other key ICCO partner organizations is required to solicit input for future criteria for TA secondments, and emerging areas of interest for ICCO in terms of innovation.

ICCO considers youth, women and indigenous peoples as groups requiring priority. Therefore it is expected that evaluation of their position, capacities, needs, and perspectives in the current context will be made explicit in the analysis. Regarding indigenous peoples ICCO has developed regional policies and partnerships. Important indigenous peoples networks funded by ICCO are AIPP and IKAP (both Chiang Mai-based). Liaison with these networks is expected, as well as liaison with indigenous peoples organisations in north-east Cambodia.

5. Profile of consultant

- Good understanding of human rights and peace building concepts.
- Good understanding of ICCO's policy towards women and indigenous peoples
- Good understanding of Cambodian political and social context.
- Familiar with civil society development in Cambodia.

- Familiar with current approaches to capacity development of local organizations.
- Familiar with NGO-donor perspectives on international development.
- Ability to think and write in a programmatic way.

6. Requirements

28 days before 3 November 2005 (inclusive of 4 travel days for lead consultant)

This will include:
- A briefing in Utrecht
- Study of relevant documentation from ICCO and other agencies
- Interviews with actors/resource persons regarding context
- Interviews with current partners
- Interviews with other donor agencies
- Writing up findings and development of programme outline
- A debriefing in Utrecht

The consultant will be asked to draft a work plan based on the above parameters

7. Deliverables

The consultant will:
- Be available for a briefing in Utrecht at the onset of the consultancy
- Suggest a work plan for the consultancy
- Gather information in a sensitive and confidential manner
- Submit a draft report for discussion to ICCO by 28 October, containing:
  - Context analysis
  - Mapping of actors and stakeholders
  - Programme setup, including:
    - Objectives and strategies (based on logframe format)
    - Areas for capacity building (including suggestions for modalities)
    - Program M&E
    - Suggestions for support roles of ICCO.
- Be available for a debriefing in Utrecht around 1 November
- Prepare a final report based on feedback, by latest two weeks after submission of the draft report (max. 30 pages, not including executive summary of 1,5 page).

ICCO will:
- Provide the consultant with the required policy documents and verbal briefing.
- Provide the consultant with a full overview of ICCO funding, and capacity building interventions to Cambodian partners.
- Provide the consultant with formats for ICCO programmes.
- Write letters of introduction to selected partner organizations and a generic letter for other interviewees
- Pay invoices within 30 days

ANNEX 2: ICCO Policy[1]

1. Rights-based approach

1.1 Introduction

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[1] ICCO Policy papers used for this summary: ICCO, April 2003a,b&c, April 2004, March 2005,

Poverty should not be perceived as a lack of resources or as an economic phenomenon, but as a serious and major human rights deficit. The protection of people's basic entitlements often takes place in adverse environments: disintegrating states, bad governments, malfunctioning economies, and cultures of domination and submissiveness.[2] Poor people are people with rights - rights that are not implemented.

There are three elements to applying principles of human rights in development work:[3]
▪ A rights-based approach requires that efforts are made towards the formation of a functioning *rule of law* that protects people against violent injury of their freedom and personal integrity, that provides protection of their belongings and ensures agreements and commitments.
▪ However, even in a well-functioning rule of law, rights do not automatically come about. This requires *rights activism*. People also have to carry the responsibility for claiming their rights.
▪ For the realisation of rights, *political action* is also required by groups of people (within civil society).

1.2 Instruments
▪ *Monitoring*: annual monitoring reports on the actual state of affairs. Such reports may be either general to the situation of human rights or specific to certain (categories of) rights such as ESC-rights, children's rights, women's rights, minority rights etc. Such reports may also contain analyses of government policies and practices as well as analyses of other factors or actors that influence the protection and promotion of rights. In the case of ESC-rights, such as the right to healthcare and the right to education for example, the specific monitoring of state budgets is often a powerful instrument.
▪ *Legal advice and legislative advocacy* in either individual or in group cases. NGOs often look for landmark-cases i.e. individual cases brought before the court that set a precedent for a whole group of people.
▪ *Emancipation* through education: raising the awareness of rights; training for several target groups: both rights holders and duty-bearers
▪ *Lobby and advocacy*

2. Focus on Civil society

2.1 Working definition of civil society
The above analysis implies that:

▪ Poverty and exclusion are not accidental states but a denial of rights and a symptom of a society's incapacity, or unwillingness, to provide access to these rights to particular groups.
▪ Thus, poverty and exclusion constitute a political problem and the resolution of fundamental inequality and inherent social and political tensions therefore revolves around society's resources, capabilities and institutions through negotiation and compromise.
▪ This challenge involves all actors (for the moment defined as organised spheres of influence): the state/government, the private business sector and 'civil society'. This last sphere is, for the moment, defined as those actors that are non-state and non-profit.
ICCO positions its partners within the 'civil' part of local society. ICCO does not see civil society strengthening solely as a 'strategy' (as defined in the conceptual base of the Co-funding Programme) but also as a goal in itself.

ICCO chooses to combine both the **actors and the space** in which they interact in its working definition for the concept of civil society[4] The advantage of this 'actor and stage' definition is that it allows us to analyse not only the actors concerned -their positions and aspirations-, but also the variable 'space' available to them and the factors limiting that 'space' when formulating country policy.

2.2 Actors within civil society

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[2] Berma Klein Goldewijk and Bas de Gaay Fortman: " Where Needs Meet Rights: Economic, Social and Cultural Rights in a New Perspective" - 1999
[3] Bas de Gaay Fortman: "Algemene implicaties van een rechtenbenadering" – 3 October 2002
[4] Based on the work of I/Consult/R.van Hoewijk: ID-toolkit and F.van Deventer, september 2003.

ICCO's partners can be either of two kinds of organizations:

- 'Mutual benefit organisations': Organisations formed by citizens in which they are members and from which they derive benefit. In this type, we find faith-based groups, ethnic groupings, traditional organisations, political parties, co-operatives and others;
- 'Public benefit organisations': Organisations formed by one group of citizens for the benefit of other groups or social sectors. Among these we find civic organisations, private development and welfare NGO's, research and support NGO's etc. From the viewpoint of the poor, these organisations have to be considered and treated as their social capital that need to be strengthened and enhanced;

2.3 Strengthening Civil society
ICCO's objectives for strengthening civil society are:

- Enhancing the political space available to citizens to organise and form alliances in order to attain those goals they consider relevant;
- Improving the quality (and therefore the effectiveness) of the interaction between civil society, the citizens, -the state and the market;
- Enhancing the resources, capacity and capability of formal and informal organisations of civil society;
- Increasing sense of citizenship, social awareness and social and political responsibility.

In order to achieve the following results:

- More equitable power relationships in society, including those between men and women; and
- (Substantive) participation by and influence for the poor in political decision making.

At the level of the target groups themselves this should enhance the possibilities for the poor to:

- Access local government and influence decision making and distribution of resources and
- To gain access to those services and resources that can help them improve their living standards.

2.4 Limitations of civil society
Successful civil societies need time to develop and the way they will develop is unpredictable. This conflicts with the traditional development agenda characterised by short time frames, intervention-type strategies and quantitative accountability.

3 Human Rights and ICCO Policy areas

ICCO focuses on three core themes of support:

- Fair Economic Development (FED)
- Access to Basic Services (ABS)
- Democratisation and Peace building (D&P)

Within each policy area ICCO realizes the core strategies of its major back donor, The Dutch government's co-financing program: direct poverty alleviation, civil society strengthening, and lobby and advocacy.

The relationship between the three policy areas and these strategies can be illustrated by the following examples of concrete actions:

Strategy Policy area	Poverty Alleviation	Civil Society strengthening	Lobby and Advocacy
Democracy & Peace Building (The Political Dimension)	Emergency and reconstruction aid	Promoting negotiation and reconciliation	Involving and influencing external actors
Access to Basic Services (The Social Dimension)	Broadening access to primary health care	Promoting appropriate health policies	Promoting inclusion of social policies in PRSP's.
Fair Economic Development (The economic Dimension)	Generate better income for small-scale producers.	Develop market-structures which enhance negotiating capacity	Fighting barriers to market-access

Human rights cut across all three of the policy areas. The relationship between the policy areas and HR principles can be represented as follows:

Policy area	Democracy & Peace Building (The Political Dimension)	Access to Basic Services (The Social Dimension)	Fair Economic Development (The economic Dimension)
Human Rights	Focus on Civil & Political rights; the democratisation and rights of indigenous and marginalised people	Focus on Economic, Social and Cultural rights	Focus on Access to markets, credits etc & Focus on ESC-rights

And the relationship between the strategies and the crosscutting theme of Human Rights can be illustrated by the following examples of concrete actions:

Strategy Crosscutting theme	Poverty Alleviation	Civil Society strengthening	Lobby and Advocacy
Human Rights	Promoting access to justice, legal aid and -literacy programmes.	Supporting collective action addressing injustice.	Supporting international initiatives for reform and strengthening of rule of law.

4 Funding strategy

4.1 Civil Society Actors
Over the last decade the number of mutual benefit (membership) organisations has decreased whilst there has been an increase in the number of public benefit organizations (NGOs) in ICCO's partner portfolio. Underlying this development was the assumption that bigger development NGOs were better equipped to deal with larger amounts of development funds than smaller, grassroots organisations. This may have been the case in terms of proposals, reporting about results, PME-systems and capacity building, but not in terms of legitimacy, accountability or effectiveness.

Given this bias towards NGOs, the main challenge for ICCO will be to slowly diversify the kind of partners it works with and to look for a mix of different partners: NGOs as well as grassroots and membership organisations, secular as well as faith-based organisations, established organisations as well as new organisations.

The goals of ICCO's funding strategy regarding CS actors are:

- ICCO is going to look for initiatives that link short-term activities with more structural approaches.
- ICCO is going to look for a mix of different actors:
  ○ Organisations that mobilise people around specific issues such as land, water, food, education, healthcare etc.;
  ○ Organisations involved in providing services such as legal aid;
  ○ Organisations that are active in analysing and monitoring state policies and practices, budget monitoring and data collection;
  ○ Organisations involved in lobbying at a national or international level.
- Another criterion for support involves the way in which an organisation co-operates with other actors in order to achieve a multiplier effect in which the sum of the collective work is greater than the individual parts. Stronger relationships need to be built between people's organisations, social movements, trade unions, ecumenical movements and NGOs.
- Emphasis is to be placed on those groups in society that are most vulnerable and most widely discriminated against.

4.2 Civil Society Space
The goals of ICCO's funding strategy regarding CS space are:

- Strengthening the organisational capabilities of civil society organisations;
- Helping to build up and support networks and alliances between organisations of civil society, within and between different sectors;
- Enhancing capacity within civil society for lobby and advocacy work to contribute to effective channels of negotiation with the state and the market sector;
- Supporting citizenship building initiatives and social and political leadership to promote civil participation in public policy setting;
- Crisis-response: support adequate reactions to governmental/state decisions that severely limit civil society space;
- Strengthening 'enabling environments' and influencing institutions governing the lives of people such as the legal, political and fiscal systems.

5. Partnership policy

5.1 Partnership with Southern partners

Awareness of the clear relationship between the partner's organisational development, learning capabilities and achievements has resulted in ICCO drawing the conclusion that the present focus on projects and programmes should be replaced by a partner-focus. A partner-focus implies mutual trust, shared values and goals, room for debate and learning, and open communication about interests (that do not always coincide) and constraints.

For ICCO the reasons to start a relationship with an organisation are related to its country policies and policy areas, the organisational capacity of the organisation and the strategic value of co-operating with that organisation.

To be effective in bringing about structural change ICCO's thematic and partnership approaches imply a focused partner portfolio, i.e. a limited but diverse number of sectoral stakeholders[5] who all work towards structural change. The main objective nevertheless continues to be the empowerment of poor and excluded people, and therefore, the building of the power of local people's organisations.

> **Box: General criteria applied by ICCO for selecting partners**
> - legitimacy in the society in which it works e.g. governing body, relationship with community groups, both formal and informal.
> - driven by a sense of justice, shared values and the demands of the poor
> - people as *subjects*: as agents of change with capabilities as well as vulnerabilities
> - gender sensitive
> - applying principles of transparency and accountability
> - organizational capacity not only in terms of structures and procedures, but also in terms of sound concepts, a compelling vision, a coherent strategy and enabling culture and how this organizational capacity is put to work.
> - open to co-operation (as opposed to competition) and networking
> - learning capacity through a functioning PME-system, among other things

A major concern for ICCO is to strike a balance between the legitimate need for sound administrative and financial procedures, assessment and monitoring procedures, data collection as well as checks and balances on the one hand, and the actual working practice of analysing the context, facilitating development processes, dialogue and learning on the other. ICCO sees several possibilities for paying more attention to analyses, facilitation, dialogue and learning. One of these is setting up field offices. However, ICCO has a cautious policy of setting up field offices. Though this may help to strengthen the partnership, it is important not to interfere in partner's organisations. In cases where ICCO has field offices, e.g. in Vietnam, the field office serves a particular purpose, such as the facilitation of OD/ID. Another one is co-operating with other organisations and networks, particularly Aprodev (see 5.2), and making use of the comparative advantages of each organisation.

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[5] Grassroots and membership organisations; development and Human Rights NGOs; trade unions; churches; farmers unions; trade federations; landless movements; local government; academics; knowledge and research institutes; etc

5.2 Networking with Northern partners
ICCO is currently involved in structured co-operation at three different levels:
- Ecumenical co-operation in the Netherlands (A close co-operation is also being set up with Churches in Action – active in Cambodia).
- GOM – Netherlands *(*network of co-financing organisations in the Netherlands. NOVIB and Plan International are active in Cambodia)
- Aprodev – Europe *(*Association of Protestant Development Agencies in Europe)

ICCO invest in the co-operation between 6 of the 13 Aprodev-members: Bread for the World, Christian Aid, DanChurchAid, EED, ICCO and Norwegian Church Aid. The A-6 agencies have agreed on concrete co-operation on various issues as well as on various countries: Christian Aid is going to focus on interagency co-operation, DanChurchAid and Bread for the World are going to focus on field offices, while ICCO is going to take the lead in furthering the PME-process in the development of the rights-based approach.

6. Democratization and peace building[6]
One of the three core themes is democratization and peace building. The rationale behind this choice is that the fundamental *right to human security* requires Peace and democratic governance systems. The focus of this theme is on the political dimensions of poverty, inequality and injustice. For ICCO this means effective claims on political and civil rights and the translation of those claims into participation, citizenship, and governance; especially for vulnerable groups like women, children and indigenous peoples. This theme has been chosen as the core theme for Cambodia.

ICCO works within a range of non-peaceful and non-democratic political conditions that could roughly be characterised as follows:

a. Chronic political instability: authoritarian or defunct government, absent or non-functioning democratic structures and processes, serious human rights violations, repression or fragmentation of civil society organisations;
b. Post-conflict or transition countries: weak or corrupt government, formal but superficial or fragile democratic structures and processes, some degree of human rights violations, weak or newly established civil society; Cambodia is part of this cluster.
c. Struggling democracies: functioning government, formal democratic structures and processes, but often with deeply rooted corruption, discrimination of minorities, unequal distribution of wealth and new forms of violence, space for civil society.

ICCO has defined the following implications for working in post-conflict or transition societies:

- Requires a *'do no harm analysis'*.
- Needs facilitating opportunities for *linking and learning* of/with partners.
- Needs *training and capacity building* on conflict transformation, peace building and democratic governance.
- *Churches and faith-based organisatio*ns, by their very nature, have a special role and responsibility in processes of peace building and reconciliation.
- *Gender awareness and sensitivity* is needed in the field of D&P.
- *Indigenous peoples* will get special attention as a disadvantaged group with a distinct identity.

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[6] In addition to the ICCO policy papers this section is based on Wormgoor (2004), van der Borgh (2005), I/C consult (2005)

A visual representation of the interrelationship between the three aspects of this field of interventions is the following:
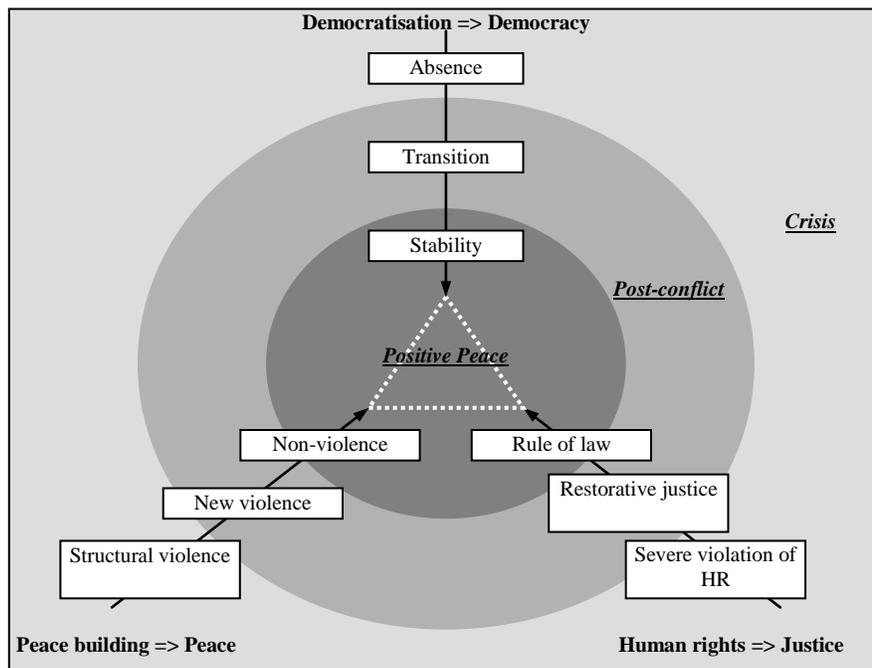
This triangle is also the basis for ICCO context analyses of countries in which this theme is given priority. The three corners of the triangle, democratization, peace building and human rights are then the conceptual anchors for categorizing stakeholders and partners or activities/interventions or the 'policy theory' behind such interventions. Obviously the three elements are closely connected

The following examples illustrate this categorization in terms of interventions:

I.   Democratisation
- Strengthening Civil Society (actors, processes, positions)
- Strengthening civic participation in policy making and monitoring
- Strengthening organisation capacity of marginalised groups, e.g. indigenous peoples
- Stimulating Public-private partnerships
- Monitoring of elections
- Stimulating civic education
- Stimulating the critical independent role of civil society organisations (watch dogs)
- Stimulating provision of objective actual information
- Stimulating the dialogue between opinion makers and social/religious leaders

II.   Justice
- International lobby for the assertion of Human Rights
- Stimulating initiatives aiming at the improvement of local human rights
- International pressure to deal with impunity
- Supporting the involvement of civil society in constitutional change and design of laws
- Supporting truth & reconciliation processes
- Strengthening the advocacy capacity of groups aiming at asserting ESC-rights at national level

III.   Peace and conflict transformation
▪ Stimulating an in-depth participative conflict analysis
▪ Active role in conflict mediation (direct)
▪ Support conflict mediation initiatives (indirect)
▪ Developing Early Warning and Rapid Response Systems
▪ Supporting demobilisation programmes
▪ Supporting disarmament and actions aiming at small arms trade
▪ Using peace education to change violent behaviour amongst population
▪ Supporting trauma healing of victims and perpetrators
▪ Supporting programmes for refugees and IDP's aimed at security and empowerment

7. Country programming
ICCO policy choices regarding priority themes and interventions are based on analyses at regional and at country levels. At country level the aim is to develop country programs specifying the priority theme, intervention objectives and even partners.

The least such programs should offer is discursive legitimacy of funding and TA (personnel), but the ultimate aim is to work towards real integrated programs, collaboratively developed with partners, with mutually supportive objectives that can be evaluated at program level rather than partner level. Choices for where to situate program design on this continuum of minimum to maximum cohesiveness depends on the country context, the other stakeholders in the thematic field and the history of ICCO (existing partners).

Programs should be as explicit as possible about what differentiates them from the programs of other (government, IO's) actors, in what way they are a progressive alternative to mainstream development support. As a medium sized NGO donor ICCO feels it can have greater impact by targeting 'niches' then by adding an egg into already well-filled multi-donor baskets.

8. The Asia-Europe-Pacific region[7]
Within the context of the Asia-Europe-Pacific regional desk (AZEO) only first moves towards regional assessment of this thematic field have been made.

The core issues identified so far are;

Democratization: local governance, lobby & advocacy (L&A) at national and international level, capacity building, support participation of specific target groups (women, indigenous peoples), support ESC rights of specific target groups (especially land).

Human rights: support human rights organizations and organizations targeting ESC rights (especially land) often for specific target groups, trafficking of women.

Peace building: inter-religious dialogue, trauma, rebuilding of social structures

9. Cambodia[8]
ICCO's current partner portfolio has a core of partners that concentrate on democratization, peace building and human rights interventions. However, 40% of its current partners are not explicitly working on civic & political rights or peace building

Of these the regional analysis posits the democratization corner of the triangle as dominant in the ICCO support to Cambodia. ICCO support is described as targeting the strengthening of local capacity so that they are better able to take care of lobby and advocacy themselves as a counterweight to a strong government and a non-functional judicial system.

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[7] Based on ICCO policy paper August 2005
[8] In addition to ICCO (August 2005), ICCO (March 2004) and ICCO (May 2005)

However, country desk reports (PSa) identify support to human rights organizations and peace building NGOs (including those dealing with psycho-social trauma) as ICCO's current D&P activities. A focus on particular target group focus is not yet strongly evident. Some partners have programs targeting the envisioned ICCO target groups for Cambodia (women, indigenous minorities and youth) but only two (GAD and PADV) are actually target group specific.

A theme present in many other Asian country programs, trafficking of women, is not represented in ICCO's current Cambodia program.

Specific issues flagged in PSa country desk reports are:

- The appropriateness within the Cambodian context of ICCO's overall drive towards localization of partners
- The appropriateness within the Cambodian context of ICCO's overall drive to decrease long-term expat TA support
- Field presence

Additional specific issues that were identified as relevant the formulation of a Cambodia country program were:

- Possibilities to work with membership based organizations
- Possibilities to specifically increase ICCO support to Indigenous minorities

PSa country desk reports summarize the pros and cons of having a field office as follows:

	Field office	No field office
For donor		
Advantages	- Direct contact with partners and stakeholders easy - Beter context analysis - Possibilities for outside funding - Possibilities to strengthen local and international lobby	- Efficient policy development - Non-interference with partners
Disadvantages	- Costs - Potential friction between HQ and field office - Can increase partner dependency	- Difficult to create collaborative links - Difficult to shape partnership regarding OD and/or lobby - In-country visibility is low - „Far from where the action is"
For partner		
Advantages	- Direct communication easy - Donor becomes ally in local lobby & advocacy	- Less donor interference with own field of operation and interbnal affairs
Disadvantages	- Donor has more access to negative information about partner - Time intensive because more meetings, workshops, etc.	- Communication difficult, donor lacks profile/face - Less possibilities to make use of donor network & expertise

Regarding localization and long-term expat TA support the assessments point towards Cambodia's relative lack of human resources and the need to be careful with making either policy objective too restrictive a criterion for support.

References

ICCO Policy papers:
 (April 2003a) Human rights: a matter of decency and dignity; Human rights principles in ICCO's
                development work
 (April 2003b) ICCO partnership policy
(April 2003c) Democratisation and peacebuilding
(March 2004) Reisverslag Herman Brouwer: Cambodja-Vietnam-Thailand 28 februari-19 maart
(April 2004) Towards more just and equitable societies; ICCO's support for institutional
                strengthening and capacity building
(March 2005) Hoofdlijnen en samenhang ICCO beleid
(May 2005) Reisverslag Herman Brouwer: Burma, Cambodja 18 april / 1 mei

(August 2005) Themagroep Democratisering en Vredesopbouw in Azië Europa en Oceanië

               (AZEO): Werkplan 2005-2006.

Other papers
Fulco van Deventer I/C Consult (March 2005) Democratisering en Vrede: analyse en interventies

Wormgeer, O. (December 2004) Positioning ICCO in Peace Building. To manage, settle, resolve,
transform and prevent conflicts

Borgh, van der C. (June 2005) ICCO manula for conflict analysis & peace building

ANNEX 3. List of interviewees

ORGANIZATION	INFORMANT	POSITION	Type *
NGO Forum	Katrin Seidel (ex-LMAP)	Land & LivelihoodsProgram Advisor	1
LICADHO	Naly Pilorge	Director	1
TPO	Chhim Sotheara	Director	1
SSC	Ellen Minotti	Director	1
LAC	Ouk Vandeth, Peung Yok Hiep & Meas Samnang	Director, Legal Vice-director, Admin Vice-director	1
CWS	Josephine Barbour, Noy Sok, Ang Dakmai, Mao Sophal, Koeth Heng, Ly Bunkun, Chouk Chantha, Oukly Boumly	Director & MT	1
VBNK	Jennie Pearson	Director	1
PACT	Kurt McCleod	Director	1
IKAP (Chiang Mai)	Timmie Tillman, Maruja Salas, Chonchon Luithui, Waiying Thongbue, Prasert Trakansuphakon, Nittaya Wisetkantrakorn	CB Advisor, Consultant, Co-coordinator, Karen Network manager, Regional network coordinator, Secretariat	1
ADHOC	Thun Saray	President	2
CCHR	Vorun Chhim	Manager Education program	2
CLEC	Brian Rohan	Technical Advisor PILAP	2
ACT	Soth Plai Ngarm	Director	2
UNCOHCHR	Margo Picken	Director	2
UNDP	Sok Narin	Program manager Anti-corruption	2
East West management Institute	Peter Harris	Field Director	2 & 3
The Asia Foundation	Jackie Pomeroy, Annet Kirchner	Field director, Assistant field-director	2 & 3
Dan Church Aid	Cecilie Bjørnskov-Johansen	Field director	3
Diakonia (Chiang Mai)	Anna Edgren	Program manager Cambodia	3
Forum Syd	Petra Pettersson	Field director	3
Village Focus International	Francesco Caruso	Country director	3
DED	Marcos Smith	Coordinator civil peace service	3
DANIDA	Mogens Christensen, Michael Enquist	Field director, Consultant Human Rights program	3

WB	Daniel Adler (ex-CLEC, Arbitration Council)	Teamleader Justice for the Poor project	3
DFID	Helen Appleton	Social development Advisor	3
Actionaid	**Keshav Gautam**	Field director	3
	Chris Erni (Chiang Mai)	IWGIA program coordinator Asia	3 & 5
	Carol Strickler	Director CCC	4
	Michael Hayes	Publisher Phnom Penh Post	4
	Rob Wildschut	Program Officer UNV	4
	Peter Bartu	Consultant TAF civil-military relations	4
	John Vijghen	Advisor COSECAM	4
	Roelof van Til	Program manager ZOA Otdar Meanchey	4
	Jen Makin	ex CARE Advocacy & Research Advisor	4
	Heike Loeschmann (chiang Mai - phone)	Field Director Heinrich Boell Foundation	4
	Ignas Duemmer	Technical NRM advisor SEILA/DANIDA	4
	Penny Edwards	Anthropologist specialized on Chinese in Cambodia	4 & 5
	Nhem Sovanna (ex-IDRC Rattanakiri)	NRM advisor SEILA	4 & 5
	Tony Knowles, Seyha RIN, Po Sam Ang	SME Cambodia, Advisor, senior manager, director renewable energy	
	Meas Nee	Consultant VFI, consultant VBNK	4 & 5
	Arnaldo Pellini	Decentralization advisor GTZ kampong Thom	4
	Jeremy Ironside	Consultant LMAP	5
	Peter Swift	Director SADP	5

* Notes
Representative of ICCO partner organizations = 1
Representative of other organizations active in the D&P sector = 2
Representative of other donor organizations = 3
Key informant Cambodian socio-political development in general = 4
Key informant Civil society (associational life, NGO's) = 5
Key informant Indigenous minorities = 6

Annex 4: References

This list does not contain the program documents of partner organizations

1. Country programs and analyses of the most important international organizations & the Cambodian government
1. Asian Development Bank (2005). Country Strategy and Program 2005-2009.

2. RGC (2004) The rectangular strategy for growth, employment, equity and efficiency in Cambodia

3. RGC (2005) National Strategic Development Plan 2006 - 2010

4. United Nations (2004). United Nations Development Assistance Framework 2006-2010.

5. WB (2004) Cambodia: seizing the global opportunity. Investment climate assessment and reform strategy for Cambodia

6. WB (2004). Cambodia: At The Crossroads. Strengthening Accountability to reduce poverty

7. WB. (2005). Cambodia: Country Assistance Strategy of the World Bank Group 2005-2008.

2. Core academic country and/or topical analyses
8. Bull, C. (2004) Cambodia Freedom House report.

9. Ear. S (N.D). The Political Economy of Pro-Poor Livestock Policy in Cambodia. N.D

10. Heder, S (2005). Cambodia. Southeast Asian Affairs, Singapore.

11. Hinton, A. (2005) Why did they kill. UCP

12. Hughes, C. (2003) The political economy of Cambodia's transition, 1991-2001. London: Routledge.

13. Hughes. C and Conway.T. (2004) Understanding Pro-Poor Political Change: the policy process. ODI: London.

14. Hughes (2005). Cambodia. University of Birmingham, UK.

3. Research & policy reports relevant to the specific foci of the mission

3.1 Democratization & peace building & human rights
15. ADHOC (2005) Human Rights Situation report 2004.

16. Calahan, M. et al. (2004) Cambodian corruption assessment. USAID

17. Conway.G. and Kishi. N. (2000). Conflict Risk Assessment Report: Cambodia, Indonesia, Philippines. Carleton University.

18. Etchinson, C. (2004) Reconciliation in Cambodia: theory and practice. Workshop study guide.

19. Fajardo R. et al. (2005). Pathways to Justice, Access to Justice with a focus on the Poor, Women and Indigenous People. UNDP

20. GTZ (2000) Krisenpraevention und Konfliktbearbeitung in Kambodscha

ICCO Identification Mission Democratization & Peace Building in Cambodia September-October 2005

21. International Council on Human Rights (2000). Local Perspectives: foreign aid to the justice sector. Switzerland

22. Karlstedt C. (2001). Cambodian Human Rights & Democracy Organizations: Relations Between Partner. Report No. 39. ECR/SIDA

23. Kolko B. and Lenert E. (2004). An Evaluation of The Asia Foundation's Community Information Center (CIC) Project: Measuring Impact on Elections and Civil Society in Cambodia, 2002-2004. Cambodia.

24. Leuprecht, P. (2004) Advisory Services and Technical Cooperation in field of HR in Cambodia. UN-ESC

25. Marston J. (2000). Cambodian Human Rights & Democracy Organizations: Impact of Human Rights Advocacy. Report No. 37. ECR/SIDA

26. Peou. S. (2004). International Assistance for Institution Building in Post-Conflict Cambodia. Working Paper 26. Phnom Penh.

27. RGC (2005). Plan of Action for Implementing the Legal & Judicial Reform Strategy. Phnom Penh.

28. Vijghen J. (Edited). (2001). Cambodian Human Rights & Democracy Organizations: Impact of Human Rights Activities. Report No. 36. ECR/SIDA

29. Vijghen J. (Edited). (2001). Cambodian Human Rights & Democracy Organizations: Project Document. Report No. 23. N.P

30. Vijghen J. (Edited). (2001). Cambodian Human Rights & Democracy Organizations: Towards the Future. Report No. 40. ECR/SIDA

31. Vijghen J. (Edited). (2001). Cambodian Human Rights & Democracy Organizations: Understanding NGOs. Report No. 35. ECR/SIDA

3.2 Women, youths and indigenous minorities

32. ILO (2005) Rights based approach to indigenous peoples development in Cambodia. Workshop report

33. Ironside, J. et al. (2004) Registration of indigenous land rights in Cambodia. LMAP/GTZ.

34. Kleger. H. et al. (2004). The Theory of Multiculturalism and Cultural Diversity in Cambodia. Potsdam.

35. Mysliwiec E. (2005). Youth, Volunteering and Social Capital in Cambodia. Youthstar

36. NGO Forum on Cambodia (2005). Rethinking Poverty Reduction to Protect and Promote the Right of Indigenous Minorities in Cambodia. Phnom Penh.

37. Schousbou Laursen, S. (2004) Cambodian nationalism and the threat from within: history, rights and practices in relation to the ethnic Vietnamese ion Cambodia. MA thesis Aarhus U.

38. UNIFEM, WB, ADB, UNDP, DFID. (2004) A fair share for women. Cambodia gender assessment.

ICCO Identification Mission Democratization & Peace Building in Cambodia September-October 2005

3.3 Civil society
39. Ann, S. et al. (2005) Decentralization: can civil society enhance local government's accountability in Cambodia. CDR (9)3.

40. Burke A and Vanna N (2004). Options for increasing social accountability in Cambodia. DFID/WB

41. CBNRM Learning Initiative (2005) The development of community based natural resource management in Cambodia.

42. CDC (2005) NRM skills development, reduction of poverty and building of people's organizations in rural Cambodia.

43. CDC (2005) Local government, civil society and local accountability

44. CDC (2005) Village associations, rural peoples livelihoods, local governance and NRM.

45. PACT (2004) Commune Councils and civil society.

46. Pellini. A. (N.D). Traditional Forms of Social Capital in Cambodia and their linkage with local development processes.

47. Pellini.A. (2005). Social capital and Civil Society: Traditional associations' support to Education in Kampongthom, Cambodia. Finland.

48. Wallgren, P. (2005) Forum Syd Study on Local Associations.

4. Country programs, strategy papers of important other bilateral and NGO donors
49. Australian Embassy. (2005). Guidelines Introduction-Human Rights and Governance Fund.

50. CIDSE Cambodia: Annual Report 2004.

51. DCA Cambodia (2004) Civic and Political Space Programme 2004 – 2007

52. DCA Cambodia (July 2005) Food Security Program Document

53. DED (2005) Leitlinie des DED Kambodscha im Bereich Ziviler Friedensdienst

54. DFID (2000). Cambodia: County Strategy Paper.

55. Diakonia. (ND) Cambodia Country Strategy.

56. Diakonia. (2004) Democracy & human rights in Cambodia Programme proposal 2004-2006

57. Diakonia and Forum syd (2005). Evaluation of the Democracy & Human Rights Program 2001-2005.

58. Forum Syd (2003) Democracy and Human Rights Program in Cambodia 2004-2006

59. NGO Forum (2003) land and livelihoods programme: A Human Rights Approach. Action plan 2004 - 2005

60. Royal Danish Embassy (July 2005). Supporting Access to Justice in Cambodia. Mapping of the support.

61. Royal Danish Embassy (October 2005). Human Rights, Democratization and Good Governance   Program (2006 – 2008) Cambodia Program Document

62. SIDA (2001) Country strategy for development cooperation with Cambodia.

63. Turton. C. (2000). The Sustainable Livelihoods Approach and Program Development in Cambodia. DFID London, UK.

64. UNDP (2005). A Tentative Framework for a Multi-Donor Funded Program in Support of Anti Corruption Activities in Cambodia.

65. USAID (2005) Cambodia Strategy Statement

66. WB (Sept. 2005) Social inclusion, social accountability, and citizens partnerships for better governance. Social development strategy for the Bank in Cambodia. Unfinished draft.

5. Program information of non-partner NGOs active in the sector of D&P
67. ADHOC (2005) Strategy 2005-2009. NP

68. WVI (2004). Cambodia Peace building Initiative, Concept Paper.

Annex 5: Mapping of prominent donors and their partners: Democratization & Peace Building in Cambodia

DONOR	HR		Peace Building		Democratization					CB/Services
	HR/LA	Targeted	Dispute Resolution	MH	Elections	Civic Ed	National	Local	IRDP/ Sectoral CO	
ICCO	**LICADHO** **LAC** **CLEC**	**GAD** **PADV** NCDP	**CWS** **CLEC**	**SSC** **TPO**			**NGO Forum** **PACT**	**CWS** **PACT**	**CWS** IKAP AIPP TDSP KRDA SABORAS ILDO MODE **CAAFW** **CSDA** **KROM**	**VBNK** **PACT** CAS
Diakonia	**LICADHO** ADHOC KKKHRDA	**GAD**	Khmer Ahimsa			Open Forum	**NGO Forum** CSD	AFSC	**CAAFW** **CSDA** KFD CNGON PNKS CRWRC AFSC	
DCA	**LICADHO** **LAC** ADHOC CDP	Amara CPRWCA CWCC Ponleur Kumar VAWCC	**CWS**				**NGO Forum** **PACT** CSD	**CWS** **PACT** LWF Star K. KID	**CWS** LFW	**VBNK** **PACT** CCC SST
Forumsyd	**CLEC** CDP KKKHRA	Amara KYA	**CLEC**		COMFREL NICFEC			Star K.	CEPA FACT	

DONOR	HR		Peace Building		Democratization					CB/Services
	HR/LA	Targeted	Dispute Resolution	MH	Elections	Civic Ed	National	Local	IRDP/ Sectoral CO	
EED	CLEC	PADV KYA	CWS CLEC			Open Forum		CWS AFSC LWF Star K. KID	CWS KROM AFSC CEDAC	VBNK CAS CCC
NOVIB	LAC	WMC							Mlub Baitong PADEK NTFP	CDRI
Oxfam GB	LAC ADHOC	PADV WAC	WGWR				NGO Forum	Star K. CCSP	URC CEPA	
TAF	ADHOC CDP LSCW	APLE AFESIP CCPCR CRF COSECAM Mith Samlanh WMC		TPO				E&D CCSP	Wathnakpheap	CAS
MCC		DYMB VPM	CPBS WGWR YFP							
EWMI	LICADHO CLEC KKKHRA CHHRA CDP CHRAC	WMC Mith Samlanh LSCW EA KNKS	CLEC ACT BfD Khmer Ahimsa YFP			CCHR	NGO Forum		SCW KRDA CCD	

DONOR	HR		Peace Building		Democratization					CB/Services
	HR/LA	Targeted	Dispute Resolution	MH	Elections	Civic Ed	National	Local	IRDP/ Sectoral CO	
DANIDA	ADHOC CDP		BfD				CSD DCCAM			
NZAID	**LICADHO** **CLEC** CDP		**CLEC**							
Oxfam HK		WAC								
Christian Aid		**PADV**	**CWS** Khmer Ahimsa				**NGO Forum**	**CWS**	**CWS** Whatnakpheap AFSC	
DED		**PADV** KYA YFP	WGWR			CCHR	DMC/RUPP			
Actionaid		WAC HA Meas Neas								
VFI		HA Meas Neas					**NGO Forum**			
GTZ				**SSC**						
LD				**SSC**						
ADB/CARE				**SSC** **TPO**						
CIDA				**TPO**						
EU				**TPO**						

Annex 6 Introduction letter

Utrecht, 20 September 2005

Our reference   AZ-CVI/AvB/05-212
Subject   ***Identification Mission Cambodia by Roger Henke***
Direct dial number   (030) 69 2 7963
E-mail   indo_indo@icco.nl

Dear reader,

It is with pleasure that we want to introduce to you Mr Roger Henke. He, and his colleagues at the Center for Advanced Studies (CAS), Phnom Penh, have been commissioned by ICCO, the Interchurch Organisation for Development Cooperation, Netherlands, to undertake an identification mission in Cambodia. In order to collect information for this purpose Mr Henke will contact you for an interview.

The reason for the visit is the following:
ICCO has been supporting local partners working towards development in Cambodia since the mid-eighties. ICCO's Asia Desk is in the process of reconsidering our policies and strategies for support to Cambodia. In recent years ICCO focuses on three themes, Access to Basic Social Services, Just Economic Development, and Democratisation and Peace Building. For Cambodia, the third theme Democratisation and Peace Building has been and will remain a priority theme. But in order for ICCO to respond best to Cambodia's needs, it is evident that a reassessment of the context is required.

We have requested CAS to seek input from a variety of sources, including ICCO's existing partner organisations, (I)NGO's, donor agencies, other social actors, government and media representatives. Our aim is an analysis which allows us to develop a more programmatic approach to Democratisation and Peace Building in Cambodia with our partners, and as much as possible coordinated with other stakeholders.

It is in light of this that Mr Roger Henke, and some of his colleagues, are invited to map out the field and help ICCO to formulate policy for coming years. ICCO is aware of your support to Cambodia, and it therefore makes sense to include you in a consultation of other stakeholders active in the field of Democratisation and Peace Building. In light of this it is important to hear your perspective on civil society at this moment and what in your view is needed to support social-economic, political, and cultural rights of the Cambodian people. The result of the consultancy will help ICCO to (re)consider possible alliances through networking etcetera.

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Besides a renewed focus on Democratisation and Peace Building, ICCO will continue to support activities of its partner organisations working in other areas – primarily Access to Basic Social Services.
ICCO certainly will keep your organisation informed on the result of this consultancy and on further policy development. Any information you share with Mr Henke will be treated confidentially.

We do hope that through your input ICCO will be able to be more effective in support of Cambodian society.

Thank you very much for your cooperation,

With kind regards,

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ICCO Programme Officer Cambodia
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Regional Coordinator Southern Africa/South East Asia
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Annex 7 Discussion topics Resource persons

What does your organization do/support that helps Cambodians to claim and execute their socio-economic, political and cultural rights?
> Overview of grantees, programs

What issues in the field of democratization, peace building and human rights are well covered by existing initiatives, and which issues are in need of more attention?

What is your perspective on the current position and role of civil society?
> CBO's, civil movements, associations

What is your perspective on the issues faced by specific target groups?
> Women, youths, ethnic minorities [highlanders, Vietnamese]

What is your perspective of the role of NGO donors like ICCO?
> Collaboration with government agencies
> Kind of support (TA/CB, funding)

What is your perspective on donor coordination & collaboration?
> Multi-donor initiatives, sector approaches
> What makes it happen: field office initiative or HQ commitment

Annex 8 Cambodia Situation Analysis Caroline Hughes 2005

Cambodia's Performance

Cambodia embarked upon concurrent processes of economic liberalization, conflict resolution and political reform from 1989, in response to geopolitical shifts associated with the end of the Cold War. The country had been isolated from the West under an international trade and aid embargo during the 1980s. In the early 1990s, a UN peacekeeping operation and a lifting of the international embargo resulted in the pumping of US$3 billion in international aid into Cambodia over the next ten years. However, outcomes vis-à-vis turnaround have been equivocal.

"Turnaround" is defined as successful promotion of sustainable economic growth, improvement in human development indices and cessation of violent conflict. Superficially, Cambodia's performance has been creditable since 1989. The civil warfare of 1970 to 1999 has ended. Economic growth has remained above 5 per cent per annum in almost every year, since 1994. Human development indices show improvement. However, the *sustainability* of this performance is unclear. Return to civil warfare seems unlikely, but continued rapid growth in the economy and in human development is uncertain, unless major governance reforms occur. This paper argues that the success of the ruling Cambodian People's Party (CPP), in achieving sustainable cessation of armed conflict has been achieved by means that have made good governance less likely.

The improved economic growth and human development figures posted represent, to a great extent, a one-off peace dividend, from the very low base of the 1980s. The deployment of thousands of UN peacekeepers to Cambodia in 1992 prompted a so-called "UNTAC boom." Rapid expansion in construction and services, largely tailored to servicing international personnel, and concentrated narrowly on the capital city of Phnom Penh produced high growth rates in the early 1990s. From a peak of nine per cent in 1994, growth rates declined as political instability within the ruling coalition formed after the 1993 elections emerged in the mid-1990s. Growth rates troughed in 1997 and 1998, as fighting broke out between the coalition parties in July 1997, prompting the flight of leaders of Funcinpec Party - the senior coalition partner - and their subsequent return in 1998 for elections conducted in a tense atmosphere.

Following the 1998 elections, and the return of a new government dominated by the party of state of the 1980s, the CPP, growth rates soared again, bolstered by high growth in the garment industry, in response to Cambodia's excess export quotas to the US. Some service growth was also seen, focused narrowly upon Phnom Penh and the town of Siem Reap, near the Angkor Wat temples, as better security encouraged tourists to return. Agriculture – the largest sector of the economy – declined, apart from a single record harvest, brought about by good weather conditions, in 1999.

Although due credit must be given for these achievements, it is important to note the importance of the one-off boost to the economy given by the deployment of peacekeepers and by the return of peace. Significant also is the ongoing importance of contingent factors. In agriculture production remains heavily dependent on the weather, reflecting lack of investment in technology, such as effective irrigation systems or flood defences, to offset the effects of too little or too much rain. The only flourishing industry – garment manufacturing – is heavily dependent upon regional foreign direct investment, particularly from Cambodia's largest investors, Taiwan and Malaysia. This investment is to a great extent attracted by Cambodia's export quotas to the US that are due to be phased out in 2005. The garment industry has been the main contributor to Cambodia's growth and poverty reduction performance.

Foreign direct investment in other sectors remain low throughout the 1990s, and figures for the total number of FDI dollars spent, rather than merely pledged, in all sectors, have fallen consistently since 1998, from more than US$230 million in 1998 to US$113 million in 2001 and below US$100 million in 2002 and 2003 (World Bank, 2004b, 3). Surveys of investors found that

Cambodia was seen as a high-cost and unstable business environment, suggesting that the sustainability of the rates of growth posted during the 1990s is questionable. Cambodia's major investors are its regional neighbours, with Malaysia accounting for up to 40 per cent of FDI to Cambodia in 2002 (Freeman, 2002).

Table: Top Ten Investors in Cambodia, Cumulative Investments, 1994-2002.

Number	Country	Investment Capital	Percentage
1	Malaysia	1,862,432,052	31.21
2	Taiwan	493,630,670	8.27
3	USA	434,201,401	7.28
4	China	267,064,156	4.48
5	Hongkong	253,576,213	3.95
6	Singapore	224,592,946	3.76
7	Korea	208,708,623	3.5
8	Thailand	198,674,735	3.33
9	France	192,764,327	3.23
10	United Kingdom	94,083,532.34	1.58

Source: Cambodian Investment Board/Cambodian Development Council(up to January 2002)

With respect to human development, the growth of the population at 2.5 per cent per year to an extent offsets the impact of economic growth on incomes. In particular, the expansion of the population group aged between ten and nineteen years, during the late 1990s, entailed increased underemployment as lack of growth in both agriculture and off-farm employment failed to soak up the new labour coming onto the market. The narrow concentration of the economic growth that has occurred in urban areas has prompted the emergence of wide disparities in income. In 1999, per capita income in Phnom Penh was US$691, compared to a rural per capita income of only US$197 (ADB, 1999). Although there has been some improvement in Cambodia's Human Development Index - from 0.543 in 1995 to 0.556 in 2001, representing an average of 0.00217 per year – this is a very limited pace of progress given the end of the war and influx of aid worth more than US$5 billion over this period. In the Human Poverty Index, Cambodia fares even worse – 70th out of 95 developing countries in 2004, and the lowest-ranked country in Asia (UNDP, 2004).

The question of whether Cambodia has "turned around" requires investigation of whether the Cambodian government is actively addressing the concerns raised above through attempts to improve both governance and government. In collaboration with donors, the ruling CPP in 1999 conceived a Governance Action Plan, intended to rationalize and reform the state to create a better foundation for policies to foster pro-poor economic growth. The commitment of the CPP to the Plan appears to waver in response to the election cycle. In 1999 and in 2004, following tense electoral stand-offs resolved in the CPP's favour, the party has declared its intention to wage war on poverty and corruption. However, in the 1999-2003 electoral cycle, reform activity declined as elections approached.

Historical Background
From the late 1960s, when the Vietnam War spilled over onto Cambodian territory, to the collapse of the Soviet Bloc in 1989, Cambodia suffered a civil war prompted and sustained by repeated and cynical foreign interventions reflecting external geopolitical interests. The devastating impact of these on the Cambodian population, territory, infrastructure and state rendered any kind of performance in the 1980s practically impossible. The party of state of the 1980s – the CPP – emphasizes its achievements in those years as the re-emergence of a rudimentary economy, the re-establishment of a basic education system and of religious observance, and the more or less successful defence of the country from a Western-, Chinese- and ASEAN-backed insurgency that

included the feared National Army of Democratic Kampuchea. Given the context, the CPP's pride in these achievements must be respected.

However, state power in the 1980s was weak, as the Vietnamese occupation undermined the legitimacy of the regime. Conscription, rice procurement, taxation, collectivisation and even retention of population in Phnom Penh-controlled areas were all problematic throughout the 1980s. Assessments of Cambodia's economic, social and political performance during the 1990s should bear in mind the difficulties faced by the state in performing even the most basic functions of government in the 1980s.

With the collapse in 1989 of the geopolitical framework that had sustained the civil war, the various Cambodian parties were pressured by their various external backers into a UN peace deal which was far from reflecting an elite pact on the part of the Cambodians themselves. Indeed, the history of the 1990s can be summed up as the attempt by various Cambodian parties to gain maximum advantage from a new international framework characterized by peacekeeping, international aid, and foreign trade and investment. The Cambodian People's Party – the party of state in the 1980s – proved most adept at this, and consequently dominates Cambodian politics in the early 2000s.

The reform era began with the shift to a free market economy, implemented by the CPP's State of Cambodia regime in 1989. Economic liberalization was followed, in 1991, by a peace agreement, intended to end Cambodia's longstanding civil war, integrate the country into international regimes of trade, aid and investment, and set the country on the road to liberal democracy. The implementation of the peace process by a United Nations peacekeeping force culminated, in 1993, in elections and the promulgation of a new constitution, which enshrined principles of liberalism, pluralism and democracy.

The reforms introduced in Cambodia in 1989 were, of course, primarily aimed at maximizing political power, as exercised by the state and the incumbent party; but to a significant extent, this goal has proved to be at odds with the objective of creating an environment conducive to stimulating investment (foreign or local) or promoting the welfare of the poor – that is, it has worked against the prospect of sustained turnaround despite an early peace dividend. Economic reforms have concentrated economic assets, particularly land and natural resources, in the hands of entrepreneurial groups sympathetic to the CPP. In part, this was associated with conflict reduction, as it prompted defections of insurgents in the mid-1990s. However, in part also, this has been used to cement the dominance of the CPP over Cambodian politics, and the dominance of Prime Minister Hun Sen over the CPP. The continued striving to accumulate wealth to consolidate political power reflects the experience of state weakness vis-à-vis armed challenge by insurgency in the 1980s, on the threat perceptions of the CPP leadership in the 1990s. Electoral challenges by opposing political parties, themselves descended from the resistance of the 1980s, are seen as threatening both to the party and the national interest. Both the reaction of the CPP to the opposition, and the continued refusal of the opposition to regard Prime Minister Hun Sen, in particular, as a legitimate political contender, reflects the difficulty of transforming civil war combatants into co-existing contenders for power.

Government Approaches to Turnaround

Promoting Economic Growth through Liberalisation

The economic liberalization process in 1989 comprised several elements: privatization of land; legalization of private enterprise; sell-off of state owned enterprises; abandonment of state purchasing and agricultural tax; and gradual reduction of state controls on prices, imports and movements of goods, to create a unified and market-determined price structure. In part, these reforms merely recognized the creeping de facto abandonment of socialist command economics in progress throughout the 1980s. Political events from 1989 to 1993, however, influenced the

outcome of these reforms, and the prospects for conflict resolution, economic growth and human development.

The reforms were in large part motivated by a changing external political environment, which put pressure on the State of Cambodia and the CPP to negotiate an end to the war. From 1979, the regime had fought insurgent armies, including the National Army of Democratic Kampuchea (NADK) which represented the infamous Pol Pot regime of 1975-9. The political wings of these armies formed an exiled Coalition Government of Democratic Kampuchea, a body which received diplomatic recognition in the region and in the West and occupied Cambodia's seat at the United Nations.

From the late 1980s, the decline in Soviet power, the desire for de-escalation between the Soviet Union and China, and concern on the part of Vietnam to implement its own economic reforms and to engage more closely with ASEAN and the West reduced external support for the State of Cambodia regime. Vietnamese forces began withdrawing from Cambodia in 1986; the last troops left in 1989. Concomitantly, Western countries desired to distance themselves from a political entity that included the notorious 'Khmer Rouge' (see, for example, Solarz, 1990), while the booming, capital-rich tigers of ASEAN sought to "turn battlefields into marketplaces" and exploit cheap labour in Indochina (Snitwongse, 2001). Externally, Cambodia's civil war ceased to make strategic sense to either side.

Internally, the decline of the Council of Mutual Economic Assistance, aid from which accounted for 90 per cent of the Phnom Penh government's budget until 1990, prompted a need for new sources of financial aid. More generally, by 1989, the limits to the state-building project of the 1980s had become apparent. The regime required a new basis for promoting its legitimacy, for gaining acceptance, internally and externally, of its authority, and for strengthening its power.

Elite pacting was one option - exchanging power-sharing for a sounder basis for political stability and economic growth. However, a political solution, involving an accommodation with political leaders from the resistance armies, was viewed as high risk by the CPP leadership. Many in the CPP viewed the resistance armies as a genuine threat, not only to the CPP but to the whole country. The 'return of the Khmer Rouge' was genuinely to be feared, and the international actors who participated in the United Nations Transitional Authority in Cambodia had, at least indirectly and diplomatically, supported the NADK throughout the 1980s. For many in the CPP, UNTAC's mandate to create a "neutral political environment" for elections represented an attempt by Western powers to break down the flimsy floodgates to chaos and genocide, erected, at the cost of much bloodshed, in the 1980s. The leaders of the CPP had narrowly escaped Pol Pot's purges by fleeing to Vietnam in 1978; for them, their personal safety and the safety of the nation was contingent upon their own continued grip on national security. The co-operation of SoC leaders in a UN political settlement which included the 'Khmer Rouge', still led by Pol Pot himself, was forced by their lack of other options, in the light of Vietnamese withdrawal and Soviet pressure, but was never enthusiastic.

In fact, the CPP designed a solution which drew economic reform into the service of political strategy. The emergence of a free market in land and goods *before* the initiation of a peace process was initially popular with ordinary farmers; it also quickly permitted the establishment of networks of protection and patronage permitting wealth accumulation by members of the state and military. By these means, the fragile ideological basis of state cohesion of the 1980s could be replaced by a more solid structure of material self-interest. Economic reform was not merely designed to facilitate Western aid and investment, but to ensure that both existing domestic and new incoming assets were concentrated in the hands of loyalists.

Achieving this goal required the erection of a regulatory framework that favoured those with power and official/political connections. This has been evident in the land and forestry sectors, in particular. The Land Law of 1992, for example, contributed to widespread expropriation of land through its multiple inadequacies. It failed to clearly distinguish between state and private land,

and made no provision for registering state land, prompting officials to claim that state land was used and therefore 'owned' by themselves as private citizens. It failed to clearly delineate a regime for state compulsory purchase of land, or to establish mechanisms for review of this, allowing land expropriation by state officials.

The Land Law established a labyrinthine process for registering ownership rights, requiring written submissions that were problematic for the almost two-thirds of Cambodians who are functionally illiterate.[9] This involved several layers of government, contributing to the proliferation of corruption. It defined possession as the issue of local authority receipts acknowledging possession, rather than the act of occupancy itself, entailing that ownership rights could be obtained by those who bribed the local authorities to issue receipts, rather than by those who actually occupied the land. It failed to ensure transparency or openness of cadastral records and implemented a 'race' regime in registration, whereby ownership was granted to whoever registered first. It has been argued that these flaws were not merely oversights, but deliberately designed to permit the concentration of land in the hands of regime insiders, to award these an ongoing basis for wealth and power in the context of far-reaching political reform (Williams 1999).

These shortcomings permitted those with political connections, money to pay bribes, or the means to resort to violence to appropriate land by means of corruption or force. Victims of such expropriations had little recourse. The courts were weak, corrupt and intimidated by the powerful. Thousands of complaints were sent to the UN, NGOs, and the National Assembly's committee for receiving complaints, with variable success. Victims of expropriation were often seen demonstrating outside the palace or the National Assembly, but these organs were unable or unwilling to provide redress in most cases. In 2002, it was estimated that 200,000 poor Cambodians were victims of ongoing, as-yet-unresolved cases of large-scale land seizures (Cooper, 2002). Landlessness has increased in Cambodia since 1989, in part because of expropriation (the cause of landlessness in 13 per cent of cases, according to an Oxfam survey) and in part because of distress sales due to the need to raise money for healthcare, or due to lack of food (Oxfam, 1999). At the same time, off-farm employment has not increased, and natural resources, such as forests and fisheries, which provide alternative resources for the landless, have been privatized with deleterious effects on access for the poor .

While current, donor-led efforts to simplify land registration and reduce corruption associated with it may provide some relief, human rights groups are concerned that to a great extent these efforts are codifying and legitimizing the dispossession of the 1990s (Thun Saray, 2003). Meanwhile, some donor representatives in Phnom Penh privately speculate that government resistance to establishing a land tax is due to the concentration of landholdings in the hands of the political elite.

This mode of marketization, which extend to the privatization of other natural resources and state assets also, had far-reaching implications for "turnaround". Broadly, the processes described facilitated conflict resolution and political change, although in a manner antithetical to the liberalism and democratic inclusiveness envisaged in the 1993 Constitution. Although Cambodia has successfully maintained macro-economic stability, there has been little inward foreign investment outside the special case of the garment industry, and rates of economic growth remain hostage to the political concerns of vested interests. The benefits of aid projects and of such economic growth that has occurred have remained firmly in the hands of the already-rich and the well-connected.

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[9] 62.7 per cent of adult Cambodians are illiterate or semi-literate, according to a UNESCO/Ministry of Education, Youth and Sport survey conducted in 2000, "Literacy Rates Much Lower than Estimated," *Cambodia Development Review,* 4.2 (2000): 1-4.

The implementation of the Paris Peace Agreements by the United Nations Transitional Authority in Cambodia fell short of what was intended, particularly with regard to actually ending the civil war. The Peace Agreements linked demilitarization with promotion of electoral democracy. The four armies prosecuting the civil war agreed to cease fire, disarm, and demobilize ahead of elections, during which their respective political wings would compete peacefully for the popular mandate. UNTAC would police the ceasefire, ensure the withdrawal of "foreign forces," implement the elections, and oversee government to ensure a level playing field upon which to compete for votes.

In the event, UNTAC was unable to maintain the ceasefire, following the withdrawal of the Party of Democratic Kampuchea from the peace process.[10] UNTAC ploughed on with the election despite a terror campaign and by the National Army of Democratic Kampuchea; they were rewarded by a high voter turnout on polling day. The elections permitted two of the three main resistance parties to enter a coalition government with the CPP. The greater legitimacy of this government, internally and externally and the attractiveness of the international aid it beckoned, ultimately led to the collapse of the NADK and PDK as political players. The war ended in 1999.

However, the end of the war has not been associated with a demilitarization of society. The armed forces remain both numerically large and politically influential. Continuing militarization throughout the 1990s was associated with a continued background noise of human rights abuse, use of violence in the expropriation of resources, widespread ownership of weapons with the associated potential for social and domestic violence, and vulnerability in economic and social life, as well as in political life, on the part of those who lack connections in the armed forces, as opposed to those who have such connections.

The return of the PDK to insurgency prompted UNTAC in 1992 to abandon its mandate to canton, disarm and demobilize troops from the other three armies.   These three armies were integrated following the elections to form a new Royal Cambodian Armed Forces. Many of the problems that continued to dog Cambodian politics and economics through the 1990s emerged from the nature of the RCAF, and the way it evolved over the course of the 1990s, from an unlikely amalgam of partisan groups to a, superficially at least, solid supporter of the CPP.

The RCAF in 1994 numbered 160,000, including 2000 generals and 10,000 colonels (Shawcross, 1994, 90-91).   In the early 1990s, it mirrored the development of the civil service and, subsequently, the ranks of political appointments in government, in that it ballooned to accommodate political allies and their networks of followers. Downsizing was resisted, not primarily, because of the need to continue to prosecute a war against the NADK.[11] Indeed, many soldiers listed on the payroll were 'ghosts', who had died, deserted or never existed. Rather, overhaul of the military has been resisted for three reasons. First, in the early 1990s, the competition between the rival parties in the coalition government to strengthen their own partisan networks within the military prompted resistance to the downsizing of their own men. Second, in the mid-1990s, as the Party of Democratic Kampuchea began to collapse, the military operated as a haven for defecting NADK commanders, accommodated complete with their troops. These commanders were wooed by rival politicians in Phnom Penh in an effort to tilt the balance of loyalties within the armed forces. It was this contest which provoked a brief return to armed struggle between the CPP and FUNCINPEC – a struggle which the CPP won in the battle in Phnom Penh in July 1997.

Subsequently, a third stage began in which the RCAF solidified as a bastion of CPP loyalty. Between July 1997 and the start of election campaigning in June 1998, between 40 and 60 FUNCINPEC military leaders were assassinated, effectively destroying the FUNCINPEC military

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[10] The PDK alleged that UNTAC had failed to ensure the withdrawal of all foreign forces from the country, claim based upon the view that all ethnic Vietnamese in Cambodia represented "foreign forces" – a definition that UNTAC rejected.

[11] Disastrous defeats of government forces in military actions in 1994 suggested that size did not confer advantage on the battlefield.

network. From that time, the RCAF has operated as a fount of CPP power in rural Cambodia, and this offers a further reason for continued reluctance on the part of the CPP-dominated government to downsize.

Rationalisation of the military remains politically difficult for leaders in Phnom Penh because it would alienate generals who, since 1989, have developed extensive business interests based upon control of lucrative resources or transportation routes. Concern to retain or attract the support of military generals has constituted the single most important driving factor of Cambodian politics outside of electoral politics, since 1994. Competition over military allegiances continues to be evident between factions within the CPP, and the opposition Sam Rainsy Party has targeted middle ranking military officers in its own recruitment strategies. Demonstrable military support is not only the trump card to be played in bargaining over the formation of coalition governments and in the conduct of intra-coalition, or government-opposition relations, but is also an electoral issue. One recent survey showed that 24 per cent of the population base their voting decision primarily on concerns to keep the peace, indicating that not merely politicians but also voters seek to propitiate the military to prevent a return to warfare (Asia Foundation, 2003, 49).

Because support of the military remains critical to civilian politics, the Phnom Penh government has continually ploughed resources into the military. Defence expenditures reached 50 per cent of the government's total budget in the mid-1990s, and regularly ate into allocations for basic services such as education and health. Total government expenditure on education, health, rural development and agriculture only exceeded expenditure on defence and security for the first time in 2002, four years after the war ended, despite dire needs in the service sectors, and the identification of rural development, as early as 1995, as "the Royal Government's ultimate objective" (RGC 1994, 26).   In short, the threat perceptions of politicians required to share power in the aftermath of civil war have prompted political strategies in which the support of various sections of the military loom large as resources of power. This has produced a military that devours international aid and dominates important sectors of the economy – particularly the natural resources sector – and which increasingly appears as the tail that wags the dog.

Initially justified by CPP concerns that the peace process would unleash chaos and renewed "genocide" by the "Khmer Rouge," the process by which the military were allowed to accumulate significant economic interests and networks of entrepreneurship has created a situation in which reform is doubly difficult. The military controls many of the most profitable natural resource industries in the country, and acts as a welfare machine for thousands of soldiers. Thus it wields economic and electoral power, beyond its capacity for violence. These power resources are presently mobilised in support of the CPP (Hendrickson, 2001). A World Bank-funded project to assist with demobilization of 30,000 troops, beginning in 2001, three years after the war ended, was suspended in 2003 after reports that demobilization allowances were being collected by "ghost" soldiers. CPP insiders had long reported privately that plans for donor-assisted demobilization were viewed within the party and the military primarily as money-making opportunities, which could add to slush funds to keep the alliance between the military and the party solid.

Militarization has skewed Cambodia's economic development particularly in rural areas.[12] In the logging industry, for example, there have been reports of the military awarding concessions illegally; hiring out personnel to guard both legal and illegal concessions, including against local villagers attempting to continue with customary use of the forest; demanding and receiving bribes in exchange for permitting the transportation or smuggling of logs; and intimidating non-governmental or governmental actors who attempt to interfere with this trade (Hughes and Conway 2003). The military have performed a similar function with respect to fishing lots and land concessions. This has a number of effects which are not conducive to "turnaround". In

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[12] Urban areas were rapidly demilitarized after the 1997 military battle, when the victorious Hun Sen ordered a crackdown on the carrying of weapons and the deployment of troops and bodyguards in urban areas.

terms of governance, it prevents the emergence of rational plans for the use of resources and entails the continued weakness of regulatory institutions of government. With regard to the business environment, it imposes costs for legal operators forced to pay bribes and it creates a climate of insecurity and illegality which discourages reputable investors from investing. Furthermore, it increases the burden on the poor with far-reaching implications for growth in the agricultural sector, and, consequently, human development, as it impedes domestic investment in small-scale enterprise and in improving the productivity of family farms.

Similar dynamics are evident in the civilian state apparatus. This has also been used by the CPP as a power base, and corruption has flourished as a result of political imperatives to protect public servants and cement their political loyalty. The central civil service suffers from similar problems as the military. Numerically, it is bloated, as contending parties resist the downsizing of their own supporters. In terms of efficiency, it functions extremely poorly, primarily because the level of remuneration is insufficient to support an individual or family. Many civil servants remain on the payroll only to benefit from "insider status" and connections, but have stopped going to work in order to pursue secondary occupations in the private sector. Others depend upon the abuse of their position for rent-seeking to generate income. This has not merely reduced the efficiency of the civil service, but has actually transformed civil servants into obstacles to economic activity, to be assuaged with a flow of gifts and bribes. Wealthy cliques and networks of corruption have emerged within the bureaucracy, as within the military – a development which furthers the potential for political factionalism within the civil service as state officials look to political leaders to protect their various scams.

That the government has actively supported this mode of development is evident from a number of policy failures in the 1990s. For example, a notorious article in the new Civil Servants Law produced in line with the requirements of the 1993 Constitution effectively institutionalized impunity for corrupt or abusive actions on the part of state and military officials, by determining that courts wishing to try such officials must gain the permission of the accused's superior before issuing a summons or making an arrest. Although subsequently repealed in 1998, this article reflected an apparent intention in the 1990s to strengthen the executive at the expense of other arms of government.

Equally, attempts to professionalise the civil service or the judiciary by, for example, raising salaries and reducing the need for bribe-taking, have been continually avoided. Donor-led rationalisation plans have been accepted in principle but resisted in practice, as have plans for legal and judicial reform that could transform the courts from corrupt and inaccessible tools of the government into a meaningful arena for review. Meanwhile, the number of explicitly political posts and sinecures in the government and state have mushroomed, both through the award of hundreds of paid positions of "prime ministerial advisor," the creation of an appointed Senate in 1998, and the expansion of the number of cabinet posts from 80 to 207 in 2004.

Lack of professionalism in the civil service, emerging from this situation, has implications for the government's performance in macro-economic policy. On the one hand the Royal Government has been praised for the "tight budgetary discipline" that has underwritten a stable exchange rate and low inflation throughout the past decade. However, such budgetary discipline is possible because of the non-functioning of the civil service and military as arms of the state, and the transformation of them into networks of entrepreneurial interest instead. The loyalty of state and military functionaries is attracted through the provisions of goods that do not appear in the national budget, reducing pressure to raise salaries. Budgetary discipline in a climate of severe dearth also shows the disempowerment of the service ministries – indeed, the lack of any constituencies within the state or society capable of demanding resources from the government. The result is poor health and education services and the continued levying of informal fees on patients and parents. This has far-reaching effects on human development and on the rural economy –the single most common cause of landlessness is the sale of land to pay the high costs of accessing healthcare (Williams, 1999).

At the same time, other elements of macro-economic policy – notably, the attempt to increase revenue flows – have enjoyed only limited success. Schemes to release revenue through regulated exploitation of forest resources were instituted in the mid-1990s, but have been dogged by the tendency to illegality and corruption. Efforts to promote tighter customs regimes and tax collection have enjoyed very limited success - despite pressure from donors, government revenue only managed an increase of 1.7 per cent of GDP between 1999 and 2004, rising from 10.2 percent to 11.9 percent (IMF, 2004).

Implications for Human Development

The implications of the above for human development are already clear. The Cambodian government has continually de-prioritised pro-poor policy in favour of policies that preserve the power of vested interests. Services such as health and education have been de-prioritised in government spending, in favour of diversion of resources to the military. The privatization of land and natural resources has occurred violently, with a lack of transparency, and with little attempt to ensure accessibility to legal process by the poor and illiterate. Ongoing militarization and the subjection of the judiciary and National Assembly to an overbearing and entrepreneurial executive has entailed that channels for the expression of grievance are few and ineffectual.

So far, the results of economic and political reform for the poor has been dispossession on a grand scale. The poor have been increasingly excluded from the customary use of fisheries and forests, and have been driven from their land. In these circumstances the ability of poor families to access healthcare and education, to invest in their own means of production, or to advance by any other means beyond bare subsistence has been extremely limited. As a result, although there have been no survey-based national poverty estimates since 1999, the balance of evidence suggests that poverty has declined only slightly, if at all, since 1993, despite more than ten years of high average growth rates.

Donor Efforts to Sponsor Turnaround

Donor efforts to sponsor turnaround can be broadly divided into two overlapping phases. The first phase, from the first meeting of the International Committee on the Reconstruction of Cambodia in 1993 to the emergence of the CPP-led government in 1998, focused upon structural adjustment for macro-economic stability, together with provision of humanitarian assistance and aid for rehabilitation via externally funded projects. The second phase, from 1998, reflected a concern by donors to tackle the structural problems outlined above, through a focus on reform of governance. Through both phases, donors have been awarded considerable prestige by the level of aid that has flowed to Cambodia (see figure 2) but this prestige has not been converted effectively into influence over the actual functioning of the state.

Donor Approaches 1993-8

Western donors entered Cambodia in the early 1990s following ten years of non-recognition and embargo of the SoC government. Deep distrust between international organizations and the SoC was evident during the United Nations peacekeeping operation and continued for much of the 1990s, arguably until it became plain to most Western diplomats in Phnom Penh that FUNCINPEC – the main political alternative to the CPP and winner of the 1993 elections – was poorly led and unviable as a political movement in the long run.

The first phase of donor engagement, until that realization struck home, has been criticized on two main grounds: lack of coordination among donors and distrust of the "existing administrative structures." During this period, a high proportion of aid was delivered in the form of substitution technical assistance, and projects were implemented via Project Implementation Units staffed by officials taken out of the state, given salary supplements, and set to work essentially for donors, resulting in a lack of national ownership, limited impact in terms of capacity, and reduced pressure on the government to put its own house in order (Mysliwiec, 2003).

To a great extent, this focus was the result of donor perceptions that were politically tinged with Cold War propaganda. For example, the presumption that the state itself "lacked capacity" ignored the experience of the previous decade, in line with the view put forward in Cold War propaganda that the PRK regime had been merely a façade for Vietnamese administration. Equally, donor reluctance to engage with the politicized state apparatus reflected the hope, in the early 1990s, that democratization would effect the task of state reform. Aside from mandating UNTAC to oversee the "existing administrative structures" during the lead-up to elections, no strategy was articulated, internationally or locally, for effecting a depoliticisation of the Cambodian state.

Electoral democracy as it has developed in Cambodia has exerted insufficient scrutiny to effect this task. Progressives in both the CPP and FUNCINPEC have been marginalized in favour of those surrounding Hun Sen and Norodom Ranariddh, respectively, who have participated zealously in the politics of slush funds, gift-giving, patronage and rent-seeking. Donors missed the opportunity to engage with the bureaucracy at an early stage in the reform process, when the old order had broken down and the nature of the new was as yet uncertain. Chances to cultivate new attitudes, promote new incentive structures, promote reformers and boost their morale and empower a new code of professional ethics were missed. By the time donors considered reform of the civil service as a first step towards the addressing structural problems in the Cambodian economy, the new networks of corruption were institutionalised along with associated attitudes, and the most enthusiastic participants in these networks had been elevated to the highest positions in both party and state, and were capable of acting as influential brakes on reform processes aimed at promoting turnaround.

At the same time, relatively little attention was paid by donors, in the early years, to ensuring the penetration of aid beyond the city. The paucity of infrastructure, continued civil war and unclear lines of authority in rural areas entailed a concentration of aid disbursement in Phnom Penh. Curtis reports that Phnom Penh, with 10 per cent of the Cambodian population, received nearly one third of total external assistance in 1994 and 37 per cent in 1995. Countrywide programmes or activities supported through donor assistance – to a considerable extent staffed and managed from the capital – accounted for 53 per cent of total disbursements in 1994 and only 47 per cent of total disbursements in 1995 (Curtis, 82-3). Over the whole five years of the Royal Cambodian Government's First Socio-Economic Development Plan, from 1996-2000, allocation of public investment expenditures was highly unequal: 65 per cent went to projects in urban areas, as opposed to 35 per cent to rural areas (UNDP 2001, 7). The bias towards the city reinforced top-down notions of both democratization and development prevalent amongst the Cambodian political elite. In 2004, government development planning continues to be based around the unveiling of infrastructure and school-building projects by political leaders.

Donor Approaches after 1998

After 1998, donor approaches to reform altered. The CPP victory in the July 1998 elections prompted donors to reassess and to focus on structural reform. Capitalising on the CPP's concern to win international recognition of its 1998 election victory, donors increased the frequency of Consultative Group meetings, and drafted a Governance Action Plan, establishing mixed donor-government working groups to tackle key issues. The key issues identified were: legal and judicial reform; improvements in public finance; improvements in governance; anti-corruption; gender equity; demobilization; and natural resource management. The GAP produced detailed action plans in all these areas, with priorities and evaluatory benchmarks specified. However, in 2004, there has been limited progress towards achieving the goals set out in the Plan (IMF, 2004).

There are a number of reasons for this. In certain areas, for example legal and judicial reform, there is a lack of political will on the part of government to take serious measures to tackle the problems: a member of the Legal and Judicial Reform Working Group in early 2003 privately

described the Group as "dysfunctional". Continued intervention by the executive in the workings of the judiciary has been evident in 2003 and 2004, including the arbitrary suspension of a judge who failed to toe the party line with respect to the killing of a prominent union leader. Progress on public administration reform has been slow: the functional review of the civil service has run into repeated problems. Demobilisation has been suspended; and in early 2003, the internationally respected official government forestry watchdog, Global Witness, was sacked by the government and replaced by a new agency, widely viewed as insufficiently assertive.

The one area that has seen real progress has been decentralization, following the commune elections of 2002. In part, decentralization can be seen as part of a strategy to promote CPP power. For example, the model of commune administration selected – multi-member councils comprising political party representatives elected on the basis of proportional representation and party lists – renders councilors accountable primarily to their party rather than directly to the electorate and ensures a significant political advantage to the largest parties. The commune elections were perhaps the least open of Cambodia's post-UNTAC elections, particularly with regard to access to the electronic media. Given the CPP's local strength across the territory, which far outstrips any other party, efforts to deconcentrate governmental functions and decentralize power away from the more plural political arena of Phnom Penh arguably increases the advantage of the CPP over its political rivals. However, decentralization in the form of commune elections, combined with extension of the elected Village and Commune Development Committees associated with the Seila Programme also introduced a new grassroots politics into Cambodia.[13] This is a politics of immediate needs in the sphere most relevant to subsistence livelihoods. To the extent that villagers invest in the new local politics, an opportunity for a more vital bottom-up reform process opens up.

At national level, however, progress on governance reforms has been slow. A "Rectangular Strategy" presented by the new government formed in 1994 re-iterates commitments in the GAP, but recent donor reports note by the World Bank and USAID note that progress on previous commitments is slow or absent (World Bank 2004; Calavan, Briquets and O'Brien 2004). These problems and delays reflect the underlying reality of a state and a military that have become increasingly penetrated by clientelist networks of rent-seeking and corruption. These networks, once established, are difficult to break. Having looked to extra-constitutional methods to bolster state and party power, it is now increasingly difficult for any party to move away from these, and plans for rationalization of the state and of governance remain hostage to these vested interests.

Outlook for Turnaround

In brief, donor impact on turnaround so far has been limited due to three major reasons: first, the peace process was perceived by the former combatants leading the major parties as a new opportunity to defeat their enemies, rather than a basis for an inclusive elite pact. This has entailed that politicians have continued at the same time to politicize and appease a bloated, entrepreneurial and dangerous military which operates as a barrier to structural reform of civilian politics and of important sectors of the economy.

Second, donor distrust of the state and its capacity for much of the 1990s led to a lack of substantive dialogue with government and a tendency to extract reformers and put them to work in PIUs rather than to attempt to enhance their role within the mainstream government structure. As the success of the *Seila* programme showed, in many cases levels or offices of government which lacked resources and were desperately seeking to adapt to the rapidly changing situation may have been open to substantive dialogue with donors at this early stage, but this opportunity was missed by donors who resolutely pursued non-governmental or parallel channels for

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[13] The Seila Programme was one of the few international aid programmes in the 1990s to focus on rural Cambodia, to work through the state, and to intervene directly at sub-national level, prescribing new relationships between provincial, commune and village planning processes, intended to empower the poor.

disbursing aid, and who viewed the state as monolithic in support of the interests of the centre. The *Seila* programme shows that homing in on the different incentive structures of different levels and agencies within the state can be productive in providing the resources and incentives for government officials to initiate reforms.

Third, the focusing of aid in urban areas and the lack of success in penetrating rural Cambodia, by donors, opposition political parties and even the newly established local NGOs, for much of the 1990s, prevented not only the promotion of reform among peripheral officials who gained least from central government strategies and had most impact on the lives of the poor, but also the mobilization of the rural poor themselves, in a manner that could influence trajectories of change in their favour. Consequently, few pressures have been successfully placed upon the CPP in a manner that could compel the party to alter its modus operandi, and donor initiatives have to a great extent been subverted or finessed to suit party interests.

The outlook for turnaround depends to a great extent on progress in these three areas. In the area of the donor-government relations, much progress has been made since 1999 in terms of developing more constructive relationships, establishing frameworks for consultation, and promoting national ownership of reform programmes. However, in the interconnected areas of civil-military and state-society relations, there are fewer grounds for optimism. Since 2002, government tolerance for civil society activism to promote the voice of the poor has declined, and policing of both political and entrepreneurial activities by the poor has become tougher. Although the military's share of the government budget has declined to an extent, it continues to absorb large quantities of aid and to dominate the natural resource sector, squeezing out both poor resource users and legitimate businessmen. The challenge for turnaround in Cambodia is to translate improved understanding and verbal agreement in Phnom Penh into a rolling back of militarization in the countryside, and greater tolerance and respect within government for the economic contribution that can be made by the poor.

References

Asia Foundation. 2003. *Democracy in Cambodia – 2003.* Phnom Penh: Asia Foundation.

Calavan, Michael, Sergio Briquets and Jerald O'Brien. 2004. *Cambodian Corruption Assessment.* Phnom Penh: USAID/Cambodia.

Cooper, George. 2002. "Land Policy and Conflict, the Cambodia Portion of an Eight-Country Study by the North-South Institute for the World Bank." Phnom Penh: draft ms.

Curtis, Grant. 1998. *Cambodia Reborn? The Transition to Democracy and Development.* Washington DC: Brookings Institute.

Economist Intelligence Unit. Various. "Indochina - Vietnam, Laos, Cambodia." Country Report Series. London: The Economist.

Freeman, Nick J. 2002. "Foreign Direct Investment in Cambodia, Laos and Vietnam: a Regional Overview." Paper prepared for the Conference on Foreign Direct Investment: Opportunities and Challenges for Cambodia, Laos and Vietnam. Hanoi: 16-17 August.

Frings, Viviane. 1994. "Cambodia After Decollectivization: 1989-1992." *Journal of Contemporary Asia* 24.1: 49-66.

Hendrickson, Dylan. 2001. "Cambodia's Security Sector Reforms: Limits of a Downsizing Strategy," *Conflict, Security, Development* 1.1: 67-82.

Hughes, Caroline. 2003. *The Political Economy of Cambodia's Transition, 1991-2001.* London: RoutledgeCurzon.

Hughes, Caroline and Tim Conway. 2003. *Towards Pro-Poor Political Change in Cambodia: the Policy Process.* London: ODI.

International Monetary Fund. 2004. "IMF Concludes 2004 Article IV Consultation with Cambodia." Public Information Notice, no. 04/108. 27 Sept. Accessed online at www.imf.org on 28 Sept. 2004.

Mysliwiec, Eva. 1988. *Punishing the Poor: the International Isolation of Cambodia.* Oxford: Oxfam.

ICCO Identification Mission Democratization & Peace Building in Cambodia September-October 2005

----   2003. "The Case of Cambodia." In *Dialogue in Pursuit of Development.* Jan Olsson and Lennart Wohlgemuth, eds. Stockholm: Almqvist and Wiksell International.

Peou, Sorpong. 2000. *Intervention and Change in Cambodia, Towards Democracy?* New York: St Martin's Press.

Royal Government of Cambodia. 1994. *Implementing the National Plan to Rehabilitate and Develop Cambodia.* Phnom Penh: Royal Government of Cambodia.

Shawcross, William. 1994. *Cambodia's New Deal.* Contemporary Issues Paper no. 1. Washington DC: Carnegie Endowment for International Peace.

Snitwongse, Kusuma. 2001. "Thai Foreign Policy in the Global Age: Principle or Profit?" *Contemporary South East Asia* 23.2: 189-212.

Solarz, Stephen. 1990. "Cambodia and the International Community." *Foreign Affairs* 69.2: 99-115.

Thion, Serge. 1993. *Watching Cambodia.* Bangkok: White Lotus.

Thun Saray. 2003. Personal Interview. Phnom Penh.

United Nations Development Programme. 2001. *Partnership for Local Governance (UN-Donor Support to Seila Programme).* Project Document. Phnom Penh: UNDP.

----   2004. *Human Development Report, 2004: Cultural Liberty in Today's Diverse World.* New York: UNDP.

Williams, Shaun. 1999. "Where Has All the Land Gone?" Cambodia Land Study Project, Vol. 2. Phnom Penh: Oxfam (GB).

World Bank. 2004a. *Cambodia at the Crossroads: Strengthening Accountability to Reduce Poverty.* Phnom Penh: World Bank and IMF.

---   2004b. *Cambodia Seizing the Global Opportunity: Investment Climate Assessment and Reform Strategy for Cambodia.* Phnom Penh: World Bank.

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Annex 9:
Summary of the DFID/WB Study on Options for Increasing social accountability in Cambodia (Adam Burke & Nil Vanna, Feb 2004)

The objective of the report is to identify and assess opportunities to strengthen accountability by enhancing bottom-up or external mechanisms of accountability through civil society groups, the media, and parliament, among others.

This short summary describes the Key Issues/Areas of Work as identified by the report. An ICCO relevant selection of these issues/areas of work are illustrated by the consultants' assessment.

1. Bridges between civil society and government
    1.1 Political parties

    1.2 Parliament

    1.3 Working directly with national government bodies (e.g. National Audit Authority, The Anti-corruption Council, etc.)

    1.4 Local government
This is a major field in Cambodia, especially given the recent establishment of elected commune councils, and a decentralized system of planning, budgeting and management of development projects, under the SEILA program.

    1.5 Legal/justice frameworks
Some early successes in the Arbitration Council[14] suggest that structures which are outside the main justice system, especially with internal checks and balances (e.g. union and business involvement as well as government) may have more success.

    1.6 Budgets and planning

2. Accountability at the grassroots
    2.1 Grassroots and social movements
Involvement in this field should be through international NGOs, national or large provincial NGOs, or through intermediaries as described in the following sections. Care should be taken to avoid a disconnect between international English-speaking NGO elite, and other bodies that frame their approach in local terms. Also funding to grassroots bodies or movements should use specialists with local knowledge and ensure that it doesn't 'flood' small groups with support. Stress can be placed on supporting linkages between bodies. Large sectoral or area-based donor projects can promote entry-points form these bodies, putting effort and funds into work out how best to operate at the grassroots in order to build local level capacities and structures.

    2.2. Methods for building accountability – linking it up
Future efforts in this field can work with bodies to encourage chains of organizations at different levels. This gives a rooted and justified base to higher-level advocacy, and strengthens networks as well as the grassroots at the same time.

3. Intermediaries – above the grassroots
    3.1 Media and information

    3.2 Think tanks and universities

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[14] RH: The success of the AC is also due to external pressure (Ending of tariff agreement, buyers)

3.3 Human Rights groups

Some larger NGOs including Adhoc and Licadho have rural networks that promote and support rights-based issues or fight serious legal infringements by government. It is not clear that they are in need of further funds given other sources. More support could help some of these bodies, but a lot is going on already.

3.4 NGO Networks and policies

3.5 Labour and business

There are various options here, most of which will best be approached through international NGO or other intermediaries, including ILO. However, there is a lot already under way. It may be possible to promote union involvement in formal or semi-formal sectors not currently covered: this is sensitive and difficult work and should be approached carefully, with appropriate technical support. Other bodies include farmers' or other networks, and small or medium enterprise associations.

4. Sectoral involvement

Various informants commented that a sectoral approach should be followed. It is seen as an area of comparative advantage for technocratic donors whose inputs are usually sectorally oriented and as a way of reducing ambitions to a realistic goal that is not overly threatening to vested interests at the most senior levels. it may also allow for both top-down donor engagement to supprt more bottom-up civil society involvement. Sectors also operate as a different channel to reach local levels… Much grassroots empowerment is achieved through longer-term development that prioritizes inclusion. This includes education and rural transport. One recent study found that grassroots engagement in political processes had been enabled more by fairly conventional road-building and broad-based rural development programs than it had by NGO community-based work or other more focused methods[15].

4.1 Forestry

4.2 Natural resources, land use, resettlement

4.3 Health

4.4 Education

5. Donors: improving donor actions

5.1 Improving donor behavior

Respondents commonly stated that donors could start off by improving their own acts. Donors are relatively powerful – much more so than civil society bodies. Although future accountability will rest with Cambodian institutions, donors do have a 'bridging' role given their far greater access to government.

5.2 Common donor/civil society structures

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[15] **The reference is to a Vietnam study but the same observation has been made for Cambodia by e.g John Vijghen.**

Annex 10:
Annotated Situation Analysis extracted from:
Supporting Access to Justice in Cambodia - Mapping of the support provided by government institutions and programmes, donor agencies and civil society organisations with a view to identifying options for further Danida support (July 2005)

To increase people's access to justice[16] in countries with weak systems for law enforcement not only entails improving legal service delivery (the supply of justice), but also securing people's economic, social and political rights (the demand for justice).

There is access to justice when:
• The legislative, executive and judicial powers are divided
• There is a sufficient legal framework for dealing with people's needs
• Legal institutions have the necessary capacity to enforce laws in a just and fair manner and their roles and mandates are clear
• Legal services are delivered in an efficient, accountable and transparent way, which will maintain public confidence in the legal and judicial system
• People are aware of what rights they have and how to gain legal access

1. Problem Analysis
The obstacles to improving access to justice in Cambodia are the following:
• Institutionalised corruption within government and in society at large
• Centralised decision-making and poor quality of public service delivery
• Decision-making behind closed doors
• A malfunctioning legal and judicial system
• Human rights violations and a culture of impunity
• Media freedom under threat
• Conflicts over access to natural resources
• Unfriendly business environment

These obstacles are merely symptoms of underlying problems in the Cambodian context, which are the following:
• Lack of transparency and accountability
• Lack of rule of law
• Lack of participation
• Lack of responsiveness, equity and inclusiveness
• Weak merit-based system and low pay structure within public administration
• Lack of education and knowledge
• The legacy of many years of authoritarian rule and internal warfare

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[16] "Social justice" is a term that is sometimes used instead of "access to justice". Social justice is understood as the attainment of people's economic, social and cultural rights. This includes the right to an adequate standard of living, including food, clothing and housing, the right to physical and mental health, social security, a healthy environment, education and the right to take part in cultural life and to enjoy the benefits of scientific progress. The International Covenant on Economic, Social and Cultural Rights signed by the UN member states in 1966 confirmed these rights. Economic, social and cultural rights are deeply intertwined with civil and political rights such as the right to freedom of speech and assembly, a fair trial and due process before the law (confirmed in the International Covenant on Civil and Political Rights from 1976). To attain social justice, it is required that governments and other powerful actors ensure that people have access to basic needs, and that people have a voice in decisions affecting their well-being. Poverty and injustice are neither inevitable nor natural, but arise from deliberate decisions and policies, and the human rights legal framework provides a way to hold public officials accountable for development policies and priorities. Governments sign human rights treaties, and it is their duty to enforce them. In this survey, people's "economic, social and political rights" will acquire a relatively broad meaning as their access to land and other natural resources, their rights to form associations and the right to participate in and influence the decisions that govern their livelihoods.

The challenge of improving access to justice in Cambodia is to ameliorate the effects of the problems highlighted above, and can be summarised as follows:

- The rural poor suffer disproportionately from institutionalised corruption and the resultant deterioration in the quality of public service delivery as they have the lowest incomes and therefore the greatest needs for good and affordable public services
- The channels for airing public grievances in rural Cambodia are extremely limited due to the hierarchical structure of Cambodian government and the absence of a strong rural civil society
- Human rights violations committed by the police and the military and endemic corruption within the legal and judicial system contributes to the lack of rule of law and people's feelings of insecurity in rural Cambodia
- Conflicts over access to natural resources and the resultant insecurity with regard to tenure and user rights threatens rural livelihoods and stifles economic growth as farmers cannot use their land to obtain credit
- Due to ignorance and poor education, rural Cambodians are not likely to fully understand the multi-faceted causes of their own problems and how to respond to these and are also ill-equipped to take advantage of the opportunities that the introduction of market economics has brought to the Cambodian people at large
- This is exacerbated by their lack of information, as the little news they get tends to come from the largely government-controlled broadcast media, and impediments to business development such as corruption and bureaucratic red tape and lack of credit facilities, rural infrastructure and markets for their agricultural produce
- The mistrust and high level of fear in Cambodian society in general and rural Cambodians' search for personal security and preoccupation with survival, makes it difficult for civil society organisations to activate people and develop a civil counterweight to state power
- Lack of development in some former Khmer Rouge-controlled parts of the country and lack of reconciliation between those and mainstream Cambodian society could threaten peace and stability

2. Mapping the current support to access to justice in Cambodia

2.1 Supporting the supply of justice

Legal and judicial reform
Since 1993, the lawmaking process in Cambodia has faced three main challenges. They are the absence of a coherent legislative reform programme, limited capacity to manage and implement the legislative reform agenda and the absence of a coordination mechanism in the lawmaking process. Continued political instability in the 1990's stalled legal and judicial reform, although France and Japan did help the RGC in drafting a number of draft laws[17]. But the RGC drafted a strategy for legal and judicial reform in 2002 with technical assistance from DIHR, which the Council of Ministers formally adopted in 2003. Its seven strategic objectives are:

- Improvement of the protection of fundamental rights and freedoms
- Modernisation of the legislative framework
- Provision of better access to legal and judicial information

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[17] There are two notable exceptions to the slowness with which legal and judicial reform has been progressing. They are the drafting of a Land Law and enforcement of the Labour Law. The former provides a good legal framework for land management in Cambodia, as it was drafted after a lengthy, but inclusive, consultation process with the participation of all stakeholders. The successful outcome of the process highlights the need for broad consultation in lawmaking. The latter also provides a sound legal framework, but was pushed through mainly as a result of the quota system on the US market for textiles, which awarded those countries that complied with international labour standards.

RH: Some would also include the Law on Domestic Violence in this category of positive exceptions

- Enhancement of the quality of legal processes and related services
- Strengthening of judicial services
- Introduction of alternative dispute resolution mechanisms
- Strengthening of legal and judicial sector institutions to fulfill their mandates

(RGC, June 2002)

The legal and judicial reform process has moved very slowly despite this support. It suffered a further setback due to the political deadlock between the general elections in 2003 and the formation of a new government last year. However, with the formation of a new government in July 2004 and the RGC's recently expressed commitment towards legal and judicial reform (i.e. eradicating corruption), it seems that the conditions for accelerating the reform process are now in place. Having adopted new benchmarks for 2005 at the CG meeting held in December 2004, the RGC has committed itself to promulgate eight laws, of which three are rolled over from the last CG meeting held in 2002, as a matter of urgency. The formation of 18 Donor-Government Technical Working Groups (TWGs) of which one of them deals with Legal and Judicial Reform has furthermore strengthened considerably the dialogue between the RGC and the international donor community at policy-level.

The international donor community and civil society organisations in Cambodia regard the adoption of an Anti-Corruption Law and a Freedom of Information Law (see later subsections for details) as well as the strengthening of the Supreme Council of the Magistracy (SCM), which has a mandate to appoint, promote and discipline judges and prosecutors, as main priorities within the area of legal and judicial reform this year. An Anti-Corruption Law is currently being drafted and will be sent to the Council of Ministers and the National Assembly for approval later this year, but a Freedom of Information Law is not being discussed at ministerial level yet and no steps have been taken to strengthen the SCM.

The ability of the legal and judicial system in Cambodia to provide legal services and administer justice fairly still leaves a lot to be desired. People's access to justice through the formal legal sector is constrained by the lack of courts, "petty" corruption and not least people's own perceptions that achieving justice will be expensive and that it is, therefore, unachievable. For most rural people, the provincial court is simply "too far away" in more than one respect. This explains the widespread use of alternative dispute resolution mechanisms in rural Cambodia. In court cases involving high-ranking figures in the political and military establishment and cases involving the killings of opposition politicians, journalists and prominent figures from civil society, it is still widely suspected that judges are under pressure from the authorities.

There is a dire need in the formal legal sector for the development of codes of ethics for judges, prosecutors and court officials in order to improve the administration of justice and the supply of legal services as well as promote accountability within the legal and judicial system. They should be developed in consultation with those civil servants, whose behavior they are supposed to regulate, in order to improve work morale *and* subsequently be disclosed in public. They should emphasise the legal enforcement of human rights claims, the role of institutions in respecting standards and the positive duties of the prosecutors, courts and others to protect the rights of victims, prisoners and the general public. Surveys on patterns and practices in law enforcement, the perceptions of the police, judges and court officials of their roles and responsibilities and confidence in their work and level of confidence among people in the legal and judicial system should form an important part of the development of such codes of ethics.

Now more than ever seems to be an opportune time for this in the light of Prime Minister Hun Sen's recently expressed commitment to clamping down on corruption and other irregularities within the legal and judicial system. Moreover, it is fair to assume that many judges would see the introduction of codes of ethics as a form of protection against interference from the executive branch of government in their work.

DIHR has supported the Council for Legal and Judicial Reform (CLJR) since its establishment in 2002 to coordinate the reform process. As part of a bigger support programme, a legal adviser from DIHR is currently assisting the CLJR in implementing its short- and medium-term action plan, which the Council of Ministers recently adopted. The action plan includes, *inter alia*, strengthening legal institutions such as the SCM and the CBA, strengthening court administration, developing codes of ethics for judges, prosecutors and other judicial staff and improving existing laws and training curricula for judicial personnel, police, prison officers and other civil servants.

In order to move the reform process forward, DIHR plans to support the CLJR in organising a number of seminars later this year to define principles for the independence of the judiciary, court administration, case management, access to information etc. The intention is that these defining principles should serve as a set of "best practices" for administering justice in the court system. Model criminal, civil and commercial courts will be established which will follow these principles. Having closely monitored how these courts do this in accordance with international standards and consulted civil society in the process, the model courts will then be scaled-up to the national level. In doing so, the CLJR will draw on the lessons from the Cambodia Criminal Justice Assistance Project implemented by the Australian governmental aid agency AusAID, which also focus on creating linkages between reforms at national and lower levels of the judiciary.

Its first phase from 1997-2002 targeted improved adherence to international human rights standards for those administering Cambodia's criminal justice system such as the police, the prisons and the courts in five provinces. The project's current phase seeks to improve the justice system's practices in dealing with victims of crime, juvenile offenders and crime prevention with a particular focus on empowering and engaging groups at the community level. The project will cooperate at national level with the Judicial Police Department of the Cambodia National Police and the Prisons Department and at provincial level with the Office of the Governor of Kandal Province. At the pilot project focus area of Kandal Province, a Crime Prevention and Community Safety Committee has been established, which has undertaken community surveys of all districts to gauge the nature and extent of crime and community safety issues.

The Royal School for Judges and Prosecutors (RSJP) was established in 2003 with assistance from France both financially and in designing the curriculum. A French judge and lawyer has an office at the school. Five students have also been sent to France for internships. JICA also maintains an office at the RSJP and has provided training on the civil code. AusAID has also provided substantial assistance, including sending two students to Australia for internships, and recently conducted a workshop on the curriculum and an assessment of the school. The first intake of students will graduate this year.

Together with the Canadian International Development Agency (CIDA), the UNDP is providing support to the National Assembly and the Senate in order to enhance the capacity of parliamentarians to draft and review legislation.

The UNDP has just completed a study on how alternative dispute resolution mechanisms could complement legal services in the formal legal sector. Such mechanisms could not only increase people's access to justice, but also relieve some of the pressure on the formal legal sector. Furthermore, the Center for Advanced Study in Phnom Penh (with funding from The Asia Foundation) has conducted a survey covering 310 villages in 310 communes in all 24 provinces of Cambodia on the role of commune councils in conflict resolution. Its main findings were presented recently at a workshop in Phnom Penh. In the survey, conflicts involving youth gangs emerged as the dominant concern for villagers, which is a problem that village chiefs and commune councils do not know how to handle. On the other hand, the survey showed that a majority of commune residents are generally in favour of the way that commune councils perform their tasks.

Also, the World Bank plans to carry out analytical work that will inform the Cambodian dialogue on issues of access to justice for the poor[18]. Its aim will be to investigate into, build upon and strengthen alternative methods of dispute resolution. During the course of this work, it is the intention of the World Bank to offer grants to CNGOs and others for pilot projects in order to identify micro-level initiatives to scale up. The outcome of this project (with a tentative timeframe of two years) will be a strategic framework for provision of legal aid to the poor, which the RGC will implement.

A working group within the Ministry of Justice is currently working on how to establish Justice Resource Centers at district level, which would combine outreach justice services to the poor with support to legal awareness-raising and conflict resolution at local level. Initially, the Ministry plans to request the UNDP for funding for this initiative.

Several international and local NGOs are providing support to the formal legal sector in Cambodia today. The international NGO the Open Society Justice Initiative (OSJI) is currently developing curriculums and teaching law students at Pannasastra University in Phnom Penh under its legal education programme. The international NGO East-West Management Institute (EWMI) is also teaching law students as well as carrying out a Public Interest Litigation Project at the US-funded Community Legal Education Center (CLEC), which aims at training Cambodian lawyers in handling high-profile cases such as land conflicts involving the authorities and private companies. EWMI in cooperation with USAID, which is its main donor, plans to work closer together with the Cambodian authorities in the future, as the US Congress recently lifted restrictions for USAID and its American partners in the field of rule of law. This will encompass improving the capacity of new and sitting judges through training, which will include training on a code of ethics for judges and the Anti-Corruption Law (when it has been enacted), providing greater legal representation to criminal defendants, in particular in rural areas of the country, and establishing Citizen Outreach Centers in the provinces to address the problem of lack of access to justice.

An essential part of EWMI's strategy to improve the legal and judicial system in Cambodia is to improve the way that the RSJP is run. It is badly managed, entrance exams are marred by corruption, which is a critical aspect as all new judges and prosecutors graduate from this school, and it receives very little funding from the government.

The Ministry of National Assembly, Senate Relations and Inspections (MoNASRI) currently gets assistance from the international NGO PACT (partly funded by Danida) to draft an Anti-Corruption Law. A number of local Human Rights & Democracy NGOs are also providing input to the drafting of this law as well as to other laws such as a Freedom of Information Law and a Law on Demonstrations. In addition, CSD plans to continue its Court Watch Project and has submitted a proposal to donors.

In building up a properly functioning legal and judicial system in Cambodia, there is also a need for learning from experiences from other countries in the region, which are currently in a transition phase from authoritarian rule to democracy, and from Western countries with a long tradition of rule of law. As an example, the Danish NGO DanChurchAid funded an exposure visit to the Philippines with the participation of government officials and representatives of Cambodian NGOs with the purpose of studying the Barangay (local court) system.

Alternative dispute resolution[19]
Formal and informal justice mechanisms exist side by side in most developing countries including Cambodia. Considering the lack of access to justice in rural Cambodia and that it will take a long

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[18] **RH: This work has started**

[19] **RH: Apart from the activities described by BfD, there are two other NGOs with a specific ADR at local level program, i.e. not tied into broader community development work – but of a much smaller scope than BfD: CLEC (Kampong Thom) and Khmer Ahimsa (Koh Kong).**

time before the formal legal sector is able to meet the demands for justice, it is not a question of either or, but of both. In the short- to medium-term, it therefore makes sense to investigate whether there is a need for strengthening alternative dispute resolution[20].

Contrary to CNGOs offering legal advice and financial assistance to the poor in order to improve their access to the formal legal sector, there are a few CNGOs in Cambodia encouraging people in rural areas to solve their conflicts themselves by giving them advice on conflict resolution. One such CNGO is Buddhism for Development (BFD), which is operating at local level in remote and relatively undeveloped parts of the country in the provinces of Oddar Meanchey and Banteay Meanchey. Conflicts are prevalent in these areas due to resettlement of war refugees in former Khmer Rouge strongholds, lack of social services and economic opportunities, proliferation of landmines and the heavy presence of government soldiers. The American NGO East-West Management Institute (EWMI) is the main donor of BFD. BFD plans to expand its programme to the eastern parts of Oddar Meanchey Province and into Preah Vihear Province if more funds are secured.

BFD raises awareness among villagers of the concept of human rights and democracy, trains local people in the skills of conflict resolution/mediation, so-called Peace and Development Volunteers (PDV's), assists commune councils in setting up committees to prevent human rights violations as well as encourage local people to form groups to monitor the human rights situation. This is combined with support to activities such as the establishment of rice banks and water ponds in order to improve socio-economic conditions in the target areas[21]. A group of monks established BFD in 1990 in Site 2, which at the time was the largest refugee camp at the Thai-Cambodian border. Since then, BFD has spread its message through monks as well as through the PDV's many of whom no longer receive support from BFD but manage to spread its philosophy by way of the Training of Trainers (ToT) concept[22].

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[20] The UNDP's study on the interfaces between the formal and informal justice systems that reviewed alternative dispute resolution mechanisms in eight provinces was completed in June 2005. On the basis of the sample surveys, it showed that commune councils are asked to address over 40,000 disputes annually, whereas the courts see only around 12,000 civil and criminal cases per year. However, the study also showed that the commune councils cannot solve disputes involving powerful economic and political interests as they have no judicial power to decide or settle these disputes (UNDP, July 2005).

[21] BFD's programme at village level has three phases. In the preparatory phase, BFD first conducts data gathering to determine the population and the villages with the highest number of widows or female-headed households (which are the most vulnerable) and the highest incidence of conflicts and disputes. Then, BFD selects the target villages, seeks permission from the district authorities, commune councils and village chiefs to begin its work and conducts house-to-house visits to explain the programme to the people. In the recruitment and training phase, BFD calls for a commune meeting to elect the PDV for each village and train them for five days. The training covers topics such as their general responsibilities, human rights concepts and principles, gender issues, the rule of law, the land law and court procedures, conflict mediation and management as well as media skills. Staff from local branches of ADHOC and LICADHO and the provincial departments of the Ministry of Women's and Veteran's Affairs, judges from the provincial courts and newspaper journalists are recruited for these purposes. After the training, the PDV's go back to the villages and raise awareness of human rights and conflict resolution. BFD follows up their work on a regular basis. The same procedure is followed to form and organise committees to prevent human rights violations, except that this time the group is formed at commune level and its authority is directly under the commune council. The watchdog groups also receive training for five days, but their work is limited to providing information on human rights abuses committed by state agents, that is, government officials, local authorities, the police and the military. Their work is directly under the supervision of BFD and with close collaboration with the media for proper action.
[22] BFD's approach is not unlike that adopted by the CNGO Santi Sena in three provinces in the eastern part of Cambodia. Santi Sena has succeeded in spreading its message of environmental conservation through monks, which are highly respected in Cambodian society. In an interview conducted in 2001, the director of Santi Sena, who is a Buddhist monk, told the Consultant how he uses a unique, so-called "pagoda-system" to raise awareness of the need for reforestation in the provinces of Svay Rieng, Prey Veng and Kratie, which are suffering from widespread deforestation. He teaches his colleagues, who then teach their colleagues at other temples in the province and so on. These efforts has resulted in the planting of 280 hectares of forest in Svay Rieng Province alone, which represents an increase in the forested areas of the province of more than 50 per cent (Engquist, 2001).

Anti-corruption[23]
The fight against corruption is regarded as a priority issue in the efforts to reduce poverty in Cambodia. The RGC's Rectangular Strategy will commit to "concrete actions that attack the roots of corruption" and Prime Minister Hun Sen declared a "war on corruption" right after the CG meeting in December 2004. USAID and the World Bank last year released reports with the main conclusions being that corruption in Cambodia has almost reached epidemic proportions with resultant serious adverse effects on people's livelihoods, economic growth and the RGC's reform agenda. Reflecting its stated commitment, the RGC has pledged that an Anti-Corruption Law will be adopted before the next CG meeting in December this year. On their part, the international donor community and civil society organisations are currently providing guidance and coming up with suggestions and changes to the draft law.

The first draft of an anti-corruption law was approved in 1994, but it was never passed. A new draft law was put forward in 2001, but the Council of Ministers revised it to remove certain asset disclosure requirements for elected officials, remove certain powers of the anti-corruption body and increase the opportunity for political parties to control nominations to that body. In 2002, Prime Minister Hun Sen promised donors that a law on anti-corruption would be passed within a year, but it was not. It was presented to the National Assembly in June 2003 but was not adopted due to the political stalemate that followed the national elections a month later.

The international NGO PACT is currently assisting the MoNASRI in redrafting the law on anti-corruption[24]. The PACT adviser shall consult with stakeholders to get feedback for the draft law to ensure that it meets international best practices and corresponds to indicators laid out in the CG benchmarks for 2005. An informal donor working group with representatives of multi- and bilateral donor agencies and chaired by the UNDP was established with this aim in mind. It meets on a monthly basis and is to be considered as a forum for candid discussions among donors, which is not possible in the TWGs due to the presence of representatives from the government. The TWG on Legal and Judicial Reform has also established a sub-group on anti-corruption.

The PACT adviser has received commentary from Bertrand de Speville, the former Commissioner of the Hong Kong Independent Anti-Corruption Body, the IMF Headquarters in Washington D.C. and UNODC Headquarters in Vienna, and he has worked with the Ministry to incorporate this into the draft. Priority areas for the draft law include:

• Independence of the anti-corruption body with clear executive authority
• Comprehensive penalties for public/private corruption
• System for prosecuting unjust enrichment tied to asset disclosure
• System to prevent conflicts of interest
• Penalties for failure to disclose information or interfere with investigations
• Whistleblower protections
• Open and consultative process
(Presentation at the UNDP Head Office in Phnom Penh on 15 February 2005)

The MoNASRI is currently working on the final draft, which PACT's advisor will review and pass on to other international experts for their comments. The MoNASRI plans to hold a public consultation in July to give all stakeholders an opportunity to determine whether the Law complies

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[23] **A lot of text is devoted to PACT activities. This is because PACT is and is going to remain a DANIDA grantee for anti-corruption work. That UNDP is currently developing a multi-donor anti-corruption initiative that is going to operate as an umbrella across most of what is described here is not made explicit.**
[24] PACT's assistance to the MoNASRI is part of a part of its Anti-Corruption Coordinated Action Program, which Danida and USAID are funding. The programme has two entry points: Increasing the costs of corruption to public officials and decreasing state resources through corrupt acts. This includes the following objectives: Assist donor and stakeholder working groups on anti-corruption; information dissemination on anti-corruption; assessing the government's capacity to investigate corruption; developing the capacity of civil society to work on anti-corruption issues; training journalists on investigating and reporting corruption; increasing awareness among business associations of the main corruption obstacles to sector growth and developing their capacity to overcome these, and contributing to passing anti-corruption legislation and a Freedom of Information Law.

with the CG benchmarks or not. In order to prepare civil society for this consultation, PACT has held regular meetings with representatives of civil society organisations to raise their awareness of international standards. If the international experts do *not* approve the final draft, the MoNASRI will get an opportunity to revise it up to international standards before the public consultation commences. It will then be sent to the Council of Ministers in August and, finally, to the National Assembly in September for adoption before the next CG meeting scheduled for December 2005[25].

The UNDP plans to disseminate questionnaires to 3000 members of the public to get their views on the law on anti-corruption. This will be in addition to input from the private sector, the Cambodian Bar Association and other professional associations as well as from provincial governors, members of the National Assembly and civil society that the UNDP plans to collect.

The question of how the Supreme National Council on Anti-Corruption (SNC), the independent anti-corruption body with executive authority, will be structured and how its members will be selected are major sticking points at this stage in the process. The latter is a crucial issue as this is ultimately a political decision. The SNC's investigation authority will be based on the regular court system, which is regarded as corrupt. It is not clear if the Anti-Corruption Law will allow the SNC's Secretary General access to bank accounts held by suspects and whether it will afford whistleblowers the necessary protection. Furthermore, the seven members of the SNC will be chosen by different government institutions that are seen as controlled by the ruling Cambodian People's Party and there is the serious question of whether it will be possible at all to find a person that is competent *as well as* independent to be appointed as Secretary General. Lastly, it should be mentioned that the criminalisation aspects of the Law will be based on the Criminal Penal Code, which has not yet been passed (a benchmark rolled over from 2002).

Another major sticking point is what should happen if the final draft is found not to comply with international standards. Who will then decide to stop the process? There is a risk that a law will be passed, which is so general that it needs sub-decrees to be enforced (which will take more years to pass)[26]. The consultative drafting process is unprecedented in Cambodia in that two representatives of civil society have actively participated together with officials from the MoNASRI and it is the hope that this process can be replicated in the future when it comes to the drafting of other laws.

There are currently four government bodies with anti-corruption powers. They are the anti-corruption unit within the Council of Ministers, the MoNASRI, the National Audit Authority (NAA) and the RGC's Human Rights Commission. Also, existing Cambodian law already incorporates ways to combat corruption. It is possible to prosecute offenders for "corruption and bribery" and "embezzlement by public officials", but not a single case of corruption or embezzlement has ever been prosecuted before a court in Phnom Penh. Furthermore, Cambodia has yet to sign the UN Convention against Corruption.

PACT has already completed an assessment of the NAA and a report will be released in August. The Consultant has been informed that according to the assessment the NAA is in dire need of capacity development and financial resources and that its performance falls well below international standards[27]. PACT also intends to conduct assessments of other government bodies

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[25] MoNASRI submitted the Khmer draft of the Law to PACT on 17 June. It does not comply with international standards as it 1) does not set up a board to monitor the SNC, 2) does not include whistleblower protection, 3) exempts gifts of falling under the Law if they are given "inaccordance with customs and tradition", 4) leaves out procedures to sub-decrees passed at a later stage, 5) does not prescribe annual disbursements of the autonomous budget, 6) does not mention the three units for education, prevention and investigation as well as 6) does not include illicit enrichment issues.
[26] The Consultant has been informed that PACT's advisor has made sure that minimum procedures were included in the draft law so it can be ready for enforcement within six months, but the danger is that these will be left out during the MoNASRI's final revision. In fact, this happened with many articles of the Law in the drafting process, as MoNASRI argued it is against the Cambodian tradition *not* to let sub-decrees passed at a later stage define the procedures.
[27] Although the NAA has audited a number of government institutions already, none of its audit reports have been disclosed in public, and it is stipulated in article 38 of the Law on Audit that "the following reasons shall be treated as

with a mandate to fight corruption as well as analysing what can be done within each of the sectors represented in the Stakeholder Working Group on Anti-Corruption that Pact has established (i.e. government, NGO, business, law, youth, education, Buddhist, local government, donor and police).

The third pillar in the fight against corruption is public education. The other two, anti-corruption legislation and prevention mechanisms, have already been touched upon. Once the National Assembly has adopted the Anti-Corruption Law and the SNC has begun its work, there will be a need for constant public pressure for the fight against corruption to remain on track. But such pressure will not materialise if the public is not educated about the nature, causes and effects of corruption and how to combat it and if civil society organisations do not take concerted action.

In a survey on the impact of and attitudes towards corruption conducted by CSD over a period of more than a year the vast majority of respondents believed that ending corruption is crucial to the development of Cambodia. This perception is not only due to corruption becoming ever more pervasive, but also to higher public awareness of it following civil society campaigns and activities. As a sign of how institutionalised corruption has become in Cambodian society, a majority of respondents also perceived corruption as a "normal" way of doing things. As described in the previous chapter, in Cambodia today, bribe paying occurs on a daily basis at all levels of Cambodian society. People's perceptions of corruption in combination with the general mistrust towards government constitute a vicious circle whereby prevailing perceptions and attitudes perpetuate more corruption.

Only CSD is currently carrying out activities in Cambodia to educate the public about corruption. They have developed a curriculum with this aim in mind and held 19 workshops in 19 provinces from 1999 to 2002 where a total of 6000 schoolteachers were trained to conduct workshops for their colleagues. This programme came to a halt, however, due to a lack of funds. Recently, CSD has restarted the teaching programme in five provinces. CSD is also working on a publication on corruption among civil servants with technical assistance from PACT. When this publication is finished, CSD plans to request the Ministry of Interior to sign a Memorandum of Understanding that would allow CSD to carry out anti-corruption education among civil servants at district and commune levels of government.

CSD also plans to strengthen the Coalition for Transparency (CTC), which has 160 members from the private sector and NGOs, members of the National Assembly, the media, university student associations, women's groups, monks and the trade union movement. The board of directors of the Coalition for Transparency meets each month in CSD's office to discuss strategies to fight corruption and has provided inputs to the ongoing drafting of the Anti-Corruption Law.

CSD currently functions as Transparency International's Cambodia "chapter", gathering information about corruption and contributing to TI's annual report on the level of corruption and the measures taken to combat it in selected countries. Although CSD is not yet an official member of TI with voting rights at the annual meetings of the organisation, it is in a good position to draw from other countries' experiences with combating corruption. CSD participates in TI's meetings abroad on a regular basis and from time to time invites experts from TI headquarters to Cambodia to seek their advice.

As part of its campaign against corruption, PACT is in the process of developing a sub-grant facility for Cambodian NGOs[28], professional associations, labour unions and government actors

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information that would be contrary to the public interest: a) it would prejudice the security, sovereignty, defense or international relations of the Kingdom of Cambodia and b) it would unfairly prejudice the commercial interests of any legal entity or person". Presumably, the Ministry of Interior (e.g. the National Police) and the Ministry of National Defense (where a disproportionate high number of "unusually rich" civil servants work) are not subject to auditing, although the Law on Audit does not (explicitly) stipulate so.

[28] **RH: The first round of sub-grants has been disbursed**

engaged in strategic communications and advocacy campaigns that educate, prevent and expose corruption. As mentioned in section 2.2, Danida has decided to fund this project for an initial one-year period. Following a public information session on how to apply for sub-grants held at the PACT head office on 12 May, PACT has received 56 concept papers from a variety of actors sketching out their plans for 6-12 month campaigns on anti-corruption. By late June, PACT will have selected those deemed worthy of financial support (the best and most innovative ones no matter what kinds of civil society or government actors or geographical area of operation). PACT will present the results of the selection process to the sub-grant facility's two financial supporters, Danida and USAID, before they are officially announced. PACT plans to organise another solicitation process later this year[29].

As far as the exposure of corruption is concerned, the two English-language newspapers, Cambodia Daily and Phnom Penh Post, have covered a number of corruption cases but mainly associated with misuse of funds in the implementation of large-scale donor-supported projects. The local media has only recently begun to cover large-scale corruption cases. The Cambodian-language newspaper Rasmei Kampuchea has published an article about alleged corruption in Sihanoukville Port. Also, the television station CTN recently broadcast street interviews with the public concerning the issue of corruption. The Deputy Director of PACT's anti-corruption programme alleged in an interview that the media saw an opportunity to do this only after Hun Sen in December 2004 had publicly lambasted and subsequently fired the Director of the Tax Department of the MoEF for not controlling his allegedly corrupt subordinates.

PACT is considering offering training to journalists on anti-corruption and has contacted a Phnom Penh-based consulting firm, Media Consulting & Development, to carry out an analysis of the coverage of corruption-related issues in Cambodian and Chinese-language newspapers in Cambodia to judge their willingness/ability to fight corruption[30].

Freedom of information law

Former American President Jimmy Carter has in a speech highlighted the benefits of access to information as follows: "*Access to government-held information allows citizens to hold their government accountable for policy decisions and public expenditures. Informed citizens can more fully participate in their democracy and more effectively choose their representatives. Importantly, access to information laws can be used to ensure that basic human rights are upheld and fundamental needs met, as individuals may request information related to housing, education and public benefits. Such laws also help government, as they increase the efficiency and organisation of critical records. Governance is improved, and the private sector is assured of more transparent investment conditions. Access to information bridges the gap between state and society as a partnership for transparency unfolds*" (TI, 2004).

The secrecy surrounding policy-making and the endemic corruption within government in Cambodia today are symptoms of the lack of access to information. In Cambodia, public information is customarily assessed through personal contacts rather than through clear mechanisms. This practice not only breeds corruption, but also makes it notoriously difficult for

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[29] PACT gave a briefing on the solicitation process on 27 May to representatives of the international donor community, which the Consultant attended. Having gone through all concept papers, 49 passed the initial test and 20 were short-listed of which 10 will finally be awarded sub-grants in late June after having submitted actual project proposals with a budget. Perhaps not surprisingly, the vast majority concerned public education on corruption (63 per cent), while 35 per cent concerned prevention and just 2 per cent exposing corruption through investigation. Interestingly, small and relatively unknown CNGOs submitted three quarters of the 20 concept papers that were short-listed. Of these about half are based outside Phnom Penh. The short-listed concept papers concern monitoring of commune councils to increase transparency; reducing corruption in schools; education on corruption impact on the lives of villagers; increasing transparency on and monitoring of fishing and forestry/land concessions; creation of village councils and other mechanisms to monitor corruption; media that addresses how corruption affects small-scale businesses as well as monitoring corruption in courts.

[30] **RH: The assessment of the publisher of the Phnom Penh Post is that formal training is not going to be sufficient. Basic understanding of what the societal role of a journalist is remains lacking, also among the currently well-trained students of the Department of Media and Communication at RUPP. He believes that offering practical internships with either of the English language newspapers would in the longer term have more impact.**

the public to gain information about government policy in order to hold decision-makers accountable.

Public access to information acquires major importance especially in the fight against corruption. State procurement, bidding for public contracts and the sale of state property should be made open for public scrutiny to prevent the misuse of public resources. Lately, a series of sales of state properties in Phnom Penh without public disclosure have accentuated this need. Political party and campaign finance systems should be reformed. It is widely suspected that a handful of prominent businessmen donate huge amounts of money to the CPP, as they tend to be awarded most of the contracts for major public works in Cambodia. At the commune level in Cambodia, there is also a need for greater transparency and accountability. Research indicates that commune councils do not keep local communities informed about decision-making and commune fund expenditures are improperly accounted (CCC, March 2004 and Engquist, June 2003).

The lack of access to information also hinders due process and equal protection of the law and makes it difficult to influence law making. Court cases are often decided despite insufficient evidence and statements from witnesses are collected improperly or not recorded at all. The authorities in collusion with private companies evict poor urban dwellers from land without disclosing the legal basis for those evictions. It is notoriously difficult for civil society organisations to get information about the drafting of laws in the ministries. Although legislative sessions are generally open for all to observe, including discussions of proposed laws and voting by members of the National Assembly, observing these does not allow citizens or civil society organisations to affect changes proposed or draft legislation. When draft laws have been submitted to the Council of Ministers, there are no more opportunities for influencing them.

There are around 50 countries in the world today with comprehensive Freedom of Information (FoI) laws[31]. Cambodia is not among those countries. With technical assistance from Article 19, a UK registered charity founded in 1986 to campaign for Freedom of Expression and access to information worldwide, and Forum Asia, a Bangkok-based NGO working to promote human rights and democracy in the region, ADHOC began in 2002 to advocate a FoI Law. The following year, PACT decided to offer its assistance as facilitator believing that it is important to involve different groups in society for this initiative to succeed. Since then, a FoI Working Group has been established with participants from CNGOs, international NGOs, the donor community including foreign embassies, the media, the private sector, law makers, government officials as well as a number of individuals. Its drafting sub-group has so far discussed what should be included in a FoI Law on an analysis of Cambodian needs and experiences from other countries and has come up with recommendations as to how such a law could be enforced in Cambodia.

Also, adoption of a FoI Law figures as one of the CG benchmarks for 2005. The document detailing these states that the RGC "should commence preparatory work on establishing a legislative framework (such as a FoI Law) to facilitate access to information held by public authorities". It is also stated that "in the meantime, public authorities must change current practice by displaying a preparedness to share information with the general public and with other institutions in Government". The different TWGs will monitor specific indicators of access to information before the next CG meeting in December 2005.

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[31] Several countries in the Asia region have passed FoI Laws during the last ten years. Several problems have been reported in the enforcement of these laws. Among them are: lack of understanding among government officials and lack of public awareness of the Law; lack of resources within government bodies to fulfill the requests for information; bad record management and low quality of information as well as conflicting legislation and the war on terrorism. As regards the last two constraints, authorities often cite national security interests and safeguarding international relations as reasons for not disclosing information to the public. For instance, the Cambodian government has declared that the NAA cannot audit the MoND and the MoI due to national security interests. The FoI Working Group is aware that there should be some categories of exemption in a FoI Law (i.e. for the sake of national security, international relations and privacy). The challenge in the lawmaking process is thus how to define what constitutes national security interests, the safeguarding of international relations and breach of privacy, respectively. In the absence of clear definitions, *any* government institution could lawfully deny the public access to information at *any* time by referring to the need for protection of national security interests.

A FoI Law is not being discussed at ministerial level yet. PACT is looking for a ministerial partner to move the process ahead and hopes to engage the government and civil society in a consultative process similar to the one initiated in connection with the Anti-Corruption Law. It is the hope that this process could start sometime next year, although signs are that this piece of legislation will meet even bigger resistance within the government than the anti-corruption legislation. It is also not clear who is supposed to take this on in the government as the benchmarks do not specify who is responsible.

Another initiative within this area is a UNDP-commissioned study on how to improve public access to legal and judicial information, which was released in December 2004. Also, DIHR is in the process of developing a manual on principles for access to information within the public administration and with regard to the judiciary, ombudsmen, civil society etc. DIHR plans to present this manual at seminars in Malawi and Niger and in Cambodia later this year and envisages that it could become a model for Cambodia.

Salary pay and employment reform
Salary pay reform including raising salaries of civil servants within the formal legal sector is, potentially, a strong tool for improving the supply of justice in Cambodia. However, international experience shows that this measure is doomed to fail if it is not combined with prevention and public education (de Speville & Associates, December 2004; OSCE, 2004, and the UNDP, February 2004). Salaries of judges in higher courts have been raised significantly in recent years, but it is generally recognised that this has had little effect, as corruption has continued unabated.

The RGC launched a National Public Administration Reform in 1999, which set out goals for a comprehensive reform of the civil service in Cambodia. From the outset, the remuneration of civil servants was a central issue in the reform programme and the two main objectives were:

- Rationalising public administration according to the needs and means of the country
- Transforming the administration into a more operational, productive and responsible unit with an acceptable level of remuneration of civil servants

(CAR, November 2000)

Several donors have supported the RGC in this endeavour. For its part, Danida in collaboration with the World Bank commissioned in May 2004 a consultancy on rationalisation of donor salary supplementation practices in the context of pay and employment reform in Cambodia. One of the conclusions from the mission was that rationalisation measures are of a highly complex nature. Therefore, additional analysis of the ongoing public administrative and civil service reform process, the political environment, the public financial management system, overall drive towards donor harmonisation etc. are needed (Danida, May 2004). A major step forward was taken at the CG meeting in December 2004. At the closure of that meeting, nine bilateral donor agencies and the World Bank signed a joint donor statement in which they pledged to phase out donor salary supplementation practices over the coming years.

Decentralisation of decision-making
The commune elections in February 2002 marked the beginning of a process of devolution of decision-making to popularly elected councils in Cambodia's 1621 communes. Decentralisation has the aim of making local government transparent and more accountable and responsive to the people as well as increasing the efficiency of public service delivery with a view to poverty reduction. A simultaneous process of deconcentration was initiated with the aim of increasing the efficiency of the state at the provincial and district levels of government by empowering those levels to carry out tasks that up to now have been the domains of the central government. The Law on the Administration and Management of Communes is the legal framework for decentralised decision-making. The decentralisation design builds extensively on the lessons learned through the RGC's SEILA programme, which mainly DFID, SIDA and the UNDP fund. This programme is today covering all 1621 communes in Cambodia.

Although experiences with decentralisation reforms throughout the world during the last two decades suggest that the devolution of decision-making is a long and difficult process, there are a number of outstanding issues, which need to be resolved to keep the process on track. The roles and responsibilities of the elected commune councils are still not sufficiently clear with regard to natural resources management and taxation. Issues such as the way candidates for the commune elections are appointed (by the political parties), the way funds to the communes are disbursed from higher levels of government (not in time) and the way capacity building for commune councillors is organised (support functions for the councils are placed at district level) have also raised concerns. There are fears that commune councils will be constrained in their work if they do not get sufficient authority and resources, that councillors will be accountable to their political bosses rather than to the electorate and that higher levels of government will play controlling rather than supervisory roles[32].

The international donor community is currently trying to engage the RGC in discussions on the processes of decentralisation and deconcentration, which have lost momentum due to the political deadlock after the national elections in July 2003. Prior to the CG meeting last year, the Donor Sub-Working Group on Decentralisation and Deconcentration decided to hire a consultant to assist the RGC in refining the strategic framework for decentralisation and deconcentration. Other donor agencies did likewise. The Sub-Working Group has raised a number of critical issues, which it needs to clarify with the RGC. These are the timeline for the termination of donor support for commune funds; what form future external support should take; the high administrative costs at upper levels of government that threaten to deplete funds for commune development; likely future resistance from line ministries to devolved decision-making, and, not least, the question of commune own source revenue[33].

In March 2005, the RGC presented a framework for decentralisation and deconcentration, which outlines the RGC's vision, strategy and programme for implementing the D&D Strategy. The intention is to develop a sub-national governance system that could replace the SEILA programme. It is the intention to enact an "Organic Law" – as required by the Constitution – by the end of 2006 that provides the legal measures for implementing the D&D Strategy. Indications are that the new system will transfer more financial resources, mandates and responsibilities from central level to lower levels of government.

As far as building up the capacity of commune chiefs and councillors to manage their own affairs is concerned, there seem to be plenty of civil society organisations willing to strengthen the new form of commune government. A host of different NGOs are currently raising awareness in the communes of the legal framework and providing training on commune administration and financial management. In addition, two international NGOs that USAID funds, The Asia Foundation (TAF) and the International Republican Institute (IRI), are currently building up the capacity of commune councils.

Natural resources management

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[32] A case study published last year on the experiences of commune councils in promoting participatory local governance in five communes, which may have wider applicability, showed that decentralisation had markedly changed the way that these communes used to be governed, but also presented evidence that much leaves to be done. Now, the commune councils hold meetings regularly and make decisions after consultation between the councillors representing different political parties; commune councils issue their own commune orders; commune councillors receive training and commune councils work more closely with local NGOs and village associations. On the other hand, most commune council chiefs have served previously in the same capacity and still exercise considerable influence over decision-making. Commune councillors still consult higher levels of government before making decisions, inter-party rivalry hampers the work of the commune councils and commune councils do not inform villagers of their decisions in some communes, making it difficult for people to hold the councils accountable (CCC, March 2004).
[33] Donors have recently voiced concern over the overlap of political and administrative processes at lower levels of government. In what appears to be a part of the political compromise between the CPP and FUNCINPEC in the formation of the new government in July last year, scores of new positions as deputy governors have been created at provincial and district levels, which threatens to further deplete the meager financial resources.

Potentially one of the most important policy areas in Cambodia considering the fact that more than 80 per cent of the Cambodian population lives in the countryside and the vast majority are dependent on access to natural resources for their livelihoods, natural resources management occupies a central position in the RGC's overall reform programme. The previous section described the background to the conflicts over access to these resources. Suffice it to say at this place that several donor agencies have been and still are involved in supporting the RGC's reform efforts.

Land management in Cambodia got under way in the late 1990s with the creation of the Ministry of Land Management and the adoption of a new Land Law. The Land Policy Strategy Paper, which was drafted in May 2002, forms the basis of the current framework for land management. A comprehensive programme for land titling, valuation, the awarding of social and economic land concessions as well as capacity development within land management at lower levels of government, the LMAP, has since been implemented covering nearly half of the provinces in Cambodia. The World Bank, The German governmental aid agency GTZ, the Finnish governmental aid agency Finnida, Asian Development Bank, CIDA and EU are core donors supporting land administration. The Swedish International Development SIDA, Danida, the UNDP and AusAID are providing complementary donor assistance. Donor-government coordination takes place within the TWG on Land Management.

At the CG meeting in December 2004, the RGC committed itself to enact a number of key laws and sub-decrees governing natural resources management and enforce Article 18 of the Land Law, which states that private sales transactions on state lands are illegal and hence should not be validated by government officials. Other CG benchmarks are the maintenance of suspension of logging and transportation of logs and the awarding of new economic concessions, public disclosure of existing contracts and compliance status of contracts governing economic land concessions, fishing lots and continued disclosure of status of review of forest concessions as well as consultation with local communities and public disclosure prior to entering into new contracts for private use/management of state managed natural resources.

Business development
There is a common consensus among donors and the RGC that the creation of conditions for private sector growth is pivotal in the efforts to reduce poverty in Cambodia. The findings of the World Bank survey on the business environment in Cambodia referred to in the previous chapter have accentuated this. Also, the recent closure of several garment factories in the wake of Cambodia's accession to the World Trade Organisation 1 January this year has highlighted the need for diversification of the economy.

In order to reduce poverty in Cambodia, it is especially important to create an enabling environment for Small and Medium Scale Enterprises (SMEs). With technical assistance from the ADB, the RGC has recently developed a strategic framework for SME development. In order to implement the Rectangular Strategy and achieve an enabling business environment, the SME Development Framework focuses on three key areas. They are the development of a sound legal and regulatory framework for SMEs, including streamlining and reducing the cost of company registration, improving access to finance, which includes strengthening non-bank financial institutions and using forms for collateral other than land titles; and strengthening SME support activities, including improving access to markets. In order to implement this strategy, an inter-Ministerial Sub-Committee with private sector representation was established.

Several multi- and bilateral donor agencies are currently supporting SME development. Apart from ADB they include AusAID support to capacity building within rice millers associations, EU support to agro-indusTrial development, GTZ support to vocational training and the development of rural enterprises, UNIDO support to the development of indusTrial standards in product areas affecting Cambodian SMEs as well as training provided by MPDF to SMEs within the areas of finance, marketing and management.

The RGC has committed itself to establishing single entry points that will allow parties involved in trade to fulfill the documentary requirements for import and export in a single transaction before the next CG meeting in December 2005. Another important benchmark is the adoption by the Council of Ministers of the draft law on commercial arbitration and subsequent promulgation by the National Assembly.

The Khmer Rouge Trial
None of the surviving former Khmer Rouge leaders have been prosecuted for their role in the crimes committed during the Khmer Rouge regime. Research indicates that the vast majority of Cambodians would like to see justice be done (KID, 2004). A Khmer Rouge Trial is currently under preparation, although it is still unclear when it will commence, as the required funding has not yet been fully secured[34].

DCCAM conducts research on the history of Khmer Rouge with core funding from SIDA. Grants from the Embassies of New Zealand and Norway in Bangkok also support its activities. DCCAM has two major objectives. The first objective is to promote accountability for the crimes committed during the Khmer Rouge regime (1975-1979). Towards that end, DCCAM has acquired and catalogued the most comprehensive collection of potential evidence for these crimes in the world. The second objective is to serve as a permanent resource center for research, education and training and public service. Towards that end, DCCAM has established a public library with support from Danida.

To support the preparations for the Khmer Rouge Trial, the OSJI has placed a consultant in Cambodia, who is giving advice to the RGC's Task Force on the Extraordinary Chambers (the official name for the Khmer Rouge Trial). The OSJI held a number of seminars in Phnom Penh in 2004 with the participation of international legal experts. The overall purpose was to contribute to the preparations for the Khmer Rouge Trial by drawing on their experiences from similar undertakings around the world (i.e. Sierra Leone, Rwanda, the Yugoslav Tribunal in the Hague and East Timor). The experiences discussed during the seminars concerned monitoring of Trial proceedings, advocacy and outreach as well as how civil society organisations can convey the Trial process and outcomes to the public. The seminars also raised a number of critical issues in connection with the Khmer Rouge Trial such as selection and training of judges and prosecutors, security, victim & witness protection and mental health outreach.

A Working Group on the Extraordinary Chambers composed of representatives of international NGOs and individuals with expertise in international law and background working in Cambodia has been established to ensure that the investigation and prosecution of Khmer Rouge crimes by the EC is "fair, full and credible and that it contributes to reconciliation efforts and advancement of the rule of law sought by Cambodians".

In addition, the UNDP has organised two training sessions for Cambodian judges in international law. In early May, the RGC released a list of names of Cambodian judges considered for the Trial, which civil society organisations subsequently criticised for including judges regarded as incompetent and/or corrupt. It is expected that the Ministry of Justice will change some of the candidates now that the secretariat of the SCM has been abolished and its powers transferred to the Ministry.

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[34] At the time of drafting this report, UN member states had committed 43 mill. US dollars out of the total cost of 56.3 mill. US dollars that the Khmer Rouge Trial is projected to cost. According to the agreement with the UN, the RGC will cover the remaining 13.3 mill. US dollars. However, the RGC has stated that it can only afford to pay 1.5 mill. US dollars, which will be paid in kind. The major hurdle left to establishing the Trial is how the RGC is going to raise the remaining 11.8 mill. US dollars. On a recent visit to Japan, Prime Minister Hun Sen appealed for further donations from Japan (which has already committed 21 mill. US dollars or half of the international community's share to the Trial) and Deputy Prime Minister Sok An made a similar appeal to Phnom Penh-based diplomats during a meeting at the Council of Ministers on 30 May, but nothing has come out of these efforts so far. However, the Minister of Foreign Affairs Hor Nam Hong announced on 21 June that funding has now been secured, as Japan has decided to set up a special fund for the remaining Cambodian share of the budget.

2.2 Supporting the demand for justice

Human rights awareness-raising, monitoring and legal aid
The most vocal of the CNGOs in the public space are those that could be termed human rights and democracy NGOs. They are almost all based in Phnom Penh, but a few of them, notably ADHOC and LICADHO, also have offices outside the capital. The largest ones are well-equipped to carry out awareness-raising, advocacy, monitoring and the provision of legal aid due to their skilled staff and highly educated and well-connected directors who are adept at catching the media's attention and bringing their agenda forward. In order to strengthen their common voice, 18 of the largest human rights and democracy NGOs are members of the Cambodian Human Rights Action Committee (CHRAC)[35].

In the absence of a properly functioning legal and judicial system and in the face of continued unabated human rights violations and other injustices to the poor throughout the country, it is quite evident that there is a huge need for CNGOs to monitor and report on the human rights situation; to advocate respect for human rights and the establishment of the rule of law and to provide legal aid.

Human rights and democracy NGOs in Cambodia today face a range of constraints caused by a government hostile to their work as well as some which are self-inflicted. Local branches of Phnom Penh-based CNGOs, which monitor and protect people in rural areas against human rights violations committed by the police and the military and assist people in land disputes and conflicts over fishing rights, often face extreme difficulties in carrying out their work. Sometimes, local government authorities intimidate or arrest and detain NGO workers for extended periods of time. It could also be argued that they place too much emphasis on education and awareness-raising. Most of the larger human rights and democracy NGOs lack a rural constituency and access to the broadcast media. They devote disproportionate amounts of time to fulfilling bureaucratic tasks, including producing reports in order to meet donor requirements as well as writing extensive proposals in order to secure more funding. There is also a huge gulf between the capabilities of the often highly qualified directors of CNGOs and the rest of the staff. This poses problems when the directors are abroad or when activities are expanded.

But human rights workers maintain that the situation would be a lot worse without the presence of NGOs monitoring the human rights situation and intervening on behalf of people whose rights are violated. Their activities are essentially emergency assistance as the poor currently have no power to act by themselves.

The trade union movement is the only popular movement in the country. It is mainly concentrated within the Cambodian garment industry, which is by far the largest in the country both in terms of income and workforce. Today, there are more than 200 factory-level trade unions in Cambodia, grouped into nine trade union federations. Around 200,000 garment workers are union members. Activities undertaken by federations and unions include training union leaders, raising awareness among union leaders and workers on the Labour Law, mediating labour disputes, organising collective action when disputes are not resolved, representing unions at the policy level as well as providing services to its members such as health benefits. The Cambodian trade union movement has received extensive support from the International Labour Organisation (ILO) and the American Trade Union Federation AFL-CIO.

The trade union movement has secured a good deal of benefit for its members so far. But it is generally recognised that they would have had a hard time negotiating with factory owners to

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[35] CHRAC was established in 1994 based on the recognition that coordinated civil society action is the only solution in cases where serious human rights violations have occurred such as high-profile killings of journalists, NGO workers, trade union leaders and politicians and land grabbing involving high-ranking people. CHRAC plays a coordinating role in such cases, getting all the members together to discuss common strategies and, if necessary, recruits outside assistance in the form of consultants or lawyers. CHRAC also issues press releases. Its secretariat is currently based in the offices of CDP. It is managed by four full-time staff. Its host organisation changes every six months on a rotating basis.

improve the working and living conditions of its members were it not for outside support from the ILO, which has established a factory monitoring programme, and pressure from the US quota buyers. Research has also indicated that the trade union movement is marred by infighting, which sometimes acquires political connotations, as both the CPP and the Sam Rainsy Party are known to support trade unions financially (Engquist, 2001).

Establishing advocacy networks and empowering locally based (grassroots) organisations
The CNGO Star Kampuchea took an interesting initiative in 1999 by establishing an Advocacy Network in Kampong Cham Province. Since then, Star Kampuchea has established Advocacy Networks in four more provinces and plans to establish additional ones if more funding is secured. The Advocacy Networks are each composed of 10-15 members (representatives of local NGOs and CBOs and branch offices of Phnom Penh-based CNGOs). They receive training on advocacy and financial assistance for their local advocacy campaigns. So far, they have dealt with issues such as land conflicts, conflicts over fishing rights, illegal logging and human rights violations of different kinds. The Advocacy Networks have managed to solve some of these conflicts including some that have involved powerful people[36].

These successes have been due to carefully planned advocacy strategies, the sheer force of numbers (all members have participated) as well as persistence. In especially difficult cases, the Advocacy Networks have sought advice from Star Kampuchea either by inviting Star Kampuchea staff to come to the conflict areas or by attending meetings and workshops Star Kampuchea has organised in Phnom Penh[37]. Participating in such networks provides an opportunity for all members to practice what they have learned and less knowledgeable members (from CBOs) get a chance to learn from the more knowledgeable ones (typically staff from branch offices of ADHOC, KID and LICADHO).

There is an astounding number of CBOs all over Cambodia dealing with a variety of issues. Many of these CBOs carry out service delivery functions in villages, are based in the local Buddhist temples or local mosques (in Kampong Cham Province where the majority of Cambodia's Muslims live) or take the form of user groups such as rice banks, buffalo banks etc. The advocacy skills of CBOs participating in the activities of the Advocacy Networks that Star Kampuchea has established are strengthened in the process, which they could use to raise their community development work to a higher level by advocating changes to the conditions that have forced them to take action in the first place (i.e. getting to the root causes of rural poverty). In the context of this survey, it is also interesting to investigate how these CBOs could foster greater local-level transparency and accountability by placing demands on the commune councils. A following section will explore this.

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[36] An example from Kampong Cham Province illustrates well how the Advocacy Networks take action. In accordance with official government policy, a local businessman leased a public fishing ground in 1998 for a two-year period. But the local fishermen soon realized that he was encroaching on their fishing areas. He even used armed guards to protect "his" share of the lake, but the local authorities turned a blind eye. After a lengthy campaign conducted by the Advocacy Network in Kampong Cham, the local fishermen finally got back their share of the lake. The steps taken were the following: 1) A fishing community was organised to bring more organisation to the campaign, 2) Awareness of peaceful conflict resolution raised among the fishermen, 3) Training to the village leadership on advocacy techniques and to the whole village about their rights and entitlements, 4) Meeting organised between villagers and the businessman, 5) Advice given to the villagers with the intention of raising the profile of the campaign, 6) Various workshops and public forums held with the participation of local authorities and politicians, 7) Media notified and used, 8) the attention of members of the National Assembly and international NGOs caught and 9) the Minister of Interior was invited to a workshop after which he intervened to the advantage of the local fishermen (Star Kampuchea, 2004). A recent example of the strengths of concerted civil society action is from Pursat Province where a private company has suspended its work on a 340,000 hectare concession after months of protests from the Advocacy Network, local communities and the CHRAC and a number of meetings between local NGOs and authorities in the provinces of Pursat and Kampong Chhnang (the concession also covers parts of the latter province), which Star Kampuchea organised (Cambodia Daily, 10 June 2005).
[37] Recently, at a workshop organised by Star Kampuchea in Phnom Penh, the Consultant had a chance to interview villagers from three different provinces that either face or have faced possible eviction from their land. The local authorities working in collusion with the military or influential businessmen from Phnom Penh have caused their problems. However, due to action from the Advocacy networks, the land encroachment has either been halted (in Svay Rieng Province) or been stopped completely with the villagers getting back 70 per cent of their land (in Kampong Cham).

Promoting local-level transparency and accountability[38]
In order to ensure transparency and accountability within local government, there is a need for a strong civil society. This holds true especially in the case of Cambodia, as the government until 2002 appointed all commune chiefs. The new form of commune government is still a learning process for all. The elected commune councils will have to come to grips with their new roles and responsibilities and the people have to learn how to exercise their right to influence decision-making by placing demands on their chosen representatives. Research indicates that there is still a long way to go (CCC, March 2004 and Engquist, June 2003).

A precondition for placing demands on commune councils is participation and access to information. But many commune councils do not publicly disclose how they spend their funds and public attendance at the monthly council meetings is very low, if not non-existent. Also, there are no established channels for the public to air their grievances apart from the monthly council meetings (which people do not attend). The location of many council offices does not help matters. Many are located in former commune office buildings at or next to local police stations and CPP offices, which may have a symbolic effect in that it does not represent a departure from the old form of commune government where it was associated with state coercion and control. Coupled with the fact that 97 per cent of communes have a CPP commune council chief, it shows the people that nothing has, in reality, changed. However, research also indicates that many commune councils are in fact engaged in directly solving people's problems. Apart from fulfilling their administrative duties, they spend most of their time mediating in local disputes (MaCleod & Mansfield, January 2004).

Many CNGOs are currently providing training to commune councils on such matters as commune administration and financial management. But activities that directly aim at engaging local people in the affairs of their communes are thinner on the ground with a few notable exceptions:

Khmer Institute of Democracy (KID) is currently implementing a Proto-Ombudsman Project in 44 communes in the provinces of Siem Reap, Kampong Thom, Battambang, Kampong Cham, Prey Veng and Svay Rieng where local people with a minimum of education, such as school teachers, are provided training to become so-called Citizens' Advisers. As a result of this project, 84 Citizens' Advisers have so far assisted local people in land disputes and problems concerning domestic violence, rape, divorce etc. KID plans to give these advisers more legal training so they become so-called paralegals who can further assist local people in bringing cases to court. Although these Citizens' Advisers today mainly function as conflict mediators, they have gained more experience and confidence dealing with local problems and should place demands on commune councils to take stronger action against human rights abuses.

The Commune Council Support Project (CCSP) is currently active in 51 communes in 10 provinces where it is carrying out a Citizens' Rating Project. It aims at garnering people's perceptions on the accessibility, satisfaction and adequacy of the service delivery in communes such as water systems, health care provided by local health clinics, primary education, rural infrastructure, roads in particular, and small-scale irrigation projects and then aggregating these as a rating report. The reports are then presented to the commune councils. Around 70 per cent of the councils in the 51 communes have showed willingness to meet the needs expressed in the rating reports. Indications are that sceptical councils are those in communes with little or no NGO activity.

CCSP plans to replicate this project in other communes as well as develop and implement two other social accountability mechanisms such as citizen monitoring of commune budgeting and planning and mainstreaming the Millenium Development Goals into the commune development plans and monitoring how they are fulfilled. The implementation strategy is to train local NGOs

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[38] **RH: An important initiative left out here is the efforts of the SEILA program – feeding into its successor – to create formal opportunities for civil society input into local planning processes. Efforts that are going to be supported down to village level with commune-based facilitators.**

working with CBOs in the different communes on the rationale, concepts and methodologies of the three social accountability mechanisms. These NGOs will then train the CBOs in implementing them in cooperation with the commune councils. The plan is to implement all three mechanisms in the same pilot communes.

Star Kampuchea has for some time provided additional funds to the Advocacy Networks so they can engage with the commune councils in their areas of operation. This engagement includes common problem solving, knowledge transfer and common participation in training sessions on advocacy and the Land, Forestry and Fishery Laws etc.

In the context of the new NRE programme, Danida plans to establish a foundation or other legal entity for the management of a fund for civil society support and supervision of projects under the civil society component. The scope of support including target partners is yet to be defined. Simultaneously, DFID/World Bank is consulting with other donors to identify opportunities for collaboration on promoting transparency and accountability in Cambodia. Some donors have expressed an interest in developing a joint mechanism to support social accountability[39]. In this regard, DFID/World Bank has commissioned a consultancy with the purpose of identifying characteristics of such a joint mechanism which is likely to prove effective in a Cambodian context and which is accepted by donors, civil society and government.

In addition to this, USAID plans to disburse 15 mill. US$ over the next five years through its Local Administration and Reform Program[40], which has "improved good governance" as one of the strategic objectives. This objective will seek to address four main challenges that affect good governance in Cambodia: Corruption, courts, competitiveness and civil society. USAID's Local Administration and Reform Program will have five main objectives. They are: More citizen participation and acceptance (through strengthening the mechanism of citizen participation in local decision-making); commune council strengthening (through strengthening their administrative and operational capacity by establishing several Commune Council Resource Centers); establishing a Social Infrastructure Fund (through support to the provision of social infrastructure, which will amount to no more than 60 % of those, while the remaining cost will need to be covered by the funds from the government); promoting model commune councils (through the provision of Best Practice Awards for selected commune councils which distinguish themselves on citizen participation, transparency, accountability and their overall capacity), and supporting the overall decentralisation process (by conducting policy advocacy at the national level with stakeholders and the RGC to ensure that the deconcentration reforms will be supportive of the decentralisation process).

Support for pro-poor market development[41]
About 90 NGOs in Cambodia operate rural credit facilities. In addition, a Cambodian NGO named SME Cambodia is currently facilitating the formation of cross-sectoral business associations in three provincial towns and has opened a Regional Service Center in Battambang to provide business development services to SMEs in the northwest region. It receives funds from TAF, the UNDP and MPDF.

Support to rural credit and business development may - if not carefully designed and executed - mainly benefit the better off and hence strengthens tendencies of social stratification in rural areas and exclusion of the poorest. For instance, research conducted on the micro-credit programmes run by CNGOs has shown that only the limited numbers of farmers who stand a chance of paying back the loans are offered credit facilities (Phnom Penh Post, 24/5-02). Also, support to business development may - if not carefully designed and executed - lead to negative effects on natural resources and the environment.

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[39] **RH: See Annex 9**
[40] **RH: The bid to manage this program has been won by PACT. At present staff is being recruited.**
[41] **The hesitation in this section is understandable but in Cambodia facilitating the development cross-sectoral regional business associations is more or less the only way towards engaging local 'elites' in more equitable development.**

Justice and reconciliation

With assistance from the international donor community, Cambodia is beginning to prepare itself for a Khmer Rouge Trial that seems closer than ever to fruition. The RGC's Khmer Rouge Trial Task Force is currently working on the logistical arrangements – a huge building located 16 km outside Phnom Penh that is currently housing the military headquarters has been chosen as the site for the Trial – and a number of Cambodian judges have already undergone training. Although civil society organisations for some time have adopted a wait-and-see attitude, it seems that they are now realising that a Trial is likely to commence soon and therefore are preparing a response.

A number of civil society and media organisations have planned activities in connection with the Khmer Rouge Trial. They are:

CDP is planning to implement a Khmer Rouge Justice Project when the Trial gets under way. The project will utilise the Trial as a framework for further developing and strengthening the rule of law in Cambodia as well as help in ensuring fair and thorough trials. The main planned activities are to set up training modules and host a series of seminars with legislators, local government officials and NGOs at various locations throughout the country addressing key legal issues the EC will face in its formation and operation and discuss their influence and impact on the administration of justice in Cambodia; address gaps and inconsistencies in current Cambodian laws and procedures that is to be used by the Extraordinary Chambers (EC); and carry out close monitoring of the EC by reviewing judicial appointments, attending hearings and trials and reviewing submissions and rulings and publish it for wider dissemination.

ADHOC plans to raise awareness of the Trial before it commences in each district of each province and in Phnom Penh. 178 sessions are expected with the participation of 100 people per session. In addition to this, ADHOC plans to conduct information updating sessions in each district of each province every six months, which will update investigations and Trial proceedings and provide explanations for the EC's decisions regarding acquittal and/or guilt of the crimes. ADHOC will also provide free legal advice to victims/witnesses in Phnom Penh and in the provinces and, together with other CNGOs, monitor court proceedings.

In order to raise public awareness of the preparations for the Khmer Rouge Trial and to give it a wider meaning for the Cambodian population at large, DCCAM is currently implementing a Pre-Trial Outreach Programme. It aims at collecting stories from survivors, publishing them and, at the same time, distributing information about the Khmer Rouge Trial in the areas covered by the programme. If additional funding is secured, DCCAM plans to collect more stories and invite people from all parts of the country to Phnom Penh to observe the Trial proceedings once they have got under way.

The unraveling of the social fabric during the Khmer Rouge years has, naturally, had a huge psychological impact on Cambodians. The most obvious are, of course, the psychological scars that have been inflicted upon the Cambodian people from loss of family members and friends. Although these effects are very difficult to comprehend, the mental health organisation Transcultural Psychosocial Organisation (TPO) estimates that close to 30 per cent of the Cambodian population suffers from a post-traumatic stress syndrome, which is traceable in part to the traumas of the 1970's and in part to the absence of appropriate medication. Also, many survivors interviewed in connection with a research study that CIDA commissioned in 2000 often have nightmares (McGrew, February 2000).

It is fair to assume that there will be a need for psychological counselling and mental health outreach during the Trial. So far, no national mental health plan has been developed, although the RGC's Task Force has acknowledged the need for mental health outreach in connection with the Trial, and very few mental health facilities exist outside the major centers of population (i.e. Phnom Penh, Siem Reap and Battambang).

In recognition of this need, TPO, in cooperation with Social Services of Cambodia (SSC), plans to offer mental health outreach during the Trial including raising public awareness of the symptoms of mental health problem victims, witnesses and other participants in the Trial may get and providing on-site emotional support and counselling. TPO is the foremost organisation in Cambodia providing mental health care to Cambodians.

TPO was established in 1994 with assistance from TPO International (which is based in Amsterdam, Netherlands and is an expert centre in the field of psychosocial and mental health care for survivors of war and organised violence). It achieved self-sustainability in 2000. TPO has prior experience within this field as it has cooperated with DCCAM in identifying victims of the Khmer Rouge regime that need mental health care (through DCCAM's The Victims of Torture Project implemented since 2003 in the provinces of Kandal and Takeo and the former Khmer Rouge stronghold of Koh Sla in Kampot Province.

Earlier civil society activities included a survey that KID carried out on people's perceptions on the Khmer Rouge Trial in 2004 and training of bachelor of law graduates on how to monitor future court proceedings[42] at the Trial as well as public forums that CSD conducted in 1998-99 in a number of provinces to discuss justice and reconciliation in connection with the Trial.

Capacity development and institutional strengthening of CNGOs[43]
Since 1993, Cambodia has experienced a rapid rise of a civil society. Today, there are an estimated 500-600 Cambodian NGOs (CNGOs) operating in the country. They are involved in many different activities. They include the promotion of civil and political rights and the rule of law, monitoring of the human rights situation, provision of legal services to the poor, community development, anti-trafficking, women and youth issues, urban poverty and environmental issues as well as capacity development of community-based organisations (CBOs)[44].

The achievements of these CNGOs have been notable. They have conducted mass civic education in human rights, democracy and the rule of law, which has raised public awareness and have had success in dealing with social problems such as domestic violence (e.g. CNGOs such as ADHOC, KID, LICADHO, CSD and Star Kampuchea). They have solved local problems concerning land disputes, conflicts over fishing rights and forestry issues that have a direct impact on a large group of people by dealing with, and putting pressure on, local authorities (mainly ADHOC, BFD, HRW and Star Kampuchea). Local election monitoring organisations have conducted extensive voter education campaigns throughout the country in the run-up to the national elections in 1998 and 2003 and the commune elections in 2002. They have helped countless poor Cambodians in court cases by offering legal advice and financial assistance (e.g. ADHOC, LAC and LICADHO). They have bridged the gap between pressing local needs and the inability of the government to meet those needs by supplying basic health care and services in the fields of agriculture and education as well as other services related to community development (e.g. CEDAC and Santi Sena).

Many CNGOs have taken significant steps to improve their financial and organisational management in recent years and have agreed on enforcing the NGO Code of Ethics, which prescribes a range of best practice procedures. The many workshops and conferences being

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[42] **Since August 2005 this EED funded project is hosted by CAS**

[43] **What is definitely missing from this assessment is the lack or good facilitation skills. This lack has been identified in a well-known study sponsored by VBNK but the follow up has been limited. VBNK itself started a very intensive and ongoing CB project (CHART) and in general there is more recognition that longer-term mentoring and coaching are important for transfer of soft skills (and not only those one can add) anywhere, so especially in a context like Cambodia that stands out because of its lacking human resources. But this recognition is only very slowly and sporadically translated into actual CB programs because the big question is HOW to do that effectively.**

[44] Donors include bilateral donor agencies such as AusAID, CIDA, Danida, the British governmental aid agency DFID, the Japanese governmental aid agency JICA, SIDA and USAID and international NGOs such as The Asia Foundation, Church World Services, DanChurchAid, Diakonia, East-West Management Institute, Forum Syd, Lutheran World Federation, Open Society Justice Initiative, Oxfam GB and PACT amongst others.

organised and the proliferation of NGO networks are also testimony to a high commitment within the NGO community to speak with one voice, pool resources and act together when pressing for changes to the way that the country is governed.

Nevertheless, many CNGOs are still faced with a lot of constraints in their work. They are: lack of basic skills in planning, budgeting and financial management; lack of management skills; limited understanding of national legislation and how the legal and judicial system works as well as lack of experience in how to access networks, create partnerships, forward their agenda through advocacy and raise funds. In addition, many of the larger (Phnom Penh-based) CNGOs are build on charismatic leaders possessing strong communication skills but who seldom delegate responsibilities to their staff. As a result, decisions are often not taken when the leaders are absent.

Although shortcomings such as these are general, there is a huge gulf between the capabilities of larger (Phnom Penh-based) CNGOs and smaller CNGOs based in the provinces. Consequently, larger CNGOs are much better funded. Smaller CNGOs are, in effect, in a Catch 22-situation whereby the lack of basic skills means that they cannot access funds and the lack of funds means that they cannot afford to upgrade their skills. The larger CNGOs, on the other hand, are able to continually upgrade theirs precisely because they have access to donor funds.

A number of local Support NGOs, membership organisations and international NGOs today are involved with developing the capacity of CNGOs. Foremost among them are SILAKA and VBNK, which organise training courses on all aspects of organisational development and institutional strengthening and make assessments of CNGOs often commissioned by the international donors that fund those. Their training courses are offered to smaller CNGOs that need training on basic organisational and management skills as well as to larger (Phnom Penh-based) CNGOs that need help with their strategic planning.

Two other Support NGOs in Phnom Penh offer training with a specific focus on local NGOs and CBOs. They are Cambodian Researchers for Development (CRD) and Sor Sor Troung (SST):

CRD focuses on strengthening the analytical skills of its partners through training on the Logical Framework Approach, SWOT-analysis, data collection and monitoring and evaluation. It has trained partners of the Swedish NGOs Diakonia and Forum Syd in using "the Octagon", which is an organisational self-assessment tool that SIDA has developed in cooperation with Swedish NGOs. To facilitate the training, CDR translated the Octagon manual from English into Khmer. At the Octagon workshops, staff from partner organisations participates in identifying strengths and weaknesses of their NGOs and in formulating an action plan to improve their work. CDR has also managed a sub-grant facility for the international NGO the Canadian Centre for International Studies and Cooperation (CECI). CECI has been present in Cambodia since 1992 building up capacity of CNGOs within community development. CDR's main task was to identify and select local NGOs for training based on pre-defined criteria.

SST is more focused on the grassroots level, that is, strengthening basic skills within local communities such as problem identification and village-based organisation as well as promoting community solidarity and cooperation with commune councils.

Going a step further, PACT and Star Kampuchea have for a number of years provided training on advocacy to CNGOs. Targeting larger NGOs in Phnom Penh, PACT encourages concerted civil society action on specific issues to influence decision-making at national level by building coalitions and mentoring and coaching NGOs in the process. Star Kampuchea's training on advocacy mainly targets the members of the Advocacy Networks established in the provinces of Pursat, Kampong Cham, Svay Rieng and Sihanoukville.

Bodies such as the Cooperation Committee for Cambodia (CCC) and the NGO Forum on Cambodia were established to help support CNGO capacity development through the provision of

services (e.g. communication systems and publication of information directories) and channel common efforts on specific issues through collectively representing the NGO community to influence donors (e.g. by publishing reports on those issues and preparing NGO statements for the CG meetings). Both bodies are membership organisations representing more than one hundred CNGOs and international NGOs today.

In addition to support services, CCC is offering four-week training courses to managers of CNGOs through its Analysing Development Issues (ADI) project, which examine key development issues, develop habits of critical thinking through research and problem solving skills with the aim of building their confidence to contribute to planning and debate[45]. An external evaluation of the ADI project conducted earlier this year gave a positive review but recommended that the project moves towards building on the critical thinking and analysis skills for advocacy purposes. This could encompass investigating the link between human rights and development (a rights-based approach) and explore some of the key concepts such as exclusion, marginalisation and power through issues-based research (CCC, March 2005).

Lastly, TAF has established a network of Community Information Centers (CICs) in 22 provinces and municipalities across Cambodia, reaching every major population center in the country. The aim of the CICs is to address two major challenges that CNGOs based outside Phnom Penh are facing: Lack of access to information and peer-support NGO networks. The network of CICs allows NGOs, political parties, government officials and others to increase information sharing, communication and collaboration between organisations and between branch offices of NGOs and their headquarters in Phnom Penh. The CICs also provide greater access to news and information on a range of different topics including human rights, elections, economic development, small business development, education and health. Libraries have been established, a Khmer-language web portal has been developed and computers have been provided to facilitate information dissemination and sharing. The CICs are managed by NGOs (among them BFD and KID).

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[45] Since 1999, the ADI project has completed 14 regular courses and one advanced course in 2004. A total of 274 people representing 76 local NGOs and 35 international NGOs have attended the regular courses. The course is taught in four modules: 1) Ten steps to analysis – this focuses on methods to conduct small-scale research for problem solving and analysis and builds skills through a step-by-step process and actual field practice, 2) Aspects of poverty and development – this module focuses on poverty and development and discusses how they are defined and experienced at personal, local, national and international level; 3) Global issues and actors – Here selected global issues and their impact on Cambodia are examined, and 4) NGO achievements and challenges – This final module allows the participants to share and reflect on their own experiences and lessons learned, key issues affecting the quality of development in Cambodia are discussed and debated and new strategies identified. The course is residential with two weeks in one location and the second part in another location depending on the research that will be conducted during the first two weeks.

Annex 11: Interim report conclusions and decisions to be taken
The major problem for the mission turned out to be how to reconcile the various elements of ICCO's ToR wish list. Taken separately, they all make sense, but if given equal importance, they are impossible to combine.

The mission identified three issues that needed conceptual clarification before actual program suggestions were feasible:

The conceptualization of the D&P theme
ICCO's policy defines three thematic areas and stipulates that country programs focus on one, maximum two areas. In the available policy papers that document the initial reflections on these areas and their interrelationship, the three thematic areas seemingly separate Civil and Political rights from the Economic, Social and Cultural rights. Conceptually this is not in line with the intentions of the 1948 declaration. Obviously, ICCO perceives the rights as being interrelated and one can thus argue that a program 'definition' in terms of a 'focus' on civil and political rights is not so much a conceptual as a pragmatic choice, indicating that the program's 'horizon' is the political 'dimension' of development. And indeed, other like-minded donors, i.c. Diakonia and DCA, also have separate programs for civil and political rights.

ICCO's identification of the need to focus more on bottom-up processes of increasing the accountability of government, claims-making abilities of civil society and actual participation in agenda setting and decision-making is in line with the general analyses of Cambodia watchers and development practitioners, be they from IO's, INGO's or CNGO's. However, there was unanimous agreement amongst key informants that livelihood, ESC rights based community organizing is the only feasible entry-point here.

To reconcile support to the strengthening of Civil Society (actors, processes, positions) and of the organizational capacity of marginalized groups through livelihood issues with a civil and political rights focus implies that one either has to define the 'coverage' of the D, PB & HR program as being about all rights, or link one's D, PB & HR (more strictly defined in terms of civil and political rights) up with another livelihoods-based program.

Diakonia and DCA indeed follow the latter option. Both have complementing ESC rights programs, conceptualized so as to provide a suitable umbrella for their support to grassroots mobilization, and in both cases these programs are explicitly defined as being closely linked with their civil and political rights programs. The box below illustrates this for DCA:

DCA's country programme
 "DCA Cambodia has opted for an overall country program which consist of two programs a **Civic and Political Space Program**, which is compulsory for all DCA focus countries, and a **Food Security Program**, within the logic that the latter focuses on the economic, social and cultural rights of Cambodia's poor and marginalized population, and the former on the civil and political rights. While the country program upholds the principle of the human rights' indivisibility, the two clusters of rights are at the same divided up into two program types for operational reasons. With the approval and implementation of the Food Security Program the inter-program linking which is reflected in both the programs as strategic intent ensures that the overall cohesion of the country program will become fully manifest...

As the LWF Integrated Rural Development through Empowerment Projects is at the core of [the Food Security]program, the chosen geographical areas and target groups of the DCA food security program corresponds with those in the LWF IRDEP. By linking the IRDEP projects of LWF with the DCA human rights partners working on economic, cultural and social rights DCA aims to strengthen the advocacy at national level".
(DCA Food Security program document, June 2005, p.4-5)

Other donors, e.g. Forum Syd or The Asia Foundation, go the other option: their democratization, peace building, human rights, access to (social) justice, social accountability or similarly labeled programs do not highlight civil and political rights as separate and include ESC rights at all levels.

Table 1 gives an overview of programs of other donors

Table 1 Country programs of other donors

Donor	D&PB&HR Program	Other Programs
Dan Church Aid	Civic and Political Space Program 2004 - 2007	Food Security Program 2005 - ?
Diakonia	Democracy & HR 2004 - 2006	Social & Economic Justice 2004 – 2006
Forum Syd	Democracy & HR Program 2004 -2006	
EED	No country program?	
EWMI	HR in Cambodia Project yearly competition	Education, Urban development,
Oxfam GB	HR, Women's status	
Christian Aid	No country program?	
NZAid	Governance & HR	Sustainable Rural Livelihood
TAF	Rights, Participation & Choice 2005	
NOVIB	From relief to sustainable development?	
DED/ZFD	Civil Peace Service Program ongoing	

- Forum Syd has defined Youth and Natural Resource Management as the core of their program for 2007 – 2009
- Diakonia is in the process redefining its program
- NZAid is currently developing a new country strategy
- The Programs which cover both columns have a Democracy & HR title but cover all rights at all levels

Within the context of the mission, the above implied that either ICCO should opt for a second program in Cambodia, or explicitly recognize the importance of the link between ESC rights and civil and political rights for grassroots work in Cambodia and be open to the inclusion of partners focusing on ESC rights in a program with a 'political horizon'.

The first option seemed unrealistic because neither of the two other potential ICCO programs offer themselves as 'natural' umbrellas for the IRDP and community organizing/mobilizing work of ICCO partners that is such an important precursor to and basis for claims-making and other democratization, peace building and human rights work. *Access to Basic Services* is normally understood to cover only health and education. One can think broader and include many more 'services' that are relevant to livelihood (infrastructure, utilities) and good governance (including justice) but this definitely goes against the common sense interpretation. And *Fair Economic Development* with its focus on market access, value chains, etc., is also not an appropriate umbrella.

This leaves the second option. And indeed, on the basis of ICCO policy documents (see annex 2, I/C consult examples illustrating the Democratization, Peace Building and Human Rights/Justice categorization in terms of interventions), this seems most in line with ICCO thinking. However, given the explanatory work needed to construe strengthening Cambodian civil society (actors, processes, positions) and organizational capacity of marginalized groups through livelihood issues as directly relevant to democratization, and in light of a general need for programs to be as self-evident and straightforward as possible to be effective as flagships for the organization[46], the mission felt that explicit confirmation of the appropriateness of this option was necessary.

An inclusive definition of the D&P&HR program is important from a very different perspective too. ICCO puts a lot of emphasis on its partnership approach. Partnership means broadening the

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[46] E.g. the competitive fund raising market for (Dutch) NGO donors implies a premium on strong, easily understood organizational profiles.

normal project/program-based contractual relationship between donor and recipient towards much more inclusive support that is based on mutual trust, shared values and goals, room for debate and learning, and open communication about interests (that do not always coincide) and constraints (see annex 2, ICCO policy).

However, taken seriously, this implies that partners who implement projects/programs that are directly relevant to ICCO's program do not necessarily have to share ICCO's focus on democratization, peace-building and human rights. Partnership implies respecting this differing perspective. There is thus in-build potential for friction between program coherence and respectful partnership. For Cambodia this can be illustrated by ICCO's mental health partners TPO and SSC. On the one hand, this mental health peace-building component stands out as clear niche. Apart from the two ICCO partners there are no other major NGO players in mental health. The recognition of the importance of their work is wide spread. It is specialized and does not duplicate other existing NGO work that is relevant to peace building, i.c. peaceful conflict resolution training and alternative (outside the court system) dispute resolution programs. On the other, from the perspective of these two organizations themselves, the peace building impact of their work is not the only – or even its dominant rationale. Access to basic mental health services, training of mental health specialists are more prominent themes in their own analysis of priorities. For a donor who is comfortable with project/program funding this is no problem. But it does create potential friction if institutional partnership is the objective.

In-country presence
The pros and cons of ICCO creating a field presence in Cambodia or regionally were discussed with partners and like-minded donors. Donors were unanimous in their wish for such a presence. More donor coordination, be it at partner level, be it at program level is widely perceived as necessary. Resource persons were very aware that neglecting the potential added value of coordination because of the many (very real) practical problems associated with such coordination represents bad practice not good donorship. All remarked that donor coordination is a pipe dream without country presence.

Many partners have equally expressed an interest in a more tangible partnership. However, this recognition went had in hand with the general feeling that the in-country presence that is required for more tangible partnership should include a representative mandate to be really effective.

The problem for the mission was that it is difficult, if not impossible, to separate the issue of possible future field presence from the issue of program formulation. The country strategy of ICCO will have to reconcile the portfolio of current partners with a program that makes sense and has added value. When country presence is not in the pipeline, there is hardly any scope for working on this together with the other players, i.e. the current partners and the other prominent donors. Irrespective of all the conceptual and practical difficulties described above, a country program is normally the outcome of a process that as much as possible involves all. Not only through eliciting their views by a consultant but much more intensively. Country formulation processes of in-country donors all involve larger partner workshops. And even better practices involve program development trajectories of a year or more.

Without in-country/regional presence and the opportunities for more frequent face-to-face interaction as a prospect, it is advisable to be realistic about taking any kind of process approach towards program development. The program formulated at the start is going to be it and can be expected to realize itself largely through weeding out of partners that do not fit so well into the objectives and replacing them by new ones that do.

If some form of in-country presence is in the pipeline it is advisable to make full use of the opportunities that such presence creates and go for a program that is discursively as flexible as possible and allows for further development in actual partnership with the organizations supported and some like-minded donors. The process can actually be ongoing by yearly consultative stock-taking and adding a next year to the permanent 3 or 4 year country strategy.

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Obviously, program set-up input is going to be different given one or the other option.

At the start of the mission in-country presence appeared to be one of many issues to be looked into. Only gradually, through many conversations, the fundamental importance of this issue became clear. That added value was to be found mainly in activities that require in-country presence, that partnership seems only fully realizable when one can interact face-to-face on a regular basis, that NGO donors seem backward with respect to coordination issues, partly because many are not in-country, took time to emerge clearly from the information received. By the time it became evident that a choice for in-country presence implied a very different program set up than the choice for remaining an out-of-country donor, interim reporting was due.

The focus of the interim report was thus on eliciting an ICCO decision regarding yes/no in-country presence so as to avoid the need for *two* suggested program set ups.

Target group policy
Looking at other country programs it became increasingly clear that like-minded donors all seem to have underlying assumptions regarding what target group policy means. In order to suggest sensible objectives it was thus necessary for the mission to understand what a target group focus means for ICCO Does it have a company-wide strategy or is the actual implementation to be decided at country level?

If the former, is the target group focus a cross-cutting issue, something that can be operationalized in Cambodia for women and youths, e.g. through supporting one 'strategic' partner that is made responsible for supporting other partners in 'mainstreaming' the target group focus (as Diakonia does), or is it envisioned to actually focus overall support on the target group(s)? If the latter, does one then go for trying to link up national level and local level partners and/or focus on a particular issue?

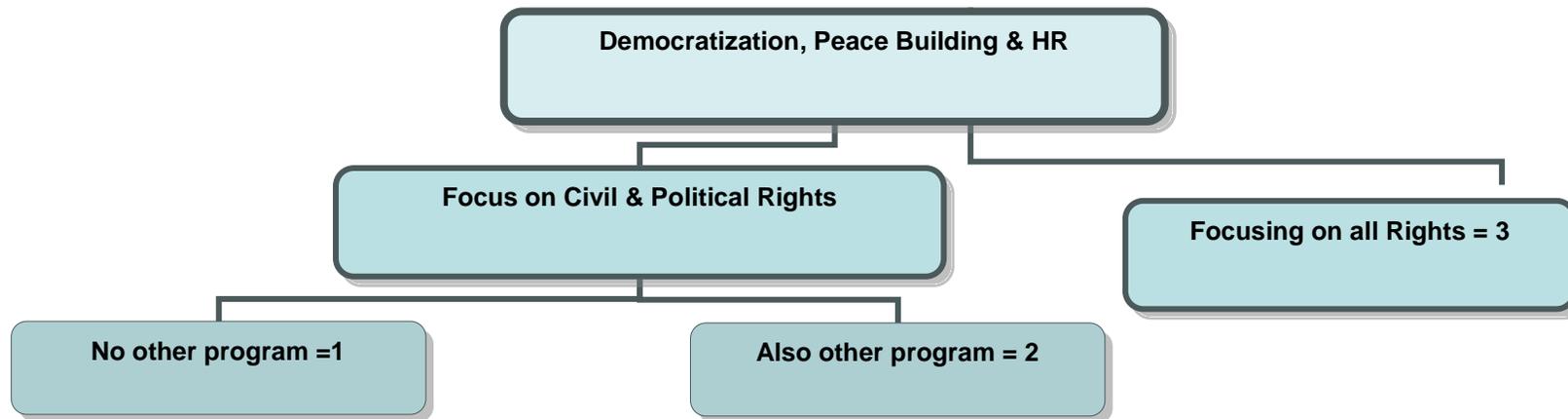And, whatever the possibility chosen, three target groups is definitely too much.

Again, concrete program set up suggestions are dependent upon the choice made.

Decisions taken
Regarding all three issues, the mission felt that is not up to the consultant but up to ICCO to set the frame. Most obviously, regarding the theme, as this touches the heart of ICCO's mission. But also regarding in-country presence: whatever, the consultants' personal assessment of the Cambodian context, the discussion around in-country presence has a history in ICCO. Formulating a program set up assuming in-country presence without explicit ICCO support for this did not seem appropriate.

Below is the visual representation for the issues for decision as they were presented during the interim debriefing at ICCO HQ, and the decisions taken.

Issues for decision: Theme

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                    ┌─────────────────────────────────────────┐
                    │   Democratization, Peace Building & HR    │
                    └─────────────────────────────────────────┘
                         │                           │
            ┌────────────────────────────┐           │
            │ Focus on Civil & Political  │           │
            │          Rights             │           │
            └────────────────────────────┘     ┌──────────────────────────┐
                 │              │               │  Focusing on all Rights = 3 │
    ┌──────────────────┐  ┌──────────────────┐ └──────────────────────────┘
    │ No other program │  │ Also other       │
    │       =1         │  │ program = 2      │
    └──────────────────┘  └──────────────────┘
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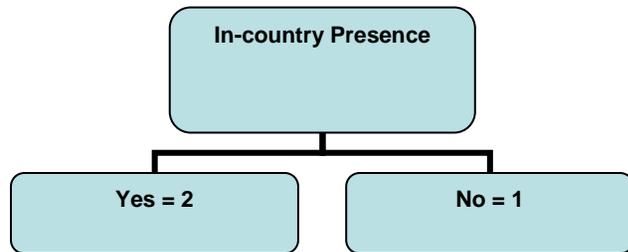
Recommendations

- If one wants to make effective strengthening of Civil Society (actors, processes, positions) and of the organizational capacity of marginalized groups through livelihood issues a legitimate part of a D&P program the definition of this program as focusing on civil and political rights has to go out of the window. Given ICCO's overall theme policy: what are the options??

- However, a choice for 1 is certainly possible, although it implies rigorous weeding out of current partnerships and a focus on national level NGO activities.

- A choice for 2/3 is much less compatible with remaining an out-of-country donor than a choice for 1.

- However, for the partnership principle to have some substance in Cambodia, even a choice for 1 should go hand in hand with more ICCO presence

Decision: ICCO's D&P program is not going to have an exclusive focus on civil and political rights. Recognizing that supporting Cambodians to claim civil and political rights at local level is often only effective when taking a livelihoods approach, ESC rights are going to be an integral aspect of the programs mandate.

Issues for Decision: in-country presence

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        │   In-country Presence    │
        │                          │
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   ┌─────────────┴──┐  ┌──┴─────────────┐
   │   Yes = 2      │  │    No = 1      │
   │                │  │                │
   └────────────────┘  └────────────────┘
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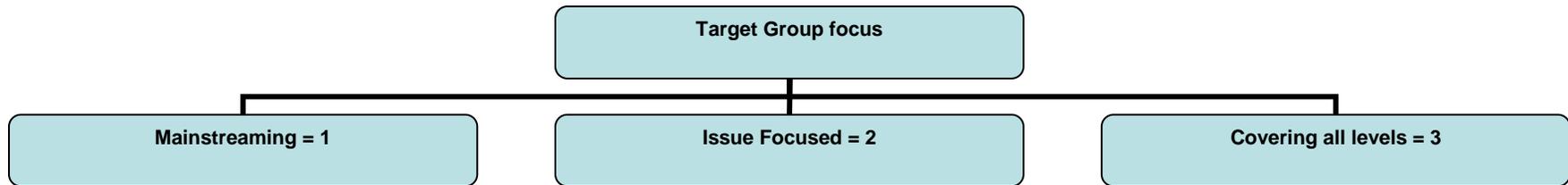
Recommendations

- If 1: Without in-country/regional presence and the opportunities for more frequent face-to-face interaction as a prospect, it is advisable to be realistic about taking any kind of process approach towards program development. The program formulated is going to be it and can be expected to realize itself largely through weeding out of partners that do not fit so well into the objectives and replacing them by new ones that do.

- If 1: forget options 2/3 regarding theme choice

- If 1: forget a program focus on ethnic minorities

- If 1: forget about donor coordination

- If 2: If some form of in-country presence is in the pipeline it is advisable to make full use of the opportunities that such presence creates and go for a program that is discursively as flexible as possible and allows for further development in actual partnership with the organizations supported and some like-minded donors.

- If 2: hosting arrangement with DCA

Decision: ICCO requests program suggestions based on in-country representative presence and program management capacity

Issues for decision: target group policy

Target Group focus

Mainstreaming = 1	Issue Focused = 2	Covering all levels = 3

Recommendations

- Issues tied in with in-country presence because of donor coordination aspects of target group choices

- Issues tied in with theme choice because most target group focused NGOs are as much about ESC rights as about civil and political rights

- If 1: choose one strategic partner for each target group

- If 1: not compatible with ethnic minorities

- If 2/3: max. 2 target groups

Decision: ICCO does not have a specific target group policy. How to operationalize a focus on one or more target groups is up to what makes sense within the country context. Support targeting Cambodian Indigenous peoples is best covered by a regional program rather than the Cambodian D&P&HR program.