

Less Than Human Torture in Cambodia



A LICADHO
Project Against Torture
report

by Jason Barber
June 2000

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TABLE OF CONTENTS

<i>Foreword by David Chandler</i>	i
<i>Preface</i>	ii
PART 1: BACKGROUND	1
<i>Chapter 1: Introduction</i>	1
<i>Chapter 2: What is Torture?</i>	3
<i>Chapter 3: Historical Context</i>	5
The Roots of Torture	5
The Pol Pot Regime	6
Post-Pol Pot.....	10
<i>Chapter 4: Overview of Current Torture</i>	12
Scope of Torture.....	13
Methods of Torture	14
<i>Chapter 5: Legal Framework: Prohibitions on Torture</i>	15
International Law	15
Cambodian Law.....	16
PART II: TORTURE IN STATE CUSTODY	18
<i>Chapter 6: Police Torture: The Practice</i>	18
Extent of Police Torture	18
Methods of Police Torture	20
Geographic Locations of Police Torture	22
The Victims	25
Deaths from Police Torture.....	27
<i>Chapter 7: Police Torture: The Causes</i>	30
During the Torture: Arrest & Detention.....	31
After the Torture: Lack of Response	34
<i>Chapter 8: Torture by Military & Other Non-Police Agents</i>	43
<i>Chapter 9: Torture in Prisons</i>	45
Overview of Prison Torture.....	45
Circumstances of Torture in Prisons	48
Shackles & Handcuffs	50
Children & Women in Prisons.....	51
Prison Living Conditions	53
Outside Assistance: The Impact.....	54
<i>Chapter 10: Political and Military Torture in Cambodia</i>	55
Military Torture: War with the Khmer Rouge	56
Military & Political Torture: Intra-Government Fighting	57
Political Torture: 1998 National Elections.....	58
Political Torture: Misuse of the Law	60
PART III: TORTURE IN CIVILIAN CUSTODY	63
<i>Chapter 11: Trafficking & Prostitution</i>	63
Sexual Trafficking Practices	63
Involvement of State Forces.....	67
<i>Chapter 12: Non-Sexual Human Trafficking</i>	69
<i>Chapter 13: Domestic Violence</i>	70

PART IV: HEALTH & SOCIAL ISSUES	73
<i>Chapter 14: Physical Symptoms of Torture.....</i>	73
<i>Chapter 15: Psychological Symptoms of Torture</i>	75
<i>Chapter 16: Psychosocial & Economic Effects of Torture.....</i>	79
Overview.....	79
Sexual Torture	80
Domestic Torture	81
Lack of Justice & Fear of Further Torture.....	82
<i>Chapter 17: Rehabilitation Services for Torture Survivors</i>	83
PART V: PSYCHO-SOCIAL CONTEXT OF VIOLENCE.....	85
<i>Chapter 18: Historical Legacy</i>	85
<i>Chapter 19: The Cycle of Stress & Violence</i>	88
PART VI: LAW & IMPUNITY	90
<i>Chapter 20: Legal System in Crisis</i>	90
<i>Chapter 21: Torture Victims & the Law.....</i>	98
<i>Chapter 22: Confessions & Police Torture</i>	101
<i>Chapter 23: Police Torture – the Government Response</i>	104
PART VII: CONCLUSIONS & RECOMMENDATIONS	111
<i>Chapter 24: Conclusions</i>	111
<i>Chapter 25: Recommendations.....</i>	113
Torture in State Custody.....	113
Torture in Civilian Custody	118
Torture in State & Civilian Custody.....	119
APPENDIX 1: CASE STUDIES.....	123
1. “I would have done anything I could to avoid being beaten”	124
2. “He said the next time he caught a robber, he would beat them more than he had beaten me.”	126
3. “When people speak loudly, I feel frightened”	129
4. “If you kill me, that’s okay”	131
5. “They treated us like wild animals”	133
6. “They said I should confess or they would take me to Klang Leu. I understood what they meant: that I would be killed.”	137
7. “I could not whip my wife fifty times, so I only whipped her four times.”	139
APPENDIX 2: POST TRAUMATIC STRESS DISORDER	144
APPENDIX 3: UN CONVENTION AGAINST TORTURE	146

Clarifications

In this report:

- All costs quoted in dollars (\$) refer to United States' dollars; \$1 = 3,800 Cambodian riels at time of writing
- Unless otherwise footnoted, all case examples of torture (presented in italics or in boxes) are based on victim testimonies or other information collected by Licadho
- Names of victims of torture are excluded or changed, except for cases in which the victim died or cases in which the victim's identity has been previously well-publicized

FOREWORD

by David Chandler

I have been asked to add a few words to this probing and often terrifying study, which examines the phenomenon of torture and places it in a Cambodian context. Nothing I can say will increase its value, and I urge anyone reading these words to read on, up to the end, where some appalling case studies are documented in an appendix.

Over the last few years, I have thought a good deal about torture in Cambodia. This is because my book, *Voices from S-21: Terror and History in Pol Pot's Secret Prison*, published in 1999, deals with the systematic mistreatment of over 15,000 men, women and children who were held in this Khmer Rouge anteroom to death. They were accused of counter-revolutionary crimes and interrogated at length. Extremely brutal torture formed a key component of those interrogations.

I devoted a chapter in my book to torture. I placed the practice in a historical context both globally and in the framework of Cambodian history. I also examined torture in other times and places, and absorbed as much theoretical writing as I could find, including the works of Jean Amery, Michael Foucault, Edward Peters and Elaine Scarry, among others. I came away feeling depleted and depressed, but with a faint understanding of what the prisoners at S-21, and the victims described in the pages that follow, had gone through.

I write that torture in Cambodia did not start with the Khmer Rouge. The current study, *Less Than Human*, shows that the practice diminished, but did not end, after the Khmer Rouge fell from power. It documents torture in the 1980s and 1990s and widens the definition of torture for the 21st Century to include protracted domestic violence and the appalling abuse of sex workers.

Nonetheless, as *Less Than Human* also makes clear, the problem is deeper and wider than a single country. There is no need to demonize Cambodia or its people for what is documented here. Indeed, a positive aspect of this study is that it was written openly and carefully inside Cambodia itself. In many countries of Southeast Asia – to say nothing of the rest of the world – a study of this kind would never be permitted. Admitting that a problem exists, and publicizing examples, is better than denying that practices exist, or taking refuge in “Asian values” which are synonymous with the values of those in power, rather than those of the powerless victims of abuse.

When we look up from reading *Less Than Human* we are left with some awful stories and with an enduring problem, which is the tendency toward violence that is embedded in all of us. Studies like this one show us that we are capable of torturing others on the one hand and capable of seeking to stop the practice on the other. If the study does anything to make us aware of these capabilities, and to reduce the incidence of torture in Cambodia, it will have had an enormous, and merited, success.

– *David Chandler is Professor Emeritus of History at Monash University, Melbourne, Australia. He is the author of A History of Cambodia (1996), Facing the Cambodian Past: Selected Essays, 1971-1994 (1996), and Brother Number One: A Political Biography of Pol Pot (1992).*

PREFACE

Torture, as one of the gravest crimes possible, is protected by a wall of silence and denial. Perpetrators do not admit it, and may take measures to avoid leaving evidence such as scars, or to dissuade victims from talking. Governments have reasons to downplay the scope of torture. Victims are left traumatised, ashamed and frightened; they are often reluctant to talk about their experience, or lay complaints against their torturers. Breaking this silence, and giving victims a voice, is a necessary first step towards reducing the use of torture. This report is an attempt to begin to break this silence in Cambodia.

In a country and a world in which so many people are torture survivors, it must be noted from the start that the author of this report is not one of them. Any attempt to comprehend torture, and the trauma it wreaks, by someone who has not experienced it will inevitably be inadequate. The experiences, emotions and thoughts of torture survivors can by no means be fully and properly described.

This report is an exploratory study on torture in Cambodia: how, where and why it occurs and is perpetuated. The research included a review of torture cases in Licadho investigation, medical and prison research files. Additional information was gathered through interviews with torture victims, and with others – government and law enforcement officials, and the staff of non-government organizations (NGOs) – with knowledge of torture.

This is not a statistical study. It is impossible to accurately estimate the amount of torture which occurs in Cambodia. While this report includes some statistics – particularly an analysis of information about torture contained in Licadho's prison research database (see below) – these figures should not be considered comprehensive; they are indicative only.

The seeds of this report were planted in 1992 with the creation of Licadho as an independent Cambodian human rights organization, and the subsequent establishment of its provincial network (it currently has offices in 15 provinces and municipalities). Part of Licadho's work is to receive complaints of alleged human rights violations, investigate to try to establish their veracity, and, where appropriate, refer cases to government, law enforcement or judicial bodies with a request for prosecutions and other action to be taken according to the law. Torture is one of the human rights violations that Licadho investigates.

In 1994, in response to chronic health problems in prisons, Licadho established a small medical team to provide treatment in several prisons. Torture victims were among those who were treated. The medical project continues today, with its staff regularly visiting 11 prisons around the country to treat inmates and guards. Meanwhile, Licadho's work in prisons expanded in 1997 with the creation of a prison monitoring program. Researchers were employed in Phnom Penh and the provinces to regularly visit prisons, monitor conditions, identify and work with the authorities to try to resolve human rights problems, and interview pre-trial and convicted prisoners. Currently, the program covers 20 of Cambodia's 25 prisons. The medical and prison monitoring work is conducted with Ministry of Interior approval. The extent of access to prisons, and the ability to interview inmates in private (without prison staff in earshot), can vary from prison to prison and time to time.

Inmate interviews by the prison researchers cover a variety of questions, including the inmates' personal details, circumstances of their arrest and detention, whether they have legal representation (for pre-trial prisoners), and food, health and other conditions in prison. One of the questions asked is whether they were mistreated while in the custody of the arresting authorities or while in prison; if so, the inmates are asked to describe what happened to them. Information from these interviews, including inmates' statements about torture or other mistreatment, is compiled in a central database.

This report – designed to bring together the available information about torture held by Licadho, as well as other organizations – was commissioned by Licadho as part of preparation for the creation of the Licadho Project Against Torture. That project was established in early 2000 to provide investigation, advocacy and rehabilitation services to torture victims.

Torture is a disturbing and depressing subject. One of the pitfalls of researching and writing about it, into which the author of this report undoubtedly falls, is to neglect to see or to show the many glimmers of light in what is otherwise a very bleak picture. There are many Cambodians across all sectors of society who not only refuse to close their eyes to torture, but who actively work against it: the dedicated and talented staff of numerous NGOs who try to care for the victims and investigate the perpetrators; the many so-called ordinary people in villages and towns throughout Cambodia who, often at risk to their own safety, are willing to help the victims and provide information to investigators; and those officials within the government, police, military and courts who are prepared, each in his or her own way, to assist the fight against torture. Finally, and most importantly, there are the torture survivors who in picking up the pieces of their shattered lives serve as inspiration to us all.

PART I: BACKGROUND

CHAPTER 1. INTRODUCTION

“Our children must learn never to treat human beings like animals, or lower than animals.”

– Vann Nath, survivor of the Khmer Rouge’s S-21 torture center.¹

Torture is one of the most grievous acts of brutality practiced by mankind. While the word conjures up visions of the Dark Ages or the Inquisition, torture is by no means relegated to the ancient past. It is still commonly practiced in dozens of countries. Cambodia is one of them. In police stations and prisons, on military bases, in brothels of sexual slavery, and in private homes, torture is an everyday occurrence. People are regularly and routinely beaten black and blue with punches and kicks. They are hit with batons, iron bars, gun butts, pieces of wood or other objects, subjected to electric shocks, whipped with wire, bamboo, rope or belts. Some are nearly suffocated with pieces of plastic, or have their feet crushed under wooden or iron bars. For many victims, torture includes rape or other sexual abuse. Aside from physical torture, methods of psychological torture include prolonged unlawful detention, verbal intimidation and death threats, mock executions and physical assaults or threats against relatives of victims.

Torture has existed in Cambodia for centuries, including during the famed Angkorian civilisation, but Cambodians need no reminding that torture is not consigned to ancient history. The most notorious practitioners of torture in modern Cambodia – the 1975-79 Khmer Rouge regime led by Pol Pot – haunt the memories of many Cambodians today. Virtually the entire population was tortured or subjected to other extreme traumas in one way or another by the Khmer Rouge. Decades later, some of Pol Pot’s torture methods are still in use. Indeed, throughout the ages of Cambodian history, the basic aims, and many of the techniques, of torture have remained the same. Today’s torturers, like those of the past, inflict physical and mental pain primarily for the purposes of extracting confessions or other information, punishing perceived wrongdoers (criminal or otherwise), or simply extorting money from detainees or their families.

Torture is inflicted on men, women and children in Cambodia, and many victims receive this treatment at the hands of those who are supposed to protect society: police officers, soldiers, government bodyguards and others in positions of authority. The single biggest reason why torture is permitted to flourish in Cambodia into the 21st Century is the lack of accountability before the law of criminals who hold power or influence.

- Police officers smash an iron bar over the head of a 15-year-old boy, to get him to confess to stealing;
- a woman is whipped with wire, beaten with a stick and nearly suffocated with a plastic bag, at a police station;
- prison guards beat a group of inmates with the handle of a hoe until they are bloody and bruised, and then confine them in a cell without adequate food, clothing, bedding or water for bathing for more than two weeks;
- a teenage girl, forced into prostitution, is taken to a house owned by a military policeman or his family and beaten, given electric shocks and injected with drugs to make her ‘agree’ to sleep with customers;
- a man is taken to a police station and blindfolded, manacled and beaten by police who stomp on his face and try to force him to eat a cigarette.

The above are just a handful of torture cases in Cambodia in the past three years, and they are by no means the worst. The victims have two things in common – they were tortured, and their torturers were not brought to justice.

¹ Vann Nath, *A Cambodian Prison Portrait: One year in the Khmer Rouge’s S-21*, White Lotus, 1998.

Torture is prohibited by international law, through the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which Cambodia is a party. Cambodia's Constitution (1993) and criminal law (1992) also expressly forbid torture. Such prohibitions mean little or nothing to a victim or a torturer. The government, police and judiciary, by failing to meet their legal obligations to investigate and prosecute torture cases, are accomplices to torture. In recent years, the number of torture-related prosecutions of police or prison officers, for example, can be counted on one hand. As for convictions and prison sentences, there appears to have been only one: a military policeman who spent four months in jail for beating a teenage boy who died in custody. When torture cases are brought to their attention, government officials, judges, prosecutors, police and military chiefs usually turn a blind eye, thereby explicitly permitting and implicitly encouraging the use of torture.

As such, Cambodian torture victims are victimised repeatedly – first by the torturers, and then by a government and judicial system which at best ignores the victims and at worst condones the barbaric and illegal treatment of them. They are often further victimized by the economic consequences of torture, as their physical or psychological injuries make it difficult for them to earn a living.

Torture is just one part of the pervasive violence in current-day Cambodia, whose impacts stretch far beyond individual victims. Countries that permit torture invariably permit other grave crimes and human rights abuses. Police and other officials who commit torture invariably commit other crimes. The practice of torture is directly counter to the rule of law, and perpetuates Cambodia's climate of impunity for those who hold power and climate of fear for those who do not. Both contribute to the cycle of violence and repression that has marred Cambodia for decades, hindering the country's social, economic and legal development.

While torture for political reasons has been publicized in recent years (in the aftermath of the July 1997 violent disintegration of the coalition government, for instance), the majority of torture committed in Cambodia is for non-political reasons. The most institutionalised use of torture occurs in police stations. To be arrested in Cambodia is a dangerous affair; violence, or the threat of it, is routinely used to secure confessions from criminal suspects. Approximately one in four prison inmates in Cambodia was allegedly threatened, mistreated or tortured while in police custody, according to Licadho research. Torture is a common criminal investigation technique in Cambodia, tolerated by all levels of the police and judiciary.

As well as in police stations, torture also occurs in prisons, mainly as punishment for attempted escape or other discipline breaches, and in military camps and other detention sites.

As for civilian places of torture, the pain and suffering inflicted in brothels or private homes on victims of sexual trafficking and domestic violence can be as horrific, if not more so, as the torture committed in State custody. In both sexual trafficking and domestic violence, the physical, sexual and psychological torture unleashed on women and children is often extreme; the victims are kept in a virtually continual state of misery and terror.

Torture is about treating people as though they are less than human. Torturers invariably dehumanise their victims, labelling them as enemies, criminals or possessions, and therefore implicitly justifying barbaric treatment of them, as though they were animals or objects of lesser or no value. The people who have lost their humanity are, of course, the torturers, not the tortured. Cambodia historian David Chandler, writing about torture under the Pol Pot regime, quoted Zygmunt Bauman's comment about the Holocaust and its perpetrators: "The most frightening news... was not the likelihood that 'this' could be done to us, but the idea that we could do it."² Half a century after the Holocaust, and 20 years after the end of Pol Pot's rule, the question of how and why someone can become a torturer remains seemingly incomprehensible. How does a human being beat and break another human being's body and mind, watch him bleed and watch him scream? What goes through the mind of a torturer, what is he thinking, what is he understanding? The depths of depravity to which humans can descend defy explanation, and that alone makes it more frightening.

² Zygmunt Bauman, *Modernity and the Holocaust*, p. 152; citation is taken from David Chandler, *Voices from S-21: Terror and History in Pol Pot's Secret Prison*, University of California Press, 1999 (p. 154).

For the victims, the torture continues long after the torturers cease their work. Torture takes an incalculable toll on victims, extending far beyond black eyes, broken bones, bruises and scars. A myriad of psychological problems – such as fear, anxiety, depression, nightmares – can plague the lives and souls of survivors for years, if not forever. The psychological distress of victims, and their loss of dignity and their loss of faith in fellow humans, also defies adequate description or comprehension. But it is widely accepted that the psychological consequences of torture are immense, and often far more debilitating than the physical injuries. In Cambodia, for example, no one doubts the ongoing psychological suffering caused by the Khmer Rouge and years of war. Yet scant regard is paid to the psychological pain inflicted on today's torture victims, most of whom are left to suffer alone and in silence.

Concerted action to combat torture is long overdue. There is an urgent need for greater education of police, other officials and the general populace, as well as prosecutions of offenders and assistance to victims, and most importantly the establishment of practical safeguards for people at most risk of being tortured. Such action is vital to begin to heal the scars of the past, reduce the infliction of new wounds, and break the cycle of violence and trauma in Cambodia.

CHAPTER 2. WHAT IS TORTURE?

“1. to cause extreme physical pain to, esp. to extract information, etc.; *to torture prisoners*. 2. to give mental anguish to. 3. to twist into a grotesque form. 4. physical or mental anguish. 5. the practice of torturing a person. 6. a cause of mental agony.”

– ***‘Torture’, as defined by the Collins Concise Dictionary, third edition, 1992.***

“For the purposes of this Convention, the term ‘torture’ means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”

– ***The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.***³

“For the purpose of this Declaration, torture is defined as the deliberate, systematic or wanton infliction of physical or mental suffering by one or more persons acting alone or on the orders of any authority, to force another person to yield information, to make a confession, or for any other reason.”

– ***The World Medical Association’s Declaration of Tokyo, 1975.***⁴

The Cambodian word for torture is *tearunikam*, which is derived from the Sanskrit *daruna*, meaning “fierce” or “savage” and the Pali *kamm*, meaning “action”.⁵ The expression *twer bab*, which means to abuse, mistreat or inflict suffering, is also commonly used.

Torture is not defined in Cambodian domestic law because, as in many countries, torture is not legislated as a ‘crime’ *per se*. Perpetrators should be charged under the applicable criminal provisions for each element of the torture – i.e. battery, illegal confinement, rape, manslaughter, and so on.

The applicable legal definition of torture as a concept, rather than the individual actions that may comprise an instance of torture, comes from the UN Convention against Torture, which Cambodia ratified in 1992. A broader definition, designed for medical doctors, is that of the World Medical Association.

³ The convention, adopted by the United Nations General Assembly in December 1984, entered into force in June 1987; Cambodia ratified it on October 15, 1992.

⁴ The declaration was a response to the phenomenon of medical doctors participating in torture; it prohibits the involvement or complicity of doctors in any way in torture and other forms of cruel, inhuman or degrading treatment.

⁵ David Chandler, *Voices from S-21: Terror and History in Pol Pot’s Secret Prison*.

The key difference between the two definitions is whether the participation or complicity of a State official is necessary for physical or mental pain to be categorized as torture. The UN convention requires the consent or acquiescence of a public official “or other person acting in an official capacity”, while the World Medical Association refers only to “one or more persons acting alone or on the orders of any authority”.

This report applies a broad definition of torture. While it focuses primarily on torture by people in positions of State power, it does not exclude torture committed by those who wield other forms of authority or influence. In particular, this report asserts that sexual trafficking and domestic violence, even if the perpetrators are civilians, can in some cases be characterized as torture. This is in the belief that the key element in torture is the infliction of serious physical and/or mental pain by someone – whether it be a policeman, soldier, civil servant, brothel owner, husband or other civilian – who holds (or believes they do) a position of authority over the victim.

A broad definition of torture is particularly relevant in Cambodia, where the lines are often blurred between crimes committed by officials and those committed by civilians. In the sex trade, for example, human traffickers and pimps often operate under the protection of members of the State security forces. Children and women are abducted or sold, and detained, raped and beaten into working as prostitutes. Whether or not State security personnel actively participate in these crimes, the patronage they provide to the perpetrators permits such violence to occur. Furthermore, the authorities’ general failure to enforce the law in certain areas – particularly human trafficking and domestic violence – allows offenders to feel free to commit crimes without fear of punishment. As such, the State bears some responsibility, if not for the crimes of the perpetrators, then for the lack of justice they face (and the lack of deterrence to others who would commit the same crimes).

There are many different types and degrees of torture and other cruel, inhuman or degrading acts, from punching, kicking and whipping, to electric shocks, mutilation with weapons, psychological threats and material deprivations. The Convention against Torture does not categorise or define specific acts of torture, nor of “Other Cruel, Inhuman or Degrading Treatment or Punishment”. Inevitably, torture is a subjective concept open to differing interpretation; there is no universally-accepted line across which lesser acts of violence or degradation suddenly become ‘torture’.

Given the lack of an accepted overriding definition of torture, and in the context of countries where State complicity in violence takes many forms, it has been argued that “degrading, cruel and inhuman treatment” becomes impossible to separate from torture. As one commentator has asked, “Is it not torture to have children witness the murder of their parents? Is it not torture of women to have their sons and husbands taken away never to be seen again? Is it not torture to engage village members including women and children to forced labour and to threaten men with rape and sexual abuse of their women?”⁶

Such questions are applicable to Cambodians, particularly in regard to the 1975-79 Khmer Rouge regime, but also in more recent years. Today, for the survivors of past torture and for current-day victims, there are many more questions: Is it torture to have lost relatives during the Khmer Rouge regime and have to live for decades without ever knowing what happened to them? Is it torture to have your son murdered by a policeman, soldier or someone else and feel compelled, or threatened, to accept a few hundred dollars in compensation, rather than take the case to court? Is it torture to be beaten day in and day out by your husband, and be unable to depend on the authorities for help because they don’t consider it a crime? Is it torture to seek the help of the police to rescue your abducted wife or daughter, who is being tortured in a brothel, only to be told that they will not do anything? The victims may well think so.

⁶ June P. Lopez, “Report on Torture in Asia”, presented at the University of Chicago conference *Investigating and Combating Torture*, March 4-7, 1999.

CHAPTER 3. HISTORICAL CONTEXT

“Once again, I was human.”

– Teeda Butt Mam, a survivor, on the downfall of the Pol Pot regime in 1979.⁷

A. THE ROOTS OF TORTURE

The elaborate stone reliefs carved on the walls of Cambodia’s most celebrated religious monument, the 12th Century Angkor Wat, include graphic scenes of people being skinned alive, strung up on trees, chained or beaten. They provide a glimpse into the history of torture in Cambodia, indicating that, as in Europe and elsewhere, its roots stretch back centuries.

The torture depicted on Angkor Wat’s walls represent the hells to which wrongdoers were supposedly banished. On the huge monument’s southern gallery, there are, according to one account, a total of 32 hells. As Vittorio Roveda’s book *Khmer Mythology* describes, each hell is depicted with scenes of brutal punishments and inscriptions indicating how they are meted out depending on the type of sin committed.⁸ For those who are guilty of injustice, there is the “hell of weeping”, where sinners are chained, beaten and slashed by great swords. Those who have harmed, or taken the property of, others are thrown into basins of molten metal. Seducers and adulterers are torn to pieces by birds of prey or thrown into lakes. State servants who abuse their positions to steal from others are thrown, head first, into cauldrons. For other sinners, the punishments include being sent into forests of cactuses, bound upside down in ropes, or strung up on trees with nails hammered into their heads.

Interestingly – in a country where today, centuries later, suspected thieves and robbers are beaten by street mobs or tortured to confess by police officers – a total of 12 of the 32 hells are reserved for thieves. The punishments here include having their tongues pulled out with tongs, being thrown into freezing cold water, or, for “great criminals”, being devoured by dogs or birds of prey. As Vittorio Roveda puts it, “All these descriptions provide a colorful picture of life at the time of Suryavarman II”, the King who built Angkor Wat.⁹

The actual use of torture in ancient Cambodia, if perhaps not of all the methods so vividly displayed on Angkor Wat, is corroborated by the most comprehensive eyewitness account. Chinese emissary Chou Ta-Kuan spent nearly a year in Cambodia in 1296-97, more than a century after Angkor Wat was built, and documented his observations. According to his account¹⁰, execution, torture and amputation were features of Cambodian justice. Serious criminals would be buried alive, while lesser ones would have their feet, hands or noses cut off. A man who adulterously slept with a married woman would have his feet squeezed between two splints of wood (a version of which is still practiced in Cambodia today) until he surrendered all his property as compensation to the woman’s husband. A thief caught red-handed would be imprisoned and tortured, while a suspected thief would be given the chance to confess or be put to a test of his innocence or guilt. If he denied the charge, his hand would be plunged into a vat of boiling oil. “If he is truly guilty, the hand is cooked to shreds; if not, skin and bones are unharmed,” wrote Chou Ta-Kuan.¹¹

Such a use of torture for ‘judicial’ reasons, to determine or punish criminal guilt, continued in Cambodia for centuries. Historian David Chandler has noted that 17th Century Cambodian legal codes list 21 time-consuming, extremely painful punishments for people accused of betraying the King; the Khmer narrative poem *Tum Taev*, set in the 17th Century, closes with the execution of an entire family for *lese-majeste*, buried up to the neck and decapitated by a buffalo-drawn iron harrow¹². During the subsequent French colonial period (1863-1954), torture was not lawfully sanctioned, although Chandler suggests that torture (such as “very rough” interrogations of prisoners) continued to be practiced to some extent through the colonial era.

⁷ Teeda Butt Mam, “Worms from our skin”, *Children of Cambodia’s Killing Fields: Memoirs by Survivors*, (compiled by Dith Pran & edited by Kim DePaul), Silkworm, 1997.

⁸ Vittorio Roveda, *Khmer Mythology*, River Books, 1997.

⁹ Ibid.

¹⁰ Chou Ta-Kuan, *The Customs of Cambodia*, English translation published by The Siam Society, 3rd ed., 1993.

¹¹ Ibid.

¹² Chandler, *Voices from S-21*, p. 119.

B. THE POL POT REGIME

In modern Cambodia, the most systematic use of torture as a government policy occurred during the 1975-79 Democratic Kampuchea regime led by Pol Pot. Seizing power in April 1975, Democratic Kampuchea, the communists also known as the Khmer Rouge, unleashed a ferocious revolution which swept through Cambodia “like a forest fire or a typhoon”.¹³ In a warped bid to return the country to “Year Zero”, the regime’s leaders sought to wipe out “over 2,000 years of Cambodian history”¹⁴ and rebuild an entirely new society. In search of a rural workers’ utopia, they forcibly evacuated the country’s cities, dispatching millions of people to the countryside to work like slaves in regimented labor camps. Money and private property were abolished, along with religion, schools and all but the most basic of medical services. There were no political, social, economic or cultural freedoms.

Ordinary Cambodians did not know who was ruling their country, but were told only that *Angkar* (the Organization) was in charge. The invisible *Angkar* was everywhere, watching and knowing everything, they were told. *Angkar* decided everything: how people would work, live, eat, and, for many, how they would die. Infractions of *Angkar*’s rules were dealt with severely, and security forces hunted down real and imaginary counter-revolutionaries. By January 1979, and the fall of Pol Pot’s regime to the invading army of neighbouring Vietnam, as many as one in four or five Cambodians was dead from execution, disease or starvation. It was one of the worst genocides of the 20th Century, a living nightmare rivalled by the hells depicted on the walls of Angkor Wat some 800 years earlier.

By virtually any definition of torture, most Cambodians who lived through Pol Pot’s rule can be said to have suffered torture. The regime’s policies – such as mass evacuation of cities, separation of families, forced labour, forced marriage and the abolishment of social services – undoubtedly inflicted severe physical and mental pain and suffering on the populace. Many younger people (born after the Pol Pot regime) are likely to be secondary victims of the torture inflicted on their older relatives¹⁵. Arguably, the majority of Cambodians alive today have suffered from torture in one form or another.

As well as the general populace which suffered from Democratic Kampuchea’s blunt attempts at social reengineering, there are those who were directly tortured by the regime’s security personnel. A national network of detention, interrogation, torture and execution centres (more than 180 in total, according to one historian¹⁶) comprised the heart of Pol Pot’s security apparatus. The purpose of this gulag system was not to mete out swift death to detainees, but to obtain ‘confessions’ to alleged crimes against *Angkar*. Frequently, this involved physical and mental torture. Survivor Vann Nath describes his interrogation by the forces of *Angkar* after his arrest in Battambang province in 1977:

The interrogator told me to confess, or else he’d hurt me. I didn’t have any answer. He tied the electric wire firmly around my handcuffs and connected the other end to my trousers with a safety pin. He sat down again.

“You’ve been reported to have been going around instigating people to oppose Angkar,” he said. “Who is your network?”

“I don’t know what you’re talking about, Brother,” I said. I didn’t know what they thought I had done. At the cooperative I never had time to go around and see my friends, not a single one. It must have been a pretext to kill me. The man holding the gun laid it on the table and walked towards me. He connected the wire to the electric power and connected the other end to my bottom of my shorts.

“Now do you remember? Who collaborated with you to betray Angkar?” he asked.

I couldn’t think of the words to answer them when he gave me an electric shock. My whole body went into a spasm and I passed out. When I came to I could hear a distant voice asking “How many people in your network? Who are you communicating with?”

“No...brothers,” I could only get those two words out before I fell unconscious again.¹⁷

¹³ David Chandler, *A History of Cambodia*, Westview Press, 1992.

¹⁴ *Ibid.*

¹⁵ Overseas studies of the children of refugees tortured in their home countries have shown that most suffered psychological problems such as anxiety, fear, depression, nightmares. Other studies have highlighted communication and psychological problems between World War II Holocaust survivors and their children. See references cited in Chapter 6 of Lone Jacobsen & Knud Smidt-Nielsen, *Torture Survivor – trauma and rehabilitation*, International Rehabilitation Council for Torture Victims, 1997.

¹⁶ Henri Locard, “KR killings more violent and systematic”, *Phnom Penh Post*, August 11-24, 1995.

¹⁷ Vann Nath, *A Cambodian Prison Portrait: One year in the Khmer Rouge’s S-21*, White Lotus, 1998.

Tens if not hundreds of thousands of men, women and children were detained in the Khmer Rouge's prisons. Many died from starvation, disease, torture or eventual execution. The number of survivors is unknown, but one scholar has estimated the survival rate of detainees in smaller detention centres at 20-30%¹⁸, compared to almost zero at the Phnom Penh interrogation centre, called S-21.

S-21, now better known as Tuol Sleng¹⁹, occupied the site of a former high school. It was, as David Chandler has written, "a total institution whose mission was to locate, question and destroy" enemies of the Party Center (the regime's central leadership). Its prisoners included former regime officials, accused of betraying the revolution, and their relatives. As the regime's leadership increasingly descended into violent paranoia, the hunt for 'traitors', many of them imaginary, grew wider and wider, and many of its own revolutionary cadre and soldiers were arrested, tortured and executed.

At Tuol Sleng, prisoners were forced to give detailed 'biographies' of their lives and 'confessions' of alleged crimes against *Angkar*. Frequently, they were made to admit that they were spies of Vietnam, the CIA or the KGB (or all three). These biographical confessions were usually extracted through days of torture; often the preliminary confessions were vetted and then returned to the victims with suggested revisions. The bureaucracy was meticulous: every prisoner was photographed; their 'confessions', and correspondence between the interrogators and their masters, were recorded in thousands of pages of official documents. At one stage, a senior government official urged the prison chief to conserve paper, noting of the detainees: "Some of them are afraid and just talk and talk."²⁰

After confessions were drafted and redrafted to the satisfaction of their jailers, the prisoners were executed, often along with the families, usually by being clubbed to the back of the head with hoe or axe handles. On July 1, 1977, 114 women were executed, 90 of them listed on records as "wives" of prisoners. The next day, 31 sons and 43 daughters of prisoners were killed. On October 15 alone, a record 418 prisoners were executed.²¹

Of more than 14,000 prisoners sent to S-21, seven are known to have survived. One of them was Vann Nath, transferred to S-21 after his initial arrest in Battambang. After less than a month in the prison, kept shackled and virtually starved, "my ribs were poking out and my body was like an old man of 70. My hair was overgrown like bamboo roots, and had become a nest for lice. I had scabies all over my body. My mind and spirit had flown away. I only knew one thing clearly: hunger."

Vann Nath, in his 1998 book on his S-21 experiences, continues: "Each day they would take some prisoners out of my room to be interrogated. They would handcuff and blindfold the prisoners before they left the room. Sometimes some of the prisoners came back with wounds or blood on their bodies, while others disappeared."²²

The following torture techniques are documented in S-21 archives:²³

- *Beating: by hand, heavy stick, branches, bunches of electric wire*
- *Burning with cigarette*
- *Electric shock*
- *Feeding "2 or 3 spoonfuls of shit"*
- *Being jammed with a needle*
- *Having fingernails pulled out*
- *Shoving*
- *Scratching*
- *Suffocation with plastic bag*

¹⁸ Henri Locard, "KR killings more violent and systematic", *Phnom Penh Post*, August 11-24, 1995.

¹⁹ The name S-21 refers to the *santebal*, the Khmer Rouge's security police, or special branch. The prison site has been preserved since the fall of the Pol Pot regime as a genocide museum known as Tuol Sleng, named after the area in which it stands.

²⁰ Ben Kiernan, *The Pol Pot Regime: Race, Power and Genocide in Cambodia under the Khmer Rouge, 1975-79*, Yale University Press, 1996 (p. 354), quoting Tuol Sleng records.

²¹ *Ibid.* (pp. 353-4).

²² Vann Nath, *A Cambodian Prison Portrait*. Vann Nath was eventually given somewhat better conditions at the prison, and his life was spared, because of his skills as an artist; he was kept alive in order to be put to work painting pictures and sculpting busts of Pol Pot.

²³ David Chandler, "Documenting Torture in Pol Pot's Secret Prison", University of Chicago conference *Investigating and Combating Torture*, March 4-7, 1999. For a more comprehensive account of S-21 by Chandler, see his subsequent *Voices from S-21: Terror and History in Pol Pot's Secret Prison*, 1999.

- *Made to drink urine*
- *Forced feeding*
- *Hanging upside down*
- *Holding up arms for an entire day*
- *Water torture: by immersion, or by drops on the forehead*
- *Paying homage to the image(s) of dogs²⁴*
- *Paying homage to walls, tables or chairs*

Box 3.1**THE S-21 TORTURE MACHINE**

Interrogation and torture at S-21 (Tuol Sleng) was an industry and, as such, the staff had their own manual on how to do it. The manual was recovered after the fall of the Pol Pot regime. The following is from Part III, "Views and Stances Concerning Methodology of Interrogation", Section 4, "The Question of Torturing":

- a. *The purpose of torturing is to get their responses. It's not something we do for fun. We must hurt them so that they respond quickly. Another purpose is to break them and make them lose their will. It's not something that's done out of individual anger, or for self-satisfaction. So we beat them to make them afraid, but absolutely not to kill them. When torturing it is necessary to examine their state of health first, and then the whip. Don't be so bloodthirsty that you cause their death quickly. You won't get the needed information.*
- b. *It is necessary to be fully aware that doing politics is most important. Torture is only secondary, subsidiary and supplementary to some political expediency in certain areas. So politics takes the lead at all times. Even when torturing, it is always necessary to do constant propaganda.*
- c. *At the same time, it is necessary to avoid any question of hesitancy or half-heartedness, of not daring to torture, which makes it impossible to get answers to our questions from our enemies. This will slow down and delay our work. In sum, whether doing propaganda work or torturing or bringing up questions to ask them or accusing them of something, it is necessary to hold steadfastly to a stance of not being half-hearted or hesitant. We must be absolute...*

The interrogation manual emphasized the mixing of psychological (or 'propaganda') techniques with physical ones. Recommended psychological tactics included:

- a. *Reassure them by giving them something, some food for instance...*
- b. *Terrify them, confuse them in clever ways. Arrange little ploys to make them give up any hope that they will ever live again or ever be able to survive.*
- c. *Draw them into some ordinary conversation, but formulated so that it is of some use.*
- d. *Bring them over to thinking about their families, their wives, their children and their life. Make it clear to them that their guilt is a minor one. When they confess, or have not yet done so, we must guide them and reassure them that they are not the big leaders. Don't step up the pressure all the time. Say something like 'Don't make us torture you or torture you severely. It's bad for your health, and makes it harder for us to deal with each other in the future'...*

Other S-21 documents, such as personal notebooks written by several senior interrogators, reveal a similarly chilling desire to develop and refine the perfect torture machine. In these notebooks, the prison's first, second and third-ranked interrogators – named Pon, Tuy and Chan – fretted over how best to practice interrogation and torture, and critiqued the abilities of their staff. Interrogators were faulted for deficiencies ranging from sloppy handwriting on documents to displaying fear when "lots of enemies [prisoners] die". The problem of interrogators falling asleep on the job was noted. "The enemies look down on us when they see us asleep," one notebook entry reads. "Upon waking up, there's a desire to salvage one's reputation", so the interrogators beat the prisoners.

A recurring problem cited in the notebooks was interrogators beating inmates too heavily, injuring or killing them. Such interrogators were accused of "individualism"; whether out of anger or fun, they failed to adhere to S-21 interrogation policies. "If you beat, don't get carried with beating: beat a hit at a time. Then curse them out, curse them out to get them to think it over," one notebook entry advised interrogators on how to torture prisoners.

The S-21 staff was divided into various groups, including the "hot" (torture) and "cold" (non-torture interrogation) teams, and the documentation group (who prepared confessions, reports, etc). Excessive torture created

²⁴ This was a form of psychological torture in which victims were apparently forced to grovel respectfully in front of pictures of dogs, meant to symbolize Vietnam or the United States, in order to force them to acknowledge that they served foreign masters. David Chandler also suggests that paying homage was "one of many steps in a series of degradations designed to bring prisoners into line with...their animal status"; labeled as 'dogs' who served other 'dogs', the prisoners became, in the eyes of their torturers, "debased, unhealthy, document-producing creatures, tottering on four legs toward their deaths".

problems for the smooth functioning of the system, such as when the hot team beat people into a “totally debilitated state” and then handed them over to the document team, who could do nothing with them.

Interrogators who relied too heavily on physical torture, failing to use psychological tactics at the same time, were accused of “walking on one leg” instead of both legs. Other interrogators were guilty of beating prisoners who were in the “meat of the story”, or the middle of their confessions, instead of waiting until “after the meat of the story”. Sometimes, torture was used at the wrong times; interrogators were counselled: “Don’t beat enemies when they’re in a rage. Whenever they’re in a rage, the beatings don’t hurt...” Similarly, the interrogators were supposed to carefully consider the responses of the victims, rather than just accept whatever they said. “Don’t just get names: you’ve got to think,” reads one notebook entry.

The notebooks reveal the calm and (at least in their own minds) rational manner with which the top interrogators saw their tasks. Even the screaming of victims was noted as a problem to be addressed, because they were “so loud that they can be heard outside” the prison walls, compromising secrecy.

Chan, the number three-ranked interrogator, writing in his notebook on May 21, 1978, offered the following analysis of some of the problems in deciding when and how to use torture during interrogations:

With regard to those places where they [the prisoners] are making things up, we must think and try to understand what the reality of the picture might be. Once this picture is in mind, we must interrogate in such a manner as to not draw their attention to the fact that we are on to them somehow or other. Must we interrogate immediately or must we beat them? If we have to beat them, what story do we make up about why it’s necessary to beat them? Once they’ve been beaten up, how do we interrogate them so that we can say whether they’re responding acquiescently to us or not yet, so as not to have adverse effects on the fact that we’re beating them? And if there’s not acquiescence, what story do we make up about why we have to beat them some more? If we are going to beat them, we must beat them from a position in which we have the advantage over these enemies politically, have a pretext to make accusations against them and apply full pressure to them. Once there’s a bit of acquiescence, we should start interrogating them according to the flow of the narrative in accordance with trap questions that we have already set up in advance. We must then further assess what the enemies have responded in this round: is it in accordance with the concrete reality or not? If it’s not, then we must sort things out again...

Interestingly, the notebooks indicate a subsequent change in policy toward torture at S-21, as their authors grew increasingly concerned with “the problem of beating enemies” and the “overly heavy reliance on torture”.

On October 8, 1978 – three months before the regime’s collapse – first-ranked interrogator Pon wrote in his notebook of the need for S-21 (or at least part of it) to be turned into a ‘reform school’. “There is a totally absolute requirement for a reform school, which is to save to the maximum those people who have lost their way,” he wrote. Admitting that, in the past, “there have indeed been some enemies who it was not necessary to beat during interrogation”, Pon advocated a new “maximum stance of compassion.” He wrote of a plan “to interrogate all Cambodian nationals without resort to beatings, while getting 80% to confess, and getting 70% to confess every last little bit without resorting to beatings”. (Foreigners, however, such as Vietnamese and imperialist CIA agents could still be “absolutely, totally and permanently” dealt with in the customary manner).

Six weeks later, Pon was writing of the role of S-21 staff, like all communist party cadre, to lead “the masses”. He noted that “by beating prisoners to death, beating prisoners and breaking their arms, cutting open their arms, their backs, their penises, you can’t perform your duty. You can’t lead and gather in the masses”.

On December 16, just before Vietnam invaded to overthrow the Pol Pot regime, Pon clarified in his notebook that there was still some room for torture. “Interrogation without beating means beating maximally little” (as little as possible), he wrote.

Within weeks, Vietnam invaded and Pon and his colleagues fled S-21 and Phnom Penh. The reasons for Pon’s apparent misgivings about torture in the latter months of the regime – and whether they reflected a serious change in attitude or policy – remain uncertain. Did the chief interrogator, after three years of overseeing the torture of thousands of people at S-21, finally realize that not all of these prisoners could have been real “enemies”? Did he, or his superiors, come to see that torture was not an effective way of winning the hearts of “the masses”? Maybe, just maybe, even the Khmer Rouge of S21 – the most expert torturers in Cambodia’s modern history – came to doubt the work which they had been trained to do, and began to realize that beating people senseless was of no usefulness to a society.²⁵

²⁵ Extracts from the S-21 interrogation manual are taken from *Index on Censorship*, # 26 (3), 1997, reproduced from the original article by David Hawk, “Tuol Sleng extermination center”, *Index on Censorship*, # 15 (1), 1986. All other information is from the following three S-21 documents translated and kindly provided by Steve Heder, School of Oriental and African Studies, London: 1. “Studying at the Office: Documents of 17 December 1977” (author/s

At the head of S-21, above the top interrogators Pon, Tuy and Chan, was Kang Khék lev (better known by the alias Deuch, or Duch), who closely monitored the interrogations of detainees.

In September 1976, Ney Sarann, the former secretary of the regime's Northeast Zone, was arrested and sent to S-21. He was given "about 20 whippings with fine rattan" in the morning, and "20-30 whippings with electrical wire" in the afternoon, according to an interrogation report. Deuch told the interrogators to "remind" Ney Sarann of "the welfare of his wife and children", who had also been detained. The interrogators reported to Deuch that "the threat was made: there's no avoiding torture if you don't confess". Deuch authorised the use of "both hot and cold techniques" on Sarann. The interrogators reported back: "We went to intimidate him, telling him to prepare himself for the torture to be continued". That night, when they approached Sarann, he "started to confess by asking us to clarify what he was to report".²⁶

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Democratic Kampuchea information minister Hu Nim was arrested in early 1977. Four days after his arrest, he submitted the first of seven confessions to his interrogator, who appended a note to Deuch saying: "We whipped him four or five times to break his stand, before taking him to be stuffed with water." Later, the interrogator reported: "I have tortured him to write it again." Five weeks later, Hu Nim was abject: "I am not a human being, I am an animal", he wrote in his forced confession. He was "smashed" (executed) on July 6, 1977, along with 126 others.²⁷

Twenty years after the fall of the Pol Pot regime, Deuch was exposed as being alive and living under another name in northwest Cambodia. (Arrested in mid-1999, he is currently imprisoned awaiting trial.) When first located by journalists, he described his past work as "a technician for the communist party".²⁸ In an eerie echo of the S-21 interrogation manual, Deuch spoke of the superiority of his torture methods, versus those of another Khmer Rouge leader, Ta Mok: "I knew from experience that if they were only tortured they wouldn't say anything. So torture had to be accompanied by psychological tactics; so I told them they would be released if they talked. This was a lie, but it worked. Ta Mok didn't care about the mental state of the victims. He just tortured them and killed them."²⁹

C. POST-POL POT

After three years, eight months and 20 days of Khmer Rouge madness, the regime finally collapsed on January 7, 1979 under a Vietnamese invasion of Cambodia, relieving Cambodians of the worst of the horrors that had been inflicted upon them. It did not, however, bring an end to torture or other serious human rights abuses. During Vietnam's subsequent 10-year occupation of Cambodia, the remnants of the Khmer Rouge army – joined by royalist and other anti-Vietnamese guerrillas – waged a war of resistance from jungle enclaves along the Cambodia-Thailand border. Torture, executions and other crimes were committed by all sides in the fractious conflict throughout the 1980s.

The extent of torture used by the Vietnamese-backed People's Republic of Kampuchea (PRK) communist-socialist regime³⁰, which controlled Phnom Penh and most of Cambodia's provinces through the 1980s, is unclear; there was no independent access to prisons or other institutions at the time. However, the PRK's use of torture against political prisoners was documented by several human rights groups in the mid-1980s, based largely on interviews with refugees including former prisoners, their relatives or acquaintances, who had fled PRK-controlled areas to refugees camps in Thailand.³¹

unknown); 2. Untitled notebook (covering January-October, 1978) of Mam Nai, alias Chan, number three-ranked interrogator at S-21 and head of the "Cold" interrogation unit; 3. Untitled 1978 notebook, mostly in the hand of Tong Soeng Heuan, alias Pon, first-ranked interrogator at S-21, with some notations in the hand of Tuy, second-ranked interrogator.

²⁶ Summarized from Kiernan, *The Pol Pot Regime* (p. 331), quoting Tuol Sleng records.

²⁷ Summarized from Kiernan, *The Pol Pot Regime* (p. 352).

²⁸ Nate Thayer, "Death in Detail", *Far Eastern Economic Review*, May 13, 1999. See also Nic Dunlop, "KR torture chief admits to mass murder", *Phnom Penh Post*, April 30-May 13, 1999.

²⁹ *Ibid.*

³⁰ The PRK (1979-89) was a one-party regime installed by Vietnam at the time of its invasion. The PRK changed its name to the State of Cambodia (SOC) in 1989.

³¹ See Amnesty International, *Kampuchea: Political Imprisonment and Torture*, June 1987, and Lawyers Committee for Human Rights, *Kampuchea: After the Worst*, August 1985.

A 1987 Amnesty International report estimated that several thousand political prisoners had been held in PRK prisons in recent years, and that more than 400 were detained without charge or trial at the time of writing³². Of those 400, Amnesty collected detailed information on 100 of them – the majority of whom had allegedly suffered torture. Most of the 100 prisoners were former PRK personnel – government or local officials, police, soldiers, and so on – accused of being agents of the anti-Vietnamese guerrilla resistance. Torture was usually inflicted in order to extract confessions or other information about alleged anti-PRK activities. Prison authorities also reportedly used torture, or the threat of it, to solicit ‘ransoms’ from prisoners’ families to secure their release.

There were 46 reported deaths in PRK prisons between 1979-85, according to Amnesty, 12 of them reportedly occurring during or soon after interrogations in which torture was used. The most common method of torture cited by Amnesty was prolonged beatings, with or without a weapon. Whippings, near-suffocation with plastic bags and near-drowning in vats of water, were also common. Other reported methods were: electric shocks; burning with irons; forced ingestion of soapy water, salty fish sauce or other liquids; suspension from the ceiling; mock executions.

A PRK ministry worker in his 30s was arrested by Phnom Penh police in 1980. “They said I had the intention of bringing about disunity within the revolution. They then tried to terrorize me by pistol whipping me once and whipping me on the back seven or eight times with a length of rubber hose.” Subsequently, “they took out a plastic bag and put it over my head. I passed out and fell down.” About a week later, interrogators again sent for him, and “my legs were tied up and suspended from the ceiling so that my head was over a board through which nails had been hammered. They would raise me up and drop me from a height so that my head would almost hit the nails, in order to break me psychologically.”³³

• • •

In Battambang province in 1984, a farmer was arrested by police, taken to a prison and accused of “engaging in politics” for the guerrilla resistance. Tortured for six days, he described being “tied up specially for the beatings, with my thumbs held together behind my back with nylon fishing cord, with one arm over my back and the other tied behind my back.” He was punched, kicked in the shins till they became swollen and oozed infected pus – once, his interrogators arrived wearing sandals and changed into combat boots before they began kicking him – and hit with rattan and a chain. Knocked unconscious on at least four of the six days he was beaten, he was usually revived with water. “I had no hope of survival. I was sure that I was going to die.” On the sixth day, the prisoner was made to sign a new “biography” – a resume of his activities, to go into government files – and released.³⁴

Such methods bore a striking resemblance to the torture used during the Pol Pot regime and, ironically, were supposedly prohibited by the PRK for precisely that reason. A former PRK civil police instructor who left Cambodia in 1984 reportedly told Amnesty International that police training documents stated that torture to get confessions, “like what was done at Pol Pot’s Tuol Sleng”, was prohibited. Police officers were instructed that torture was unreliable (prisoners could feel compelled to make false confessions), and that its use would adversely affect the PRK’s image among ordinary Cambodians, who would “evaluate the new regime as being the same as the Pol Pot regime”. Despite the prohibition, torture was still common, according to the instructor, because many police trainees did not understand their instructions and also lacked humanitarian values. “Most of them have Pol Pot-ist characteristics and just stick to their old ways.”³⁵

The extent to which the forces of Vietnam may have encouraged or trained Cambodian security personnel to use torture is unclear. However, the Amnesty International report implicated Vietnamese military or civilian ‘experts’, attached to PRK security units, in the practice of torture. It cited 12 documented cases of torture during interrogation by Vietnamese experts assigned to PRK detention centres, and a further seven cases of Vietnamese advisors being present during torture by

³² Amnesty International, *Kampuchea: Political Imprisonment and Torture*, June 1987.

³³ Ibid. (summarized from p.40).

³⁴ Ibid. (summarized from pp.38-39).

³⁵ Ibid. (p. 36).

Cambodian security officials.³⁶ Vietnamese units were reportedly directly involved in political arrests throughout Cambodia, and in torture at Vietnamese-administered prisons and detention centres.³⁷

The PRK and its Vietnamese backers were by no means the only ones to use torture during the 1980s civil conflict. Members of the guerrilla resistance coalition – which included senior leaders of the former of Pol Pot regime – also committed numerous political killings and torture.

More than 300,000 Cambodian refugees fled to Thailand during the conflict, most of them ending up in refugee camps administered by the various resistance factions: the Party of Democratic Kampuchea (the Khmer Rouge); the Khmer People's National Liberation Front (KPNLF); and the royalist National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia (FUNCINPEC). Executions, arbitrary arrest and detention, torture, shackling and forced labour were among the rights abuses reported in refugee camps and other areas controlled by resistance factions through the 1980s and into the 1990s.³⁸

The Khmer Rouge and the KPNLF, at least, ran their own prisons along the border, where torture, rape and execution were reported. Ta Mok, a former Pol Pot regime official, administered one prison. Former prisoners of the Khmer Rouge told Amnesty International of detainees being kept shackled to stakes, while others were forced to perform hard labour in life-threatening conditions such as in mined border areas. People detained, tortured or killed by resistance factions included prisoners of war, suspected spies, civilians and non-combatants. The murder and rape of refugees occurred. All the resistance groups attempted to maintain strict political control of their subjects, tolerating no dissent. The Khmer Rouge continued many of its former Pol Pot regime policies, arresting people for refusing to join its army, failing to obtain permission to marry, trade or travel, or for questioning or opposing party policies (for suspected "liberalism" or "bad politics", for instance).³⁹

Cambodians were finally offered a chance at peace when the State of Cambodia regime (the new name adopted by the PRK) and the resistance factions in the civil war signed peace accords in Paris in 1991. When a United Nations mission was dispatched to hold the peace and organize national elections⁴⁰, it found a deeply-scarred nation fraught with violence committed by all sides. Hopes of a definitive peace were dashed when the Khmer Rouge reneged on the peace agreements, withdrew from the planned elections, and continued its guerrilla war. The May 1993 elections were marred by violence, including Khmer Rouge massacres of ethnic Vietnamese, and the murders, torture or intimidation of political opponents allegedly committed by forces of the State of Cambodia (SOC). Special SOC military or police teams, whose recruits included robbers and other criminals, allegedly carried out some murders of political opponents; at least one such unit was allegedly the successor to a special Vietnamese unit which had operated in Cambodia in the 1980s.⁴¹

CHAPTER 4. OVERVIEW OF CURRENT TORTURE

"Cambodia's tragic recent history requires special measures to assure protection of human rights, and the non-return to the policies and practices of the past," noted the preamble of the 1991 Paris peace settlement, in reference to the Khmer Rouge's bloody rule. The 1991 peace accords and the UN-sponsored elections two years later brought the promise of peace, democracy and recognition of fundamental human rights for Cambodians. The country ratified the UN Convention against Torture, and other international human rights documents.

The 1993 elections produced a coalition government of onetime battlefield enemies; the major coalition partners were the former ruling Cambodian People's Party (CPP)⁴² and the former resistance faction FUNCINPEC. A new Constitution promulgated in September 1993 enshrined the

³⁶ Ibid. (p. 42).

³⁷ Ibid. (p. 32 & 42).

³⁸ Ibid. See also Asia Watch, *Political Control, Human Rights, and the UN Mission in Cambodia*, September 1992.

³⁹ Ibid.

⁴⁰ The United Nations Transitional Authority in Cambodia (UNTAC), March 1992-September 1993.

⁴¹ See Nate Thayer, "Army's dossier of shame", *Phnom Penh Post*, August 12-25, 1994.

⁴² The CPP, formerly the Kampuchean People's Revolutionary Party, was the name adopted in 1991 by the party which had ruled during the PRK and SOC regimes in the 1980s and early 1990s.

principles of democracy, rule of law and human rights, and unequivocally prohibited torture. Independent non-government organizations, including human rights groups, were established. A new era was born, one in which Cambodians could begin the long, arduous task of rebuilding their lives and country.

Seven years later, the Constitutional prohibition against torture is regularly violated with impunity.

A. SCOPE OF TORTURE

The number of people who endure torture in Cambodia is unknown. This report is not a quantitative study. No statistical studies on the current (or past) use of torture have been conducted. Currently, the available information about torture is limited to victim testimonies provided to human rights, legal, medical and other organizations, and on statistics kept by those groups. Based on the insufficient available data, at best it can be asserted that hundreds, if not thousands, of Cambodians are tortured each year.

Torture is today regularly practised in the following circumstances:

- **In police custody:** Torture is a routine criminal investigation technique, tolerated by all levels of the police and judiciary. The police primarily use torture to extract confessions from criminal suspects, which the courts in turn accept as evidence of guilt. Licadho interviews with prison inmates reveal that a quarter of them allege that they were mistreated in police custody after arrest.⁴³ (*For details, see Chapter 6.*)
- **In prisons:** While it may have decreased in recent years, torture continues to be reported in Cambodia's prisons. Torture is primarily used as a form of punishment for attempted escapes or breaches of prison rules. Nearly 7% of inmates interviewed by Licadho alleged they had been physically abused in prison custody. (*See Chapter 9*)
- **In other forms of State custody:** Torture by State agents is not limited to police or prison officers. Soldiers, militiamen, official bodyguards, and even social welfare staff and teachers have committed torture. (*See chapter 8.*)
- **In human trafficking & the sex trade:** Perhaps the most horrific torture in Cambodia occurs in brothels, in which young women and children are subjected to extreme physical, sexual and psychological abuse and deprivations. Sexual traffickers and brothel pimps use violence as a matter of course, to keep their victims submissive and sleeping with customers. The sexual slavery trade may be the fastest-growing forum for torture in Cambodia in recent years, given the rapid growth of the industry. It is impossible to estimate the number of victims. A bare minimum indication is that at least 100 children or women died or were injured by violence in the sex trade in 1998, according to cases reported to the Cambodian Women's Crisis Center. (*See Chapter 11.*) Beatings and other exploitative, abusive working conditions are also a feature of the trafficking of humans for non-sexual purposes, such as to work as manual labor. (*See Chapter 12.*)
- **In domestic violence:** Although violence in the home is rarely described as torture, there are clear parallels between domestic violence and other accepted forms of 'torture'. What a man does to his wife in their home can be as physically and psychologically violent and damaging, if not more so, than what a policeman may do to a criminal suspect. The often-ferocious nature of domestic violence in Cambodia, and the size of the problem, is well documented. Roughly one in six Cambodian women are physically abused by their husbands, according to a 1995 survey by the Project Against Domestic Violence and the Ministry of Women's Affairs. Half of them have sustained injuries, and a third have been struck with objects such as farm tools, metal pipes or sticks. (*See Chapter 13.*)

Torture in Cambodia is committed for both political and non-political reasons. The majority of the torture is non-political, and carried out in a routine, systematic manner. It is usually inflicted to punish supposed wrongdoers, extract confessions or information, extort money or coerce the victims to follow other demands of their torturers.

Torture has also long been used as a political weapon in Cambodia, usually carried out for some of the same motives (to extract confessions, for example) but targeting the victims on the grounds of

⁴³ The 1999 period refers to the date of interviews, not the dates of alleged abuse. In the majority of cases, the alleged abuse occurred in 1998-99, but some others may have occurred in previous years.

their political positions or affiliations. As elsewhere in the world, torture is used as a tool of political control, to intimidate, discredit or break the willpower of political opponents. Political torture, by its nature, is not consistent from year to year, but ebbs and flows on the changing political tides. The tumultuous political events of recent years (particularly the 1997 collapse of the coalition government and the holding of national elections in 1998) have fuelled the use of torture and other violence for political reasons. (See *Chapter 10*.)

B. METHODS OF TORTURE

Cambodian torturers, whether they be State agents or civilians, politically motivated or not, use similar methods. (One exception is electric shock torture inflicted with electric batons, which is used primarily by police and military police officers.) The following are some common torture techniques in Cambodia:

- **Beating:** Beating (and kicking) is the most common form of torture, in Cambodia and around the world. Palms, fists, elbows, knees and feet can be used, and/or solid objects, most often guns, truncheons, pieces of wood or iron, etc.
- **Whipping:** Whipping, a form of beating, appears particularly prevalent in Cambodia. It is often inflicted with an electrical wire or cable, like those used for household appliances or industrial uses, or with several wires wound together. The thickness of the wire varies, and it is often coated with plastic. (References to whipping with electric wire in this report do not refer to electrical shock, unless explicitly stated.) Ropes, belts and chains are also common whipping instruments.
- **Electrical torture:** Shocks are delivered either by electric baton or by an electric wire directly from a power source. Electric batons are mainly possessed by police and military police.
- **Handcuffing/shackling/tying:** Many torture victims' hands and/or feet are cuffed or shackled (with leg irons) or otherwise restrained during beatings or other torture. Other victims, particularly in prisons, may not be physically assaulted but simply left cuffed, shackled or otherwise tied up for long periods of time. Such restraints – particularly shackles – often cut into the flesh, restrict blood circulation and prevent movement, causing severe pain; they can cause permanent disability.
- **Limb-crushing:** This appears to be mainly used by police and military police. Usually, a wooden or iron bar is placed across the victim's feet or lower legs, and the police stand or jump on top of the bar to create downward pressure. In a different version, the police, often wearing boots, stomp on the arms or legs of a victim who is lying down.
- **Rape/sexual abuse:** Repeated rape is a common element in the torture of victims of sexual trafficking and domestic violence. Rape/sexual abuse has also been reported of girls and women in police stations, prisons or other official custody. The occasional case of sexual assault against males, usually in the form of deliberate injury to the genitals, has been reported.
- **Verbal threats/psychological abuse:** The ubiquitous death threat – often at gunpoint – is the most common form of psychological torture; virtually all torture victims are threatened with death. Mock executions and threats to injure or kill the relatives of victims are also used. Most torture victims, in State or civilian custody, are subjected to prolonged unlawful detention and denial of access to outside world; some are kept in solitary confinement.

This list is not comprehensive. Examples of these, and other, types of torture are featured throughout this report.

Many, if not all, of these forms of torture have long existed in Cambodia. A version of limb-crushing was practiced in the late 13th Century, when adulterers had their feet squeezed between two splints of wood. Several of the commonest forms of torture today, such as whipping and electric shock, were widely used during the Pol Pot era and the subsequent PRK and SOC regimes.

CHAPTER 5. LEGAL FRAMEWORK: PROHIBITIONS ON TORTURE

A. INTERNATIONAL LAW

Cambodia ratified the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in October 1992 following the Paris peace accords. To understand Cambodia's obligations under the convention, it may be useful to restate the applicable definition of torture:

For the purposes of this Convention, the term 'torture' means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

The meaning of official "acquiescence" is not defined.⁴⁴ Similarly, there is no definition of "Other Cruel, Inhuman or Degrading Treatment or Punishment", although countries party to the convention are required to take action against such acts.⁴⁵

The torture convention (Art. 2) states that:

- *Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.*
- *No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.*
- *An order from a superior officer or a public authority may not be invoked as a justification of torture.*

Other obligations on Cambodia, as a party to the convention, include:

- *Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature. (Art. 4.)*
- *Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction. (Art. 12.)*
- *Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given. (Art. 13.)*
- *Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full*

⁴⁴ The meaning of "acquiescence" is a subject of varying opinions. The United States Senate has expressed the view that "acquiescence" requires that a public official be aware of an act of torture before it occurs and fails to prevent it. Some lawyers and human rights commentators have argued that a government's "passive acceptance" of torture, or failure to take action to prevent it, could be interpreted as "acquiescence". The European Court on Human Rights and the European Commission on Human Rights have, in regard to refugees seeking asylum under international law because of the threat of torture in their home countries, taken a broad approach to State responsibility for torture. The European Commission has held that failure to punish known acts of torture and ill-treatment and prevent their repetition, or failure to provide a fair judicial hearing of complaints, can constitute "official tolerance" to torture. For a fuller account of international law and precedents, see Deborah E. Anker, "Law of Asylum in the United States", Refugee Law Center, 1999 (Chapter 7).

⁴⁵ Signatory countries to the convention are required to prohibit and prevent "acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture"; there is no definition of such acts, except that they are committed by or at least with the acquiescence of a public official (Art. 16).

rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation. (Art. 14.)

Other prohibitions on torture and related crimes are included in other international conventions to which Cambodia is a party, such as the International Covenant on Civil and Political Rights (ratified 1992). With regard to human trafficking and domestic violence, there are: the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (ratified by Cambodia 1957); Convention on the Elimination of All Forms of Discrimination against Women (1992); and the Convention on the Rights of the Child (15 October 1992).

All these documents are enshrined in Cambodian domestic law by the Constitution (1993), which states: “The Kingdom of Cambodia shall recognize and respect human rights as stipulated in the United Nations Charter, the Universal Declaration of Human Rights, the covenants and conventions related to human rights, women’s rights and children’s rights” (Art. 31).

B. CAMBODIAN LAW

Cambodia’s 1993 Constitution requires that “there shall be no physical abuse against any individual”, and that the law shall protect all citizens; it also includes specific prohibitions against the torture of State prisoners and against human trafficking.⁴⁶ A 1992 criminal law also prohibits the torture of State detainees.⁴⁷

Although Cambodian criminal law arguably fails to meet the Convention against Torture’s requirement that “all acts of torture” be legislated against and carry appropriate penalties, it does provide a foundation for the prosecution of torturers for some crimes. As in many countries, there is no legislated crime of ‘torture’ in Cambodia. Perpetrators can, however, be prosecuted for each specific crime that may comprise an instance of torture: illegal confinement, battery, rape, manslaughter, etc. The relevant crimes and punishments include:

CRIME OR MISDEMEANOR	PENALTY (IMPRISONMENT)
Murder & Attempted Murder	10-20 years
Voluntary Manslaughter	8-15 years
Involuntary Manslaughter (incl. carelessness, negligence, inattention, or failure to heed regulations)	1-3 years
Battery with Injury: 1. If permanent or temporary disability occurs, lasting more than 6 months 2. If disability lasts less than 6 months 3. If no disability 4. Aggravating circumstances: if weapon is used	1-5 years 6 months-2 years 2 months-1 year Above sentences doubled
Illegal Confinement (Arrest, detention or confinement without judicial order): 1. If confinement/detention lasts more than one month 2. If confinement/detention lasts less than one month	10 years 3-5 years

Source: Transitional Criminal Law, 1992 (Arts. 31, 32, 40, 41, 35.)

These are some of the individual crimes and penalties that may be applicable to torturers (civilians and State personnel alike). Others include indecent assault, rape, robbery, theft, etc. Accomplices (people who order, facilitate or provide the means for the commission of a crime) are punishable by the same penalties as the main perpetrator/s, according to the law (Art. 69).

⁴⁶ Articles 38 & 46, Cambodian Constitution. For more on Constitutional provisions relating to torture, see Part VI: Law & Impunity.

⁴⁷ Article 12 of the “Provisions Relating to the Judiciary and Criminal Law and Procedures Applicable in Cambodia during the Transitional Period (hereafter referred to as the Transitional Criminal Law). This law was drafted by UNTAC, the UN peace-keeping mission to Cambodia, and intended for use as an interim law. It remains the only criminal code used in Cambodia, although the government is currently drafting a new one.

For sexual crimes, and particularly those relating to sexual trafficking, the applicable charges (as well as others, such as illegal confinement, battery, listed above) include:

CRIME	PENALTY (IMPRISONMENT)
<p>Human trafficking (Selling, buying or prostituting humans, by kidnapping, luring, deceiving, threatening, forcing or otherwise persuading them; applies to sellers, buyers and accomplices)</p>	<p>10-15 years 15-20 years (if victim is a minor)</p>
<p>Pimping (Including confinement of humans to force them to commit prostitution, supporting or protecting prostitution, sharing the proceeds of it, etc)</p>	<p>5-10 years 10-20 years (aggravated circumstances, such as if victim is a minor, or if threats or violence are used)</p>
<p>Rape & Attempted Rape</p>	<p>5-10 years</p>

Source: Law on Suppression of Kidnapping, Trafficking and Exploitation of Humans, 1996 (Arts. 3-5); Transitional Criminal Law, 1992 (Art. 33).

In addition, there is a specific misdemeanor and penalty applicable to police officers, soldiers and other public officials who breach the rights of detainees:

MISDEMEANOR	PENALTY (IMPRISONMENT)
<p>Infringement of Individual Rights (Committed by any public agent, including police and military, who deliberate infringe upon the right of physical integrity and inviolability of the home)</p>	<p>1-5 years⁴⁸</p>

Source: Transitional Criminal Law, 1992 (Art. 57 & related Arts. 10-22).

The latter provision specifically applies to public agents who:

- Conduct unlawful arrests (Arts. 18-19);
- Detain suspects beyond the maximum permitted police detention period of 48 hours without putting them before a judge (Art. 13);
- Beat, torture or subject a detainee to cruel, inhuman or degrading treatment or punishment (Art. 12);
- Shackle a (pre-trial) detainee or (convicted) prisoner, or keep them in isolation (Art. 12).

In summary, there is a variety of applicable criminal charges for torturers, whether they be civilians or State officials, and regardless of where the torture occurred – in a police station, military base, prison, brothel or private home. In addition to these crimes, there is a specific charge for police officers, soldiers, prison guards and other public officials who commit torture and related offences against detainees.

Despite this, some police and judicial officers have claimed that they cannot prosecute torture cases because torture *per se* is not a crime in Cambodia's law books. They are wrong. The government itself has confirmed that torturers – the main perpetrators and accomplices – can and should be punished according to existing domestic criminal law.⁴⁹

⁴⁸ There is a discrepancy between the Khmer & English texts of the law: the English text states that the penalty is 1-2 years, but in the Khmer text it is 1-5 years. The government, in official reports, has stated that the penalty is 1-5 years.

⁴⁹ Royal Government of Cambodia, Inter-Ministerial Committee on the Preparation of [Reports] relating to Human Rights for [the] United Nations, "The Final Draft Report on the Implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment according to the Article 19 of the present Convention", (para. 8). The report, finalized in 1999, remains a draft and has yet to be submitted to the UN.

PART II: TORTURE IN STATE CUSTODY

CHAPTER 6. POLICE TORTURE: THE PRACTICE

To be arrested in Cambodia is one of the surest ways to face the prospect of torture. When a suspect arrives at a police station, or even while being taken there, he or she is frequently beaten or otherwise tortured. The police's motives include:

- To extract confessions to alleged crimes, and/or information about alleged accomplices or the location of money or other proceeds of crime, etc.
- To extort money or property from them, under threat of further torture, and/or prosecution and imprisonment for alleged crimes, if they do not pay.
- To impose arbitrary punishment on alleged criminals, or punish people for alleged disrespect or threats toward local officials or other powerful people.

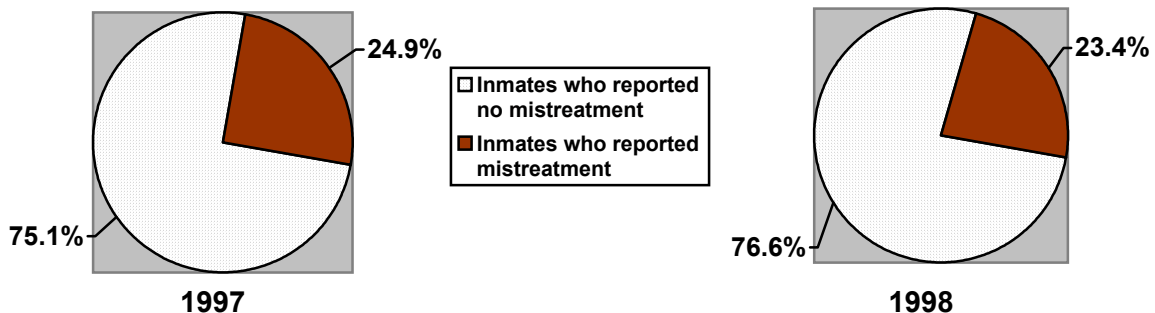
A. EXTENT OF POLICE TORTURE

Licadho prison research statistics

Nearly one in every four inmates in Cambodian prisons alleges that the arresting authorities mistreated them, according to Licadho interviews with prisoners around the country.⁵⁰ Of a total of 2,333 inmates who answered a question about whether they were mistreated by the police, 567 of them (24.4%) said yes.⁵¹

Of the 567 inmates who cited police mistreatment, 90 were arrested and allegedly abused prior to 1996; a further 64 prisoners were arrested during 1996. The remainder (410 inmates) were arrested in 1997-1999⁵². Among inmates arrested in 1997 and 1998 (the most recent years for which full data is available), the proportion who alleged that they were abused in police custody was consistent at just under 25% (see chart below).

Chart 6.1: Proportion of prison inmates reportedly mistreated in police custody



Source: Licadho interviews with a total of 638 inmates who were arrested in 1997 and 903 inmates arrested in 1998.

At time of writing, Licadho statistics for 1999 were incomplete. Only 40 inmates arrested and allegedly mistreated in 1999 (in the period January to May) are included in the total sample of 567 prisoners cited above. However, in the full year of 1999, Licadho researchers interviewed a further 410 prison inmates who alleged police mistreatment. Most of them are believed to have been arrested and mistreated in late 1998 or in 1999, but information from these interviews has not yet been fully

⁵⁰ The interviews were conducted in 1997-99, except for four interviews conducted in 1996 or earlier. The inmates, who include pre-trial detainees and convicted prisoners, were interviewed at 20 of Cambodia's 25 prisons. The excluded prisons are those in Ratanakiri, Mondulakiri, Kratie, Stung Treng and Preah Vihear provinces. Although some visits have been made by Licadho to these five prisons, they are not included in Licadho's regular prison monitoring program.

⁵¹ The question was: "Were you intimidated, threatened or tortured at the time of arrest or while in police custody?" Those who answered affirmatively were then asked to describe the alleged mistreatment.

⁵² There are a further three inmates for whom the date of arrest is unclear.

collated and analysed; these 410 inmates have therefore been excluded from the sample of 567 mistreated detainees.

The statistics cover mistreatment by arresting authorities; they do not include torture committed in prisons after detainees were sent there.⁵³ In most cases, the arrests and alleged abuse was committed by police or military police, but in some cases other State agents – soldiers, militiamen, village chiefs, etc – were involved.

Police ‘mistreatment’, of course, can range from one slap or punch to prolonged beating; not all of it constitutes torture. However, the vast majority of the 567 inmates reported serious physical violence, rather than minor abuse, against them. (See ‘*Methods of Torture*’ section, below.)

Other estimates of police violence

Legal Aid of Cambodia (LAC), a non-government organization which provides free legal services to criminal suspects, puts the number of people abused in police custody far higher. According to LAC, about 80% of its clients say they were beaten (ranging from one or two slaps to serious physical torture) while in police custody.⁵⁴ That equals about 1,252 clients beaten a year, based on the LAC’s 1998 total workload of 1,566 clients in criminal cases.

Limitations of the statistics

The available statistics on police violence are not comprehensive. The Licadho information covers only those arrested people who ended up in prison (and not those who were mistreated in police custody but then released for whatever reason), and who were interviewed and responded to questions.

The amount of police violence cited in the Licadho interviews is likely to be underreported; some inmates are reluctant to talk (particularly if prison guards or other officials are present or nearby during the interviews, as they often are).

The lawyers of LAC, meanwhile, are permitted private interviews in prison with their clients, which may explain the far higher reporting of police violence. LAC’s estimate of police mistreatment is, however, also limited, based only on those criminal suspects to whom the organization provided legal representation.

Possible extrapolations

Aside from those criminal suspects who are arrested, abused and sent to court and prison, there are those who are released from police custody, because of the payment of bribes or other reasons. The number of such people, and the rate of police violence against them, is unknown. If, however, the rate of violence is similar to that of those who end up in prison, then significant numbers of people are abused in police custody each year. Based on an estimate of 3,000 to 3,500 arrests made nationwide each year by police authorities⁵⁵, around 750-875 detainees a year may be mistreated by the police (according to Licadho’s finding of a 25% abuse rate). If as much as 80% of police detainees are physically abused (LAC’s figure), then well over 2,000 arrested people are beaten each year in police custody.

Such extrapolations should be treated with caution – they are based on the unproven assumption that there is a similar rate of mistreatment of detainees who are arrested and released, and of those who are imprisoned. However, they provide an indication of the possible scope of police violence against detainees.

⁵³ For torture in prisons, see Chapter 9.

⁵⁴ Author’s interview with Lean Chenda, first vice-director of Legal Aid of Cambodia, September 8, 1999.

⁵⁵ The estimate of 3,000 to 3,500 annual arrests is based on the following: A total of 1,889 people were arrested in the seven-month period from March to September 1999, according to the Minister of Interior’s figures. That averages out to about 270 arrests a month which, extrapolated to a 12-month period, indicates total arrests of about 3,238 people a year. The March-September 1999 statistics are taken from Security Situation and Social Order reports by Minister of Interior Sar Kheng, presented at the first and second quarterly meetings between the Royal Government and the foreign donor community, respectively held in June and October, 1999.

Confession rate

The use or threat of violence – as well as the police’s emphasis on securing confessions from criminal suspects – may well be reflected in the high rate of confessions given in police custody. Nearly 90% of police detainees (who were subsequently sent to prison) confessed to alleged crimes, according to Licadho interviews with prison inmates.⁵⁷

Box 6.1:

POLICE & MILITARY POLICE STRUCTURES

In this report, the term ‘police’ refers to civil police forces and the military police, as both operate in a similar manner with regard to torture.

There are many units of civil police: penal (or criminal) police, security police, public order police, border police, traffic police, anti-drug or anti-terrorism police, etc. There are approximately 64,000 police in Cambodia, who are under the Ministry of Interior.

Under the law, particular members of various police units are designated as “judicial police” (often also called judiciary, or justice, police). Only judicial police, who include prosecutors and investigating judges, have lawful powers of arrest, detention, search and seizure. In practice, all police, regardless of whether they are designated as judiciary police, use such powers.

The military police (also called the gendarmerie) is an autonomous agency, comprising about 10,000 officers, under the Royal Cambodian Armed Forces. Established in 1994, it was loosely modeled on the French gendarmerie and received French government aid. The military police is mandated to investigate military crimes and discipline breaches, protect military bases, etc. It was also given the powers of the judicial police, principally to remedy the reluctance of civil police to investigate, arrest or enforce court orders involving civilian crimes committed by military personnel. The military police’s wide-ranging mandate specifically gives it law enforcement jurisdiction over civilians as well as military personnel.

The military police have repeatedly been implicated in political and non-political human rights violations. In October 1997, the UN human rights representative to Cambodia urged that the military police be dismantled, unless it could be “strictly and effectively brought under the rule of law, made to observe strict neutrality when carrying out its mandate, and demonstrates its professional effectiveness”.⁵⁶

B. METHODS OF POLICE TORTURE

The 567 inmates who told Licadho interviewers that they had been mistreated by the arresting authorities were asked to describe the abuse. The majority of them, 429 inmates (75.7%) described acts of serious physical violence. Of the remaining 138 inmates:

- **95** inmates did not provide a, or provided an inadequate, description of the alleged mistreatment.⁵⁸
- **23** provided a description of intimidation or threats that did not include actual physical violence. The intimidation cited included: threats to beat, whip, shoot, give electric shocks to, or otherwise harm or kill them; firing of gunshots in order to frighten them; demanding of money for their release; threats to charge them with a more serious crime (such as murder) if they did not confess to a lesser one. While many of these threats constitute psychological torture, they were apparently not accompanied by physical violence.
- **10** reported being shackled or handcuffed for prolonged periods – for longer than a day or a night, and up to 16 days (one case) and 25 days (one case). Prolonged shackling is a form of torture, but in these cases it was not accompanied by physical violence.
- **7** were briefly subjected to relatively minor violence – one or two slaps, pulling of hair, etc – which would clearly not constitute torture.
- **3** were shot or beaten at time of arrest in circumstances that, from the interviews, were unclear (for instance, whether they were resisting arrest).

⁵⁶ See “Report of the Secretary-General: Situation of human rights in Cambodia”, UN General Assembly, October 17, 1997 (para. 61). For the establishment and history of the military police, see Christine Chaumeau, “UN envoy urges scrapping of gendarmerie”, *Phnom Penh Post*, November 21-December 4, 1997. For the military police’s structure & mandate, see Prime Ministerial sub-decree No.77, December 21, 1994.

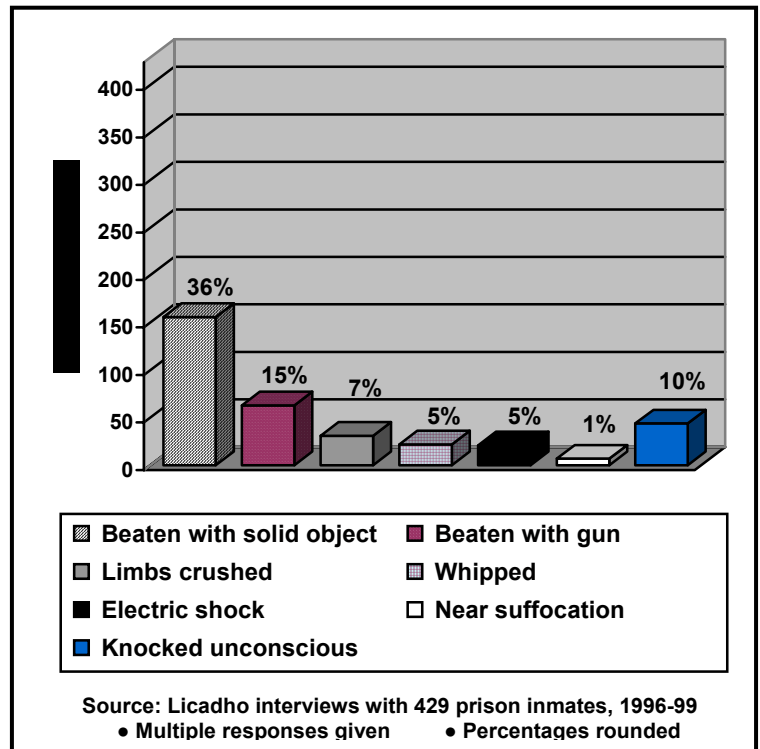
⁵⁷ Of 2,196 prison inmates who responded to the question ‘Did you sign a confession [while in police custody]?', 1,963 (89.4%) said yes, and 233 (10.6%) said no. The interviews, conducted 1997-99, included both pre-trial detainees and convicts in 20 prisons.

⁵⁸ The reliability of information from this relatively large category of inmates, who said they were mistreated but did not provide details, should obviously be treated with caution. However, there are legitimate reasons why inmates may be reluctant to provide details of alleged police abuse. Licadho staff are frequently not permitted to interview inmates in private; an inmate may state that they were mistreated in custody but, because of the presence of prison guards at the interview, be too scared to provide details.

The other 429 inmates gave descriptions of mistreatment which included serious physical violence.⁵⁹ Beating and kicking, without weapons, were the most common forms of torture cited. Other, more severe forms of torture reported by the inmates are shown in the chart below. The chart shows the percentages of the 429 inmates whose reported abuse included one or more of six categories of severe torture, as well as the proportion of them who stated that they fell unconscious during the torture. The categories, and number of victims, are:

- **Beaten with solid object:** 156 of the 429 inmates (36.4%) reported being beaten with solid objects other than a firearm, including (in rough order of commonness): a wooden, rattan or bamboo stick or baton; firewood; iron bar, chair; plastic pipe; belt; broom; hammer; boot or shoe (held in torturer's hand); chain; stone/brick; used mortar ammunition shell.
- **Beaten with gun:** 63 inmates (14.7%) were hit with a pistol or rifle, usually with the butt.
- **Limbs crushed:** 31 cases (7.2%), of which the majority (24) involved the placing of shackles, handcuffs, chains, wooden or iron bars, or chairs on a detainee's legs, feet, arms or hands, with one or more police officers standing or jumping on the object. The remaining (7) cases involved police (usually wearing boots) jumping or stomping on (rather than kicking) a victim's arms, legs or head in a deliberate manner.
- **Whipping:** 22 inmates (5.1%) were whipped, most with electrical wire or rope.
- **Electric shock:** 21 inmates (4.9%) were shocked, the majority of them with electric batons.
- **Near suffocation:** Of 7 inmates (1.6%) who reported this, six had plastic bags placed over their heads, and one a blanket.

Chart 6.2: Reported serious police violence on detainees



Of the 429 inmates subjected to these or other forms of torture, 44 (10.5%) stated that they fell unconscious at least once.

The chart includes multiple responses: some inmates suffered more than one form of torture. Many inmates were tortured on more than one occasion or day, but each inmate is counted only once in each applicable category. Similarly, inmates who were beaten or whipped with more than one object are listed only once in the relevant category. (Inmates beaten with a gun and also another solid object are listed, once each, in both categories.)

The chart represents some of the most severe forms of torture; it does not cover all reported methods. Detainees who were struck with fists or feet but not weapons, or those who did not explicitly state that weapons were used, are excluded (except for those who reportedly fell unconscious, who are included in the 'Knocked Unconscious' category).

None of the 429 inmates cited rape or other sexual assault⁶⁰, except for one alleged case of forced vaginal search by police officers looking for (non-existent) concealed gold. (For this case, see Box 6.2

⁵⁹ The majority of the alleged violence occurred inside police stations; in a few cases, inmates spoke of being unjustifiably beaten during arrest or otherwise outside of a police station.

⁶⁰ This is not to say that rape or sexual abuse does not occur in police stations. Such cases have been reported to Licadho, but not from within this sample of 429 prison inmates.

'Upholding the law in Sre Ambil', below.) Several inmates said they were threatened with electric shock or other harm to their genitals. One woman alleged she was pressured to have sex with a policeman and hit when she refused.

Virtually all of the 429 inmates were handcuffed, shackled or tied up during the physical abuse, to prevent escape or attempts to defend themselves. In some cases, inmates said that they were blindfolded, or beaten in dark rooms, so they could not see their torturers' faces. Food and water deprivation was common. Physical violence or deprivations were often accompanied by psychological abuse, the most common form of which was death threats. Attempts to extort money from detainees, on the promise of being released, were also frequently cited.

The vast majority of the alleged violence was committed during interrogation by the police, and designed to obtain confessions or other information about alleged crimes. Many of the inmates' testimonies in the Licadho interviews illustrate the routine nature of torture during interrogation, for all manner of suspected crimes.

In July 1997, a 23-year-old old man was arrested and taken to Phnom Penh's municipal penal police station. "In the interrogation room, they forced me to confess that I had stolen a motorcycle. I didn't know of any motorcycle. They beat me on my left ear. They handcuffed my legs and stood on them. It was very painful, so I confessed to what they wanted."

• • •

A 50-year-old soldier suspected of drug trafficking was interrogated at the Ministry of Interior's anti-drug department In January 1998. "There were three policemen. When I wouldn't answer their questions, they forced me to sign a confession. Two of the policemen punched me in the face four or five times. They also hit me in the chest several times with their knees. They kicked me in the leg and hit my back two or three times with a pistol." The man signed the confession.

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In May 1998, a 34-year-old man in a rural village in Kandal province was called to the commune office and then sent to the district police station. "When they interrogated me, they used a wooden stick to beat me on the back and the head. My head was bleeding. I was also kicked on the chest. They beat me in order to make me admit to taking part in the stealing of a cow. I didn't know about it. Because I felt very painful and scared, I confessed."

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In December 1998, a youth, aged 17, suspected of complicity in robbery, was taken to Phnom Penh's Daun Penh district police station. "About 6.30pm, two policemen came to start interrogating me, and forced me to sign a confession. I was handcuffed and beaten with a wooden stick on my back many times. They kicked and punched me in my chest and face. It was very bad torture, so I signed the confession. I thought that if I did not, the police would continue to beat me."

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In March 1999, a 29-year-old man, accused of kidnapping, was arrested by military policemen in Battambang province. "There were two military policemen. I don't know their names or faces because I was blindfolded. They blindfolded me and punched me in the stomach about 40 times. They beat me to force me to answer according to their questions. They said I joined in a kidnapping, and asked me for [the names of] my colleagues and the money."

Not all inmates confessed – although some provided confessions without even knowing it. Of those inmates who said they were knocked unconscious during police torture, four stated that when they woke up, there was ink on their fingers or thumbs – they had fingerprinted 'confessions' while unconscious. One of them said that, when he regained consciousness, he was told that the interrogation was finished and he could stop protesting his innocence, as he had already confessed.

C. GEOGRAPHIC LOCATIONS OF POLICE TORTURE

The 567 prison inmates who alleged police mistreatment to Licadho were arrested in a total of 16 provinces or municipalities: Phnom Penh, Koh Kong, Battambang, Prey Veng, Siem Reap, Kompong

Thom, Banteay Meanchey, Kampot, Takeo, Kompong Cham, Kompong Som, Kandal, Pursat, Kompong Speu, Svay Rieng, and Kompong Chhnang.⁶¹ More than half the reported abuse occurred in Phnom Penh, Koh Kong or Battambang. This is not surprising, at least in Phnom Penh and Battambang: as Cambodia's most populated cities, they presumably have higher numbers of arrests (and torture) than other provinces.

Battambang and Koh Kong, respectively in the northwest and southwest of Cambodia, are to some extent geographically remote from Phnom Penh; Koh Kong is particularly isolated, as there is no road access to the province. Until recent years, there were few independent non-government organizations based in Koh Kong. Both provinces have historically been heavily militarized, and the scene of much fighting with Khmer Rouge guerrillas until recent years. Both provinces also have certain reputations for lawlessness and impunity, particularly Koh Kong, which is one of Cambodia's sexual trafficking hubs.

However, any assumption that torture mostly occurs in remote, unstable or poorly controlled regions is wrong. Cambodia's capital of Phnom Penh is also the capital of police torture. While that may be due simply to its larger population, senior government and law enforcement officials cannot fail to be aware of the practice. Torture has been reported at virtually every police station in the capital and even under the noses of senior police chiefs at the Ministry of Interior.

In May 1998, five Ministry of Interior policemen arrested a 38-year-old man accused of breach of trust (a financial or property crime) in Phnom Penh. Taken to the ministry headquarters, he said he was taken to a room and kicked for about 30 minutes. From there, he was transferred to the Phnom Penh municipal penal police, and allegedly blindfolded, handcuffed, shackled and beaten, including by two people who kicked and stomped on his face. Later, he was again transferred, this time to the inspection police in Tuol Kork district, and further kicked and beaten. At one point, the police attempted to get him to eat a cigarette. "As I was in pain, I answered according to what they wanted me to say," the man, who bore scars on his elbow and foot, later recounted.

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Also in May 1998, three men were arrested in Kompong Speu province by two policemen, one from the provincial police and one from the Ministry of Interior. Taken to the Ministry of Interior compound in Phnom Penh, they were interrogated and beaten separately. At least one was allegedly whipped with wire and hit on the head with a gun. The three men were accused of stealing a motorbike, but were not sent to court. They were released the day after their arrest; they stated that they paid more than \$600 to the police for their freedom. Complaints over the alleged torture were filed with the Kompong Speu police and court; at time of writing, more than a year later, no action had been taken against the alleged perpetrators.⁶²

In particular provinces and police stations, such as in Koh Kong, there is no doubt that brutal torture has been endemic for years.

In December 1995, a man accused of robbery and murder was allegedly detained for 27 nights (more than 13 times the maximum lawful police detention period of 48 hours) at Sre Ambil district police station, Koh Kong. According to his subsequent account, he was beaten unconscious with a plastic pipe on his head and back. He was revived with shocks from an electric baton. About a week after the first bout of torture, he was kicked and beaten again. The police administered one form of torture in a modified manner to avoid leaving permanent scars. For at least two days of his incarceration, the man was shackled; for seven days, he was not fed. Once, he tried to commit suicide, and was stopped by a policeman who placed a gun to his head and then fired twice in the air. The man confessed to murder and robbery during torture; he was convicted and imprisoned, where he remains.

⁶¹ This is not to say that similar violence does not occur in Cambodia's other six provinces and municipalities. Licadho does not have offices or visit prisons in all provinces.

⁶² Licadho investigation files. As the three men were not sent to court or prison, they are not among the sample of 567 prison inmates who reported mistreatment in police custody.

Such interrogation tactics remain common at Sre Ambil (see box below) and at other Koh Kong police stations.

In March 1999, a man suspected of robbery and theft was arrested and detained at Koh Kong's provincial criminal police station. Policemen allegedly kicked and beat him unconscious. A day later, two identified policemen allegedly tortured him, in a particular manner designed to leave no scars. He fell unconscious again. The policemen revived him by pouring water over his body, before resuming their torture and kicking and stomping on him. The man confessed. At time of writing, he was in pre-trial prison detention.

Box 6.2

UPHOLDING THE LAW IN SRE AMBIL

The following is information from people formerly detained at Sre Ambil district penal police station, Koh Kong province, September-December, 1998. Detainees' names are not stated, to protect them. The initials "Y.Y.", "S.B." and "K.R" represent the names of identified Sre Ambil police officers.

Sept 10, 1998: A man is arrested and detained one night. Policeman S.B. and an unidentified colleague beat the suspect with a 1.5m long plastic pipe and kick him.

Sept 10: A woman is arrested on suspicion of robbery and organized crime. "At the beginning of the interrogation, the policemen suspected that I hid gold inside my vagina. So the policemen ordered three women to try to find gold inside my vagina. Two women held me while one woman pushed her hand inside my vagina; the second time, I bled a lot." Licadho medical staff later treat the woman in prison for a urinary tract infection and vaginitis.

Sept 10: A man is arrested by militiamen and taken to the Sre Ambil station. There, an unidentified policeman threatens to torture him unless he confesses to illegal confinement (kidnapping). The man confesses against his will.

Sept 21-26: A man is arrested and accused of illegal confinement. Sre Ambil police try to extort 5,000 Thai baht from him for his release. He doesn't pay. He is detained a total of five days (three days longer than is lawfully permitted) at several different police stations, and kept shackled for three of those days.

Oct 1-6: A man, arrested for breach of trust, is detained for six days at Sre Ambil. Policeman Y.Y. kicks him in the stomach and smashes his head against a wall until he bleeds. Two other police demand 3,000 baht to release him, but the man says he doesn't have the money.

Oct 1-7: An arrested man is shackled and beaten during interrogation. He confesses to fraud because, he says, he could not stand the pain. He is kept for three days at Sre Ambil and a further three days at another police station.

Oct 7-21: A man is detained for 15 days (before being taken to another police station, in Smach Meanchey district, for another seven days). At Sre Ambil, he is subjected to near-suffocation with a plastic bag over his head. Police also place a half-meter long piece of wood on his feet, and stand on it, crushing his feet.

Oct 7-27: A man accused of illegal confinement is detained for 20 days (10 times the lawful detention period) at Sre Ambil. Policemen Y.Y. and S.B kick and beat him. They also attempt to extort money from him. The man is then moved to Smach Meanchey police station for another five days.

Oct 20-23: A man is detained for three days (before being transferred to two other police stations, including Smach Meanchey, for a further 10 days). At Sre Ambil, policeman S.B. and other police use a plastic pipe to beat his back. They also force him to lie down and stomp on his arms, causing severe swelling.

Nov 19-21: Policeman Y.Y. kicks and beats a youth aged 16, accused of robbery, until he is unconscious. The youth is then locked in a room and kept shackled for three days. He is transferred to Smach Meanchey, where he is also shackled for two days and nights.

Nov 25-30: Y.Y. and K.R. kick and beat a 19-year-old man, and place a plastic bag over his head, in a bid to get him to confess to firearms and kidnapping charges. He is detained for six days.

Dec 13-22: A man is detained for nine days. Police whip him over the head with a piece of plastic cable, and kick him in the stomach and chest. One policeman threatens to kill him if he does not confess to robbery.

The above are only those cases reported to Licadho within the four-month period. All of the 12 victims were sent to prison. Subsequently, one of them was found not guilty at his trial. Four more were granted temporary release by court order and were not subsequently re-imprisoned. No known disciplinary or legal action has been taken against any member of the Sre Ambil penal police for unlawful arrest or detention or the use of torture.

D. THE VICTIMS

Age & Sex

The majority of people beaten in custody are male adults, but children and women are not immune. Of the 567 allegedly abused detainees interviewed by Licadho, 12% were female and/or aged under 18 at time of arrest (see table below).

The children reportedly abused included:

- A 15-year-old struck on the body and head with an iron bar at the Phnom Penh municipal police station, March 1998. He confessed, under duress, to theft.
- A boy, aged 14, beaten 10 times with a broom at a Koh Kong police station, May 1998.
- A 15-year-old boy arrested and beaten by Phnom Penh police after he attacked a policeman who was allegedly beating his mother, July 1998.
- A 14-year-old boy, accused of complicity in robbery, allegedly shocked with an electric baton three or four times by Phnom Penh municipal police, March 1999.

There is other evidence that violence against children and youths in police custody is not uncommon. In July 1999, Licadho surveyed detainees at the Youth Rehabilitation Centre, a State-run detention facility for minors accused or convicted of crimes. Of 48 youths detained at the centre at the time, 13 (or 27%) alleged that they were beaten by police before being sent to the centre. The abuse cited ranged from a few slaps and kicks to being struck on the head with a pistol, shocked with an electric baton, struck with a cane, and punched in the face (breaking the teeth). The ages of the youths ranged from 15 to 20.⁶³

Prison inmates reporting police mistreatment	Female	Aged under 18 (male & female)	Table 6.1 Ratio of females and minors among mistreated detainees.
567	34 (6%)	34 (6%)	

Source: Licadho interviews with prison inmates.

Cases of women who were allegedly tortured included:

- A 21-year-old woman, accused of robbery, arrested in Phnom Penh and taken to the Daun Penh district police station in November 1998. "They kicked me against the wall, pulled my hair, and slapped and beat me on my back and ribs. I couldn't see them, because I was blindfolded. They [wanted] a confession," she later recounted. She was sent to prison after six days at the police station.
- A woman aged 26, accused of human trafficking, detained at Phnom Penh's Dangkor district police station for five days in February-March 1997. She stated that she was shackled, kicked in the stomach, slapped and deprived of food and water. Three months pregnant at the time of arrest, she miscarried after the torture. Forced to confess, she was later convicted and sentenced to a year in prison.
- A 50-year-old woman accused of fraud – a charge which related to her giving advice on lottery numbers to a neighbouring family – struck repeatedly on the temple, chest and leg by interrogators at Svay Por district police station, Battambang province, in September 1997. A policeman told her she would be imprisoned for 20 years if she told anyone about the torture. She was later convicted of fraud and sentenced to four months' imprisonment.
- A 20-year-old poor construction worker, accused of theft, given electric shocks on her back and hands at the Mittapheap district police station, Kompong Som, in January 1998.
- A woman aged 38, arrested for breach of trust, beaten, kicked and given electric shocks by a female police officer at Phnom Penh's 7 January district, November 1998. The victim was told she either had to sign a confession or pay \$500 for her release.

⁶³ Licadho children's department, "Report on visit on [July 1999] visit to Youth Rehabilitation Centre at Choam Chao". Most of the youths at the center had been arbitrarily detained without arrest or detention warrants, and without court charges being filed against them. Only one of the 48 youths had been convicted of a crime. The average period of detention at the center is three months, or more at the discretion of the center's management.

Victims' alleged crimes

The alleged crimes committed by the 567 people in the Licadho sample ranged from murder to illegal fishing. A majority of the cases involved offences relating to money or possessions – robbery, theft, fraud, etc – but this may be due to the fact that these crimes are more common than others.

Conclusions about which types of criminal suspects are more likely to be abused in police custody are impossible to draw. Anecdotally, however, it appears there are several common reasons why a detainee may be singled out for particularly brutal treatment, including: if a police officer knows (and dislikes) a criminal suspect; if the police are paid by a complainant to investigate an alleged crime; and/or if a relative or friend of the police are victims of the suspect's alleged crimes. Particularly serious torture is also common if the police are seeking information such as the whereabouts of money or stolen goods from a suspect.⁶⁴ Extortion of money for the release of detainees is also common, and can lead to severe torture, particularly if the police believe that the suspect or his family has money but refuses to pay them.

Release of mistreated inmates

Of the 567 prison inmates interviewed by Licadho who alleged police mistreatment, at least 36 of them (6%) subsequently had the charges against them dropped, or were found not guilty, by a court. A further 24 inmates were granted bail or temporary release by the courts (see table below).⁶⁵

Table 6.2 Mistreated detainees released from prison.	Prison inmates reporting police mistreatment	Charges dropped or found not guilty	Granted bail or temporary release	Total released by courts
	567	36 (6.3%)	24 (4.2%)	60 (10.5%)

Source: Recorded by Licadho staff from court & prison records

Bail and temporary release, which do not involve the formal dropping of charges, are often semi-permanent; people granted temporary release or bail are frequently not called back to court for a trial.

It is not known in how many of these cases allegations of torture or forced confessions may have contributed to judges' decisions to release the people. Generally, judges are not receptive to such allegations (see Chapter 7, Section B, below). In some cases, however, intervention by lawyers or others may help persuade judges to release detainees who were allegedly tortured. Despite provisions in the law for the immediate release of prisoners whose rights have been seriously impaired – such as by torture or unlawful prolonged detention⁶⁶ – such detainees often have to wait considerable periods for their freedom.

A youth, aged 17, was arrested by Tuol Kork district police in Phnom Penh in October 1998 and detained for four days. "There were so many police, I can't remember [how many]. They kicked me in the ribs many times, punched my face and gave me electric shocks. They punished me without food for four days." The youth, accused of robbery, spent nine months in prison pre-trial detention. Represented by a lawyer from an NGO defenders organization at his July 1999 trial, he was acquitted.

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A man, 27, arrested for theft, was whipped with rope at Koh Kong's Smach Meanchey district police station in August 1998. Transferred to Koh Kong's provincial criminal police station, he was handcuffed, shackled and kicked, beaten and whipped again; he fell unconscious twice.

⁶⁴ The police are poorly-paid and ill-disciplined. If they confiscate cash or stolen property from a suspect, they will often keep it for themselves, or extort money from the property's rightful owner before they agree to return it.

⁶⁵ The statistics in the chart are minimums, as information is lacking about the reasons for the release of some inmates. Of the 567 prison inmates who said they were mistreated in police custody, a total of 231 are no longer in prison at time of writing. Of the 231: 99 are no longer in prison for reasons unknown, or not recorded by Licadho; 60 were released by court order (as shown in the chart); 8 were convicted but given suspended sentences; 50 were convicted and completed their prison sentences; 12 escaped from prison; 2 died (from illness) in prison.

⁶⁶ Transitional Criminal Law, 1992 (Art. 12, 13 & 22).

The police extracted a confession from him, which he provided against his will. Transferred to prison after nine days of unlawful police detention, he was in a seriously wounded state. The prison authorities, unhappy at having to be responsible for his health, sent him to hospital and verbally complained about his condition to the provincial governor, court prosecutor and police commissioner.⁶⁷ The man, represented by an NGO defender, was found not guilty at his February 1999 trial. No action is known to have been taken against the police who tortured him.

Given widespread corruption and incompetence within the court system (see *Part VI: Law & Impunity*), it is, of course, dangerous to assume that all suspects released without conviction by the courts were in fact innocent, or indeed that all suspects convicted were in fact guilty. However, it is clear that innocent people are arrested and tortured by the police (see *Box 7.2, 'Torture of the Innocents', below*), although it is impossible to know how many.

E. DEATHS FROM POLICE TORTURE

The people most seriously abused by the police do not make it to prisons, or back to their families. The numbers of people who die at the hands of the police are impossible to precisely estimate. Documenting (or proving) such killings is difficult and potentially dangerous; witnesses may be reluctant to talk, the police will often attempt to cover up the crime, and the courts and other authorities rarely conduct thorough investigations.

Generally, there are two loose categories of people killed by the police: those who are deliberately executed, and those who die during or after beatings or other torture. The lines between the two are blurred: some people are tortured and then deliberately killed; in other cases, it is difficult to establish whether the killing was deliberate or accidental.

Most killings by the police probably occur outside police stations, and do not involve torture before death; the victims are usually shot, during or after arrest, or because of personal disputes or some other reason not related to the perpetrators' police duties. At least 56 people were killed by civil or military police personnel, and another seven killed by mixed groups of authorities that included police officers, between January 1997 and October 1998⁶⁸. Some, but not most, of these killings may have involved torture before death.

With regard to clear-cut cases of deaths in police custody during or after torture, the following victims (with date of death, and type of custody) have been documented in the past five years:

- **Ry Sarith**, February 17, 1995, Prey Veng province (military police custody)
- **Liv Peng Harn**, c. January 12, 1996, Kompong Cham (civil police)
- **Ok Phea**, March 9, 1996, Kandal (civil police)
- **Um Hann**, c. May 8, 1996, Battambang (civil police)
- **Tong Sophara**, c. May 21, 1996, Siem Reap (military police)
- **Nheak Phat**, May 28, 1999, Siem Reap (civil police)
- **Bich Phoeun**, October 13, 1999, Phnom Penh (civil police)

There is no reason to believe that this list is comprehensive. It includes only well-documented cases in which there is eyewitness, photographic or forensic evidence corroborating that the victim was beaten or otherwise tortured before death. In two cases (Nheak Phat, Bich Phoeun) the victim was deliberately executed after torture; in the others, it is not known whether the death was accidental or deliberate.

⁶⁷ It is not uncommon for prison chiefs or guards to arrange medical treatment for prisoners who were beaten by the police – particularly if they are concerned about being held responsible if an inmate dies – but extremely rare for them to complain to other authorities about the alleged torture.

⁶⁸ These figures represent alleged homicides (rather than self-defense killings) by police officers, of which the suspected perpetrators were identified but not brought to justice. See Adhoc, Licadho & Human Rights Watch, "Impunity in Cambodia: How Human Rights Offenders Escape Justice", June 1999 (Appendix A).

The seven deceased were all suspects in criminal investigations, the majority of them for robbery or theft, and taken into police custody. The only political case is that of Um Hann, arrested during a police hunt for Khmer Rouge suspects following bomb explosions in Battambang town.⁶⁹ The list excludes numerous other suspicious deaths in custody in which investigations produced strong (but not conclusive) evidence of torture, or in which solid evidence of the type of police or other forces involved is lacking. It also excludes dozens of extrajudicial executions (as noted above) by police or military, for political or non-political reasons. Finally, deaths caused by torture in prisons are also excluded.

Suspicious deaths in police custody are usually officially attributed to suicides, or to injuries inflicted on the victims by civilians, such as mobs of angry bystanders, before or while being taken into custody. Examples, from the above list, include:⁷⁰

Tong Sophara (aka Sanh Thea), aged 23, was arrested without warrant and detained at the Siem Reap provincial military police headquarters. Accused of stealing a car from his employer and selling it, he reportedly had more than \$1,000 on him at time of arrest; the money was never accounted for. Arrested in the evening of May 21, 1996, Sophara was dead by the following morning. According to the military police, he hanged himself, with his bootlaces, from a barred ventilation hole in a small detention room. He had been stripped of his clothes after being detained, ostensibly to prevent a suicide attempt, but the military police stated that they forgot to take his boots. Tong Sophara was 5ft 7in (1.7m) tall; the room in which he allegedly hanged himself was less than four-and-a-half feet (1.37m) tall. According to the official account, he was facing (rather than with his back to) the wall vent from which he allegedly hanged himself. Evidence that Sophara was beaten before death included:

- His corpse, seen by an independent observer at Siem Reap hospital on May 22, had numerous wounds: an apparently broken arm; a cut wrist; a bloody forehead; ribs that appeared to be broken; and bruises on the torso.
- Attempts by investigators and Tong Sophara's relatives to secure an independent physician to examine the corpse were prevented by the body being hastily buried by official order.
- The body was exhumed six days after death (following repeated requests for official permission by Sophara's relatives) and revealed: one broken arm; at least one broken rib; a broken tooth; puncture wounds; burn marks (possibly electrical); and multiple contusions.

A complaint over Sophara's death was sent to the Siem Reap court by the dead man's family, assisted by legal and human rights workers. No legal action was taken. The prosecutor stated that he was satisfied that the death was a suicide. The prosecutor, in line with the military police's explanation, stated that all of Sophara's injuries were suffered after death. The forehead injury was attributed to the body falling to the ground when the bootlaces were cut by police after the body was found; the circumstances in which the other injuries were supposedly sustained after death were not explained.

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Ok Phea, a policeman and robber, died in hospital eight days after being severely beaten by police in Takhmau, Kandal province, in March 1996. According to his wife's subsequent account, she reluctantly agreed to Phea's plan to lure a motorcycle taxi driver to a quiet area and steal his bike. On March 1, they carried out the plan, but both of them were captured by police soon afterward, and taken to the Takhmau police station. According to the police account, Phea was set upon by a group of angry civilians just outside the station, and beaten unconscious. Witnesses say otherwise: he was conscious and walking when he entered the police compound, where he was then repeatedly beaten by both police officers and some civilians. One eyewitness said she saw a policeman repeatedly strike Phea with a metal petanque ball. Another witness said Phea fell unconscious inside the police compound after two policemen and two other people beat him; after he fell unconscious, he was taken into a room at the police station. Phea's wife said that she and her husband were then further

⁶⁹ For other cases of allegedly political torture or killings, see Chapter 10.

⁷⁰ For security reasons, identifying details of witnesses and other sources of information about the deaths are withheld. Similarly, the names and organizations of investigators are not cited (unless previously publicized).

beaten inside the station that afternoon and night. The next day, Phea, who could neither walk nor talk, was sent to prison. He remained there three days before being sent, unconscious, to hospital, where he died about five days later.⁷¹

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In May 1996, four farmers including **Um Hann**, aged 34, were arrested near their homes in Battambang's Mounng Russei district, a then militarily unstable area. The arrests came during a police search for suspects following the planting of bombs by alleged Khmer Rouge agents in Battambang provincial town. A week before Um Hann's arrest, four other men were arrested in Mong Russei; they were taken to Svay Por district police station in Battambang town and interrogated under torture, according to human rights workers' investigations. On the basis of forced confessions extracted from them, Um Hann and the other three farmers were then arrested on May 8. Taken to Svay Por station the following day, the four new suspects were interrogated and tortured by municipal and anti-terrorism police agents. Um Hann was punched, struck on the head with a spanner and half-strangled with a krama scarf, according to investigators' informants. Taken back to his cell, Um Hann found the strength to tell another detainee that he would not survive, and to ask that his wife and child be looked after. He then fell to the ground unconscious and later died. Police officers disguised his murder as suicide by hanging. The UN special human rights envoy to Cambodia has publicly stated that "the description of how the hanging had taken place was less than convincing", and the official investigation into the death was "less than impartial".⁷² (Of the total of seven others arrested and tortured in connection with the alleged Khmer Rouge bombings, four were released by court order and three convicted and sentenced to 17 years' imprisonment).

The above three cases, as well as that of Liv Peng Harn in Kompong Cham, have been categorized by the UN as examples of victims being "beaten up or otherwise tortured to death".⁷³ The best known case, and the only one in which a (failed) murder prosecution was mounted, is that of Liv Peng Harn, who was also tortured in custody before allegedly hanging himself (see *Chapter 23* for a detailed account).

It is often difficult to prove that alleged suicides in police custody were in fact homicides. Professional autopsy and forensic medical skills are virtually non-existent in Cambodia. Evidence of torture does not conclusively prove cause of death. But in any case, and particularly if there is evidence of torture, the police cannot be absolved of responsibility if a criminal suspects enters a police station alive and leaves it dead. Even if the police did not directly kill the detainee, beating someone into a frame of mind where they may be prepared to kill themselves, and permitting them the tools to do so (a rope, belt, razor, etc), is little better than murder.

In other cases, however, there is no doubt of police culpability. Examples include Ry Sarith, who died after being beaten by a military policeman in Prey Veng (see *Chapter 23* for description), Bich Phoeun, released by the police so that they could then shoot him (see *Box 7.3, 'Mob 'Justice', below*), and Nheak Phat.

About 8am on May 28, 1999, farmer Nheak Phat was plowing his rice field in Kork Tlork Krom commune in Chikreng district of Siem Reap. A group of about 20 police arrived to arrest him, accused him of robbery or theft (apparently of oxen). His hands tied, he was taken some distance away to a rice field at Toul Kork Kmauch, near Toap Siem village, where he was beaten. Later in the morning, the police visited the home of his second wife, in search of a gun they believed he owned. His wife said she knew nothing about a gun; a policeman said he would shoot her if he found the gun. Her house was searched but no gun found. About 11am, the wife went to see Nheak Phat at Tuol Kork Kmauch, where the police were holding him. Bleeding from the mouth, several of his teeth were broken and his tongue was hanging out. His hands were tied behind his back, and his shoulder appeared to be dislocated. Nheak Phat, fearing that the police would kill both of them, told his wife to go home. Later, she was

⁷¹ For the accounts of Phea's wife and the eyewitnesses, see Christine Chaumeau, "Witnesses blame police for beating robber to death", *Phnom Penh Post*, March 22-April 4, 1996.

⁷² "Report of the Secretary-General: Situation of human rights in Cambodia", UN General Assembly, October 17, 1997 (para. 88).

⁷³ "Situation of human rights in Cambodia: Report of the Special Representative of the Secretary-General for Human Rights in Cambodia", UN Commission on Human Rights, January 31, 1997 (para. 86).

told that her husband was dead. She went to see his body at the same place she had seen him injured earlier. He was lying face down, hands tied, wearing only a pair of shorts, with a bullet through his head. His body bore bruises and other wounds.

CHAPTER 7. POLICE TORTURE: THE CAUSES

“The police don’t see themselves as torturers. It’s just a way to get something done – if you want a statement of confession, this is what you do.”

– *A former national law enforcement official, speaking about torture.*⁷⁴

While Cambodian and international law may condemn torture, the reality is that many of the people responsible for upholding the law – the police – see little wrong with torture. This is perpetuated by social attitudes against criminals and by a long-standing police and judicial reliance on obtaining confessions from alleged offenders. In this context, in which getting a confession is the central element of any criminal investigation, and in which criminals are despised and considered to deserve whatever treatment they get, torture is just part of doing your job, and even doing it well.

“The police are less educated, but they want to do well, to gain achievement,” says a provincial policeman of eight years experience, who quit in 1994. “They try to get people to confess, in order to send the case to court... The police think that if they get one confession, they have found one criminal – they think they’ve done a good job. When I was a policeman, that was my idea too,” he adds with a laugh.⁷⁵

This attitude is not limited to the lower ranks. Detainees tortured at commune and district police stations frequently state that the chief or deputy chief of the station participated in or was present during their torture. At a higher level, even top provincial, municipal or national police chiefs have personally ordered or participated in the unlawful detention and physical or psychological abuse of detainees, according to victim testimonies collected by Licadho. Such ‘leading by example’ sends a clear message to their subordinates that torture is acceptable, and even to be encouraged.

The police’s habitual use and tolerance of torture, as with much of the violence in society in general, may be partly attributable to Cambodia’s recent tragic, bloody history.

“The generation of people now aged in their 40s, who are in charge of the police and military, they are from a background of extreme violence in war. Violence is all they know,” says the former national law enforcement official. “You can advocate public transparency, education, accountability and so on, but at some stage you have to change the police chiefs.”

Torture is a by-product of chronic problems within Cambodia’s law enforcement and judicial systems, which are marked by impunity and the lack of adherence to the rule of law. They include inadequate police and judicial recruitment procedures, lack of training (or willingness to use it), low salaries and rampant corruption, and the general failure of the police and courts to do their jobs as laid down by law.

Specifically, at the heart of the Cambodian police’s use of torture are several related reasons:

- The practice of arresting someone and then seeking evidence against them, rather than vice-versa; and the corresponding police emphasis on securing confessions from criminal suspects, with a lack of willingness or ability to use other criminal investigation techniques.
- The police’s failure to abide by lawful arrest and detention procedures; and the lack of legal representation (or other assistance) for detainees in police custody, to observe and challenge any unlawful treatment of them.
- The judiciary’s general willingness to accept forced confessions as evidence of an accused’s guilt; and its related failure to hold the police accountable to the law, particularly with regard to unlawful arrest, detention, torture and forced confession.

⁷⁴ Author’s interview with former law enforcement official, August 1999.

⁷⁵ Author’s interview with former provincial policeman, September 1999.

- The failure of government officials, police chiefs and other national or provincial authorities to actively deter the use of torture, and to protect and promote the judiciary's independence, jurisdiction and responsibility to address torture cases.

In short, police officers commit torture because it is the easiest way to gain 'evidence' – usually in the form of a confession from a suspect. They also commit torture because they know they can get away with it.

A. DURING THE TORTURE: ARREST & DETENTION

A person can be arrested by a court-ordered arrest warrant, or without a warrant if s/he is caught in the act of committing a crime (*in flagrante delicto*), according to Cambodian law.⁷⁶ An arrested person can be detained by the police for up to 48 hours before being brought before a court or released.⁷⁷ At the court, the case initially goes to a prosecutor, who assesses the preliminary evidence; the prosecutor decides whether to release the suspect without charge or to file an introductory indictment and refer the case to an investigating judge.

There is nothing in any law which prevents the police from collecting evidence *before* an arrest is made – indeed, that is explicitly necessary for any lawful arrest based on a court warrant. Nor is there anything which prohibits the police from continuing to collect evidence *after* the suspect has been sent to court.

In reality, however, a police investigation into an alleged crime – or more specifically the collection of evidence against a suspect – tends to begin with the arrest of the suspect. The police consider that they then have 48 hours to send a watertight case to the court – and a confession is the easiest, quickest and most convincing evidence they can get in that period.

As the then-Minister of Justice Chem Snguon told the National Assembly's Commission on Human Rights in 1997: "The problem [of torture] is that those who arrest still think they have to beat the detainee otherwise he won't answer; unlike other countries, here they generally arrest first and seek to find evidence second..."⁷⁸

Ang Eng Thong, president of the Cambodian Bar Association, summarizes the police interrogation process: "The [suspect] goes in front of the police. The police want to get a confession. If they cannot get a confession, then they use torture. It is usually [by] beating."⁷⁹

The 48-hour limit

Police and government officials frequently blame the 48-hour detention proviso as an obstacle which requires that evidence be found quickly or the suspect be released. As a government speaker at a Licadho human rights seminar in Kompong Cham in 1996 summed it up: "Only eighty percent of prisoners are beaten, but what is the option? Under the law, we can only detain people for forty-eight hours and we lack the expertise to investigate for evidence."⁸⁰

Such arguments ignore the fact that the police are supposed to have some evidence *before* they arrest and detain someone. The 48-hour restriction only becomes a problem, logically, if there is no or little evidence at the time of arrest.

"The police make an arrest and then collect evidence," notes Sok Sam Oeun, director of the Cambodian Defenders Project (CDP). "If they did it [the other way round], then when they make the arrest, they will have the evidence or at least enough evidence for probable cause. But because they do not understand this concept [of investigation before arrest], the police blame the 48-hour period."⁸¹

Complaints about the 48-hour stipulation are also premised on the claim that the police abide by the limit, which is often not true. Suspects are routinely detained unlawfully for longer periods, particularly

⁷⁶ Transitional Criminal Law, 1992 (Arts. 18-19); Law on Criminal Procedure, 1993 (Art. 35).

⁷⁷ Transitional Criminal Law, 1992 (Art. 13); Law on Criminal Procedure, 1993 (Art. 47).

⁷⁸ Minister of Justice's testimony to the Commission on Human Rights, February 21, 1997.

⁷⁹ Author's interview with Ang Eng Thong, president of the Cambodian Bar Association, September 8, 1999.

⁸⁰ Huw Watkin, "The trouble with human rights...", *Phnom Penh Post*, August 23-September 5, 1996.

⁸¹ Author's interview with Sok Sam Oeun, Phnom Penh, January 12, 2000.

when detainees resist attempts to make them confess, or if the police are attempting to extort money from them. Licadho has documented numerous cases of detainees being kept for 5, 10, 20 or more days.

Incommunicado detention

Human rights abuses flourish in secrecy, in circumstances in which the perpetrators feel free to do as they wish without fear of being observed, interrupted or challenged. A major problem, which invites abuses such as torture and unlawful prolonged detention, is that many suspects are detained incommunicado at police stations, without the ability to communicate with a friend, relative, lawyer or other outsider.

Even if human rights workers, medical staff, lawyers or relatives of a detainee are aware of a detention, they may be refused access to the detainee. If the suspect is being detained unlawfully (for more than 48 hours), the police are likely to simply deny that they are holding the person. If the detainee has been beaten, there is an added incentive for the police not to let anyone see him. It is not uncommon for people detained lengthy periods to be moved from police station to police station, presumably to avoid the unlawful detention being discovered by outsiders.

Defence lawyers for criminal suspects are customarily not appointed until weeks or months after their arrests, by which time the suspects are usually in pre-trial detention in prison. In the relatively rare cases where a lawyer is alerted soon after the arrest and seeks access to the detainee in police custody, “we ask the police to allow us to participate and listen to the [police] interview [with the suspect],” says Ang Eng Thong of the Bar Association. “They always say no.”

Ang Eng Thong argues that there is nothing in any law which prevents a lawyer from visiting a criminal suspect in police custody, and being present during the police interrogation, but the reality is different. Sok Sam Oeun of CDP agrees, noting that the main problem is the procedure for lawyers to be appointed to represent a client: first the lawyer must get the suspect, or a relative of the suspect, to thumbprint a written request for legal representation; this request is taken to the court, which officially appoints the lawyer to represent the suspect.

“If we want to go in [to a police station to speak to a suspect], the police ask us do you have any appointment from the court?” says Sok Sam Oeun. “When we go to the court, they say do you have a thumbprint from your client? And the court says that this case has not yet been sent to the court, so how can we appoint you?”

This procedure for the appointment of lawyers appears to be an ad hoc one, and is not spelled out in Cambodian criminal law. It is a clear barrier to stated government and police policy, which is that criminal suspects in police custody have the right to have a lawyer present.

Right to communicate with a lawyer or other representative

The law itself is somewhat ambiguous on exactly when a criminal suspect’s right to legal counsel begins. The law states that “the right to assistance of an attorney or counsel is assured for any person accused of a misdemeanor or a crime”⁸², and that no one can be detained for more than 48 hours without access to a lawyer, family member or other representative.⁸³ There is no explicit provision which requires that a detainee must have access to a lawyer before, or during, questioning by the police – the time when torture and forced confession are most likely to occur.

Confusingly, there is one provision in the law which requires that a criminal suspect’s legal counsel must receive a “copy of the file of accusation” against the suspect within the initial 48-hour post-arrest detention period.⁸⁴ While this implies that the police have to communicate with a lawyer nominated by a detainee, the provision falls short of specifying whether this lawyer can enter the police station and speak to the suspect.

Once a suspect is sent to court from a police station, which should be within 48 hours of arrest according to the law, he or she must be informed of their right to have a lawyer present during

⁸² Transitional Criminal Law, 1992 (Art. 10.1).

⁸³ Ibid. (Article 10.2.)

⁸⁴ Ibid. (Article 13.4).

interrogation by an investigating judge.⁸⁵ There is, however, no similar proviso for interrogations by prosecutors, who are usually the first to question suspects sent to court.⁸⁶

Government policy, however, is that “anyone placed under arrest is to be informed immediately of the charges against him and his rights, in particular his right to have a lawyer present”.⁸⁷ Recently-introduced police operating procedures also state that police must inform suspects of “the right to communicate with a friend or relative to inform them of where they are detained” and “to communicate with a legal representative and have that person present during the questioning” by police.⁸⁸

The reality, say former detainees and defence lawyers, is that these rights are frequently ignored. If the police do inform a suspect of the right to legal counsel, the explanation given is usually far from adequate. A standard police practice, according to Sok Sam Oeun of CDP, is to begin an interrogation by asking the suspect ‘Can you talk by yourself?’. The suspect, thinking s/he is being asked whether he is physically capable of speech, replies yes. The police proceed with the interrogation.

“Can you talk by yourself?’. Of course I can!” Sok Sam Oeun says with exasperation. “By yourself’, that means without a lawyer, but the suspect doesn’t know that. He wants to say ‘I can speak, of course I can speak’.”

Given the general low level of education in Cambodia and poor knowledge of the law, many arrested people are not aware of their legal rights and, even if they are, may well not know how to contact a lawyer. The right to receive legal advice in police custody is meaningless unless it is clearly explained to suspects, and they are given the means to exercise it. Logically, a policeman who intends to force a confession from a suspect is unlikely to explain their legal rights to them, or to respond to a request for a lawyer to be present. Without any outside scrutiny, the police face little deterrent to using whatever methods they wish – including torture to get a confession – to gather their ‘evidence’.

Box 7.1

TORTURE FOR FUN

While extracting confessions is the usual motive for police torture, sometimes there is another element -- whether out of boredom, sadism or drunkenness, some police seem to enjoy torturing detainees for the amusement of it.

It is not uncommon for police officers to be drunk when committing torture, usually at night, according to victims. Sometimes, the torture begins earlier in the day but the police take a break for their evening meal, and then return drunk to continue the torture.

Some victims report being subjected to degradations and humiliations by their captors, who stand watching and laughing. Two of the most common are being forced to strip naked, or being forced to crawl across the ground on hands and knees. Taunting and ridiculing detainees is common.

An example is the provincial military police in Battambang, who have a ruthless reputation for torture. In at least five documented cases in 1998, detainees were forced to jump up and down or walk like frogs, horses or ducks, or crawl along the ground like snakes. At least one of the detainees was stripped naked while made to jump like a frog; another was told to move his ears like a cow, and made to walk around shouting “I’m a female lion”. Their tormentors stood by laughing, and beat them

⁸⁵ Law on Criminal Procedure, 1993 (Art. 75).

⁸⁶ The closest that the law comes to making this a requirement for interrogations by prosecutors is Article 62 of the Law on Criminal Procedure, 1993: this states that an *in flagrante delicto* suspect who is “accompanied by a human rights defender” at court shall be interviewed by a prosecutor in the presence of the defender; it makes no reference to suspects who are not accompanied by a defender.

⁸⁷ Kingdom of Cambodia, “Report on the Application of Civil and Political Rights in Conformance with Article 40 of the ICCPR”, November 1997 (para. 160). This report, on Cambodia’s compliance with the International Covenant on Civil and Political Rights, was submitted to the UN in March 1999.

⁸⁸ National Police of Cambodia, “Judicial Police Procedures Manual”, approved by the co-Ministers of Interior, December 1999 (section 3-17). For more information on the procedures, see Chapter 23.

if they did not follow the orders properly. All of the victims were also beaten severely at other times, and forced to confess to various crimes.

B. AFTER THE TORTURE: LACK OF RESPONSE

Forced confessions & judicial complicity

The main reason why the police force people to sign confessions is simple: judges and prosecutors accept these confessions. This violates the Constitution and criminal law, which state that confessions obtained by physical or mental duress are not admissible as evidence of guilt.⁸⁹ Furthermore, a confession – even if there is no evidence that it was forcibly extracted – cannot be used to convict an accused unless it is corroborated by other evidence.⁹⁰

Judges, however, frequently convict people on the grounds of their confessions, with little or no other evidence, according to defense lawyers.

“In many cases, the judge convicts on the basis of a confession,” says Ouk Vandeth, a lawyer with Legal Aid of Cambodia (LAC). “I ask the judge and prosecutor not to accept confessions without other evidence, but they do not pay attention to this.”⁹¹

As well as confessions, convictions are often also based upon the written statements of witnesses, who are usually police officers, according to Lean Chenda, first vice-director of LAC.⁹² These statements are accepted into evidence even if the witnesses do not physically appear in court to testify. This is contrary to the law, which requires that witnesses be present in court, allowing the opportunity for cross-examination of them, if their evidence is to be admissible.⁹³

Henrot Raken, the prosecutor-general of the Court of Appeal, agrees that part of the problem is caused by “careless” police. In some cases, particularly when a policeman catches someone in the act of a crime, the suspect will confess. “Because the police have a confession, they do not take care to gather other evidence,” explains Raken.⁹⁴

However, Raken denies that judges usually hand down convictions on the basis of confessions alone, without other evidence. To the contrary, he says, an accused person will often, in court, deny a confession which they allegedly made earlier to the police, and judges have to take notice of this. This creates another problem, which is that if a judge releases a suspect because of alleged forced confession in police custody, the police get angry at the courts.

Defense lawyers, however, say the reality they see is different. Most victims of forced confession do not recant that confession when they get to court. “[My] clients are always frightened because they were intimidated, threatened and abused at the police station,” says Ouk Vandeth of LAC. “I always ask the judge not to accept the confession ... [But] most of the victims still feel intimidated at the court, so they just answer the same as they answered at the police station.”⁹⁵

Sok Sam Oeun agrees that many suspects, when they appear in court, repeat all or part of their initial confessions to the police. “Because of this reason, some judges still support the [use of] torture. Some judges say ‘Yes, I know about the torture but we benefit from it because at least part of their [forced] confession was true.’”

Judges assume that confessions are true, says Sok Sam Oeun, who steps up to a blackboard and writes “confession = guilty” on it, to illustrate the judge’s mind-set. The judiciary, and police, attitude

⁸⁹ Cambodian Constitution, 1993 (Article 38); Transitional Criminal Law, 1992 (Art. 24.3).

⁹⁰ Transitional Criminal Law, 1992 (Art. 24.3).

⁹¹ Author’s interview with Ouk Vandeth, lawyer, Legal Aid of Cambodia, August 27, 1999.

⁹² Author’s interview with Lean Chenda, first vice-director, Legal Aid of Cambodia, September 8, 1999.

⁹³ Transitional Criminal Law, 1992 (Art. 24.1).

⁹⁴ Author’s interview with Henrot Raken, prosecutor-general, Court of Appeal, September 9, 1999.

⁹⁵ It is not unusual for the police officers responsible for a suspect’s interrogation and torture to be present at court while the suspect is interviewed by a prosecutor or judge; the suspect is often scared to recant their confession, or complain about torture, in front of the perpetrators. Also, Licadho has documented numerous cases where the police allegedly threatened suspects before taking them to court or prison; suspects are told that they will be further tortured if they disclose the initial torture to the court or to human rights workers.

toward evidence is also a factor: “They think that evidence is written documents. Oral testimony is not evidence.” Even if a suspect, in court, verbally recants all or part of his initial written confession to the police, a judge will usually place more weight on the confession.

With few exceptions, the judiciary tends to be uninterested in allegations of forced confession or torture of defendants; raising the issue is not an effective tactic for defense lawyers. “I try to tell and describe every case where there is torture to the court, but I think it is not so advantageous for the defense,” Ouk Vandeth says frankly. “When they describe the abuse, the judge or prosecutor always ask for the evidence [of torture] ... and ask why a complaint was not filed [by the victim] against the police.”

As judges and prosecutors know full well, conclusive evidence of torture is often lacking, and most victims are too frightened to file legal complaints against their torturers.

Lack of Evidence

The key problem of lack of evidence of torture is compounded by delays in lawyers, human rights workers or others in getting access to detainees. Bruises and other marks heal over time and – unless there are permanent disabilities or scars – nothing is left except for the victim’s testimony.

As noted above, defense lawyers are rarely present during or soon after police interrogations of criminal suspects. Lawyers from Cambodia’s three legal defense organizations – LAC, CDP and the Cambodian Bar Association – are usually appointed by court order, often weeks or months after the arrest of the accused. (Given the shortage of lawyers in Cambodia, many defendants, of course, have no lawyer at all.⁹⁶) Frequently, it is not until the trial is about to be held – long after the arrest, police interrogation, and court investigation – that a judge will refer a case to a legal organization. “Often, the court just asks for a lawyer for the trial. They have completed the investigation and then ask for a lawyer, to complete the file and their procedures,” says Lean Chenda of LAC.

The delay means that while 80% of LAC clients report physical abuse of some sort by the police, the vast majority of them do not have bruises or marks by the time a lawyer sees them. “Most of the time, I have access to clients about two months [after arrest],” says Ouk Vandeth. “By then, the bruises are gone.”

It is not only the courts who request lawyers for accused people. Cases are also referred to defenders organizations by relatives or friends of detainees, or by human rights groups who visit inmates in prison. But even when a detainee has signed a written request for a lawyer, it can take time to get the lawyer officially appointed by a court clerk, prosecutor or judge. “When I try to get authorization to represent a client, the court, especially the court clerk, says that he is too busy to give me authorization,” says Ouk Vandeth. “One case can take one or two months for the authorization to be given... The court clerk is free to decide [to give authorization] whenever he wants.”

Other organizations, particularly human rights groups, can also be frustrated in obtaining access to suspected torture victims in police stations or prisons. Licadho’s medical team has been subjected to such delays. As well as constituting a denial of medical treatment for victims, there is suspicion that the delays are deliberate, designed to allow time for the marks of torture to fade.

Danh Teav, a Ministry of Interior official whose wife was an opposition political party reserve candidate in the July 1998 national elections, was arrested and beaten by Phnom Penh police a few days before the elections. He and five other men arrested in connection with his case, who had also been tortured, were sent to prison by court order. For the next eight days, Danh Teav was denied any outside contact, despite repeated requests by his lawyer and wife to see him. He was denied medical care until August 3, two weeks after his arrest and torture. UN

⁹⁶ At time of writing, there were 224 lawyers admitted to the Bar in Cambodia, according to Bar Association figures. Not all of these lawyers are actively practicing; some are employed as legal advisors in public agencies, international organizations, etc. Licadho regularly finds pre-trial detainees in prisons throughout the country who do not have lawyers, and refers their cases to defenders’ organizations. In some cases, a trial is held before a lawyer is appointed and begins to work on the case.

*human rights workers were unable to secure government permission to interview him until August 6.*⁹⁷

Often, attempts to conceal evidence of torture begin much earlier. There is evidence that at least some police try to ensure that their torture does not leave permanent scars. Victims have told Licadho of their torturers making statements such as ‘This won’t leave any marks; no one will believe you’. Also, as noted previously in this report, Licadho has documented cases of police administering several common forms of torture (which would usually leave scars) in modified ways that leave no marks or only bruises that fade over time.

In other cases, the police may decide to detain the victim longer at a police station, in the hope that the injuries will heal, while at the same time depriving them of medical treatment.

A woman was badly beaten and whipped over three days at a Phnom Penh district police station. She was then kept there for a further seven days, apparently in order for her wounds to have time to begin to heal. She heard the police saying they were reluctant to send her to prison “because they thought that the prison would not accept me – my health was so bad”. After 10 days at the police station, she was sent to T3 prison. Licadho medical staff examined her there a few days later; she still bore many signs of torture, including bruises, swelling, and obvious wounds from whipping.

Even if a victim’s body still bears scars by the time they go to court, it is only their mouth which can reveal how they were inflicted. A victim’s words can be challenged by the police, who will usually claim that scars are self-inflicted or the result of beatings by angry civilians before arrest.

A further issue is the precautions that police torturers may take to avoid being identified, such as using blindfolds on the victim during torture. Even if victims want to allege torture to a judge or prosecutor, their inability to identify the perpetrators inherently weakens their allegation.

Lack of complaints

In any event, most victims are too frightened to allege torture. Most of them are reluctant to speak about torture or forced confession to a prosecutor or a judge, let alone sign a formal complaint against their torturers. “I encourage my clients to file complaints against the police but they are too afraid,” says Ouk Vandeth. Not a single client of his, or any other LAC lawyer, has ever filed a complaint against police for torture.

A number of reasons – including fear of reprisals from the police and lack of confidence in the judiciary – conspire to prevent victims from complaining. Perhaps most of all, they are simply not sure that it will actually help them. “They need freedom first,” says Sok Sam Oeun of tortured defendants. “They say ‘I just want freedom, that’s enough’.”

As the UN’s representative for human rights in Cambodia has noted: “Beatings in police custody are so frequent that they are almost considered ‘normal’ by many victims, who thus do not report or complain about them. Fear of retaliation by the detaining authorities is an aggravating factor. Fear that complaining about torture may aggravate their sentence has also discouraged victims, and often their defenders, from raising the issue in court. This has led defendants to admit guilt for offences they have not committed to avoid running the risk of further ill-treatment.”⁹⁸

As the UN human rights envoy noted, legal defenders themselves may not raise allegations of torture when defending their clients in court. Licadho and other human rights organizations have documented numerous cases where lawyers, whether because of fear, complacency or instructions from their clients, have ignored the torture issue in court. For example, out of a sample of 29 criminal suspects tortured by police in Battambang province between 1995-97, at least eight of them were represented at their trials by defenders who did not raise the torture issue. In one case, a defendant attempted to tell the judge about the torture, while his defender remained silent.

⁹⁷ “Situation of Human Rights in Cambodia...”, UN General Assembly, September 17, 1998 (para. 93-95). For more details, see Chapter 10, Section D.

⁹⁸ “Situation of Human Rights in Cambodia...”, UN Commission on Human Rights, January 31, 1997 (para. 94).

Judicial fear or bias

Even when defendants or their lawyers do want to raise torture allegations, they may soon learn that it is futile. Court officials frequently ignore allegations of torture put before them.

One reason may be fear: prosecutors and judges, like anyone else, can be threatened, intimidated or otherwise swayed. The Cambodian police and military do not have a good record for respecting the authority and independence of courts. They have resorted to violence, including by storming or surrounding courthouse, to express unhappiness at court decisions.⁹⁹

Rivalry, distrust and poor cooperation are hallmarks of the police and judiciary's relationship. Both sides regularly blame each other for corruption and failure to follow the law. The police complain that the courts release people whom they (the police) consider to be guilty; prosecutors and judges say the police do not follow correct legal procedures, and arrest, detain, extort money, and release people without referring them to the courts.

These problems particularly arise in cases of torture or other abuses by the police or military police. As Henrot Raken, the Court of Appeal general-prosecutor, says of forced confessions: "If the perpetrator, in court, denies what he said at the police station and because of this reason, the perpetrator is released by the court, then there will be disagreement between the police and the court".

Many court staff – from clerks to judges – are reluctant to anger the police or other authorities by investigating or prosecuting them for torture or other crimes. In theory, the police are subservient to the judiciary; in practice, they have guns and therefore more power. Licadho staff who attempt to persuade prosecutors or judges to take action over police crimes are frequently told "This is a difficult case – it involves the police", or some such comment.

While some judges may be genuinely scared to tackle the issue of torture, that is not to say that all are fearful. Others may simply consider that police torture is not a crime or legitimate concern of the courts. Judges are well aware of the police's use of torture and forced confession but simply consider it "normal", says Sok Sam Oeun of CDP.

Even when faced with overwhelming evidence of torture, some judicial officers turn a blind eye.

A 22-year-old man, accused of stealing 92,750 Thai baht (about \$3,700) from his employer, was arrested by police in Banan district of Battambang early one morning in August 1997. The money was not found, so he was severely tortured by policemen who wanted to know its whereabouts. Taken to the commune police station, the man's hands were cuffed and his feet chained. Four commune policemen, whose identities are known, repeatedly slapped and kicked him, and beat his back with a wooden stick until he was bleeding and semi-conscious. Around midday, the man was transferred to the Banan district police station, and again interrogated. A senior district police officer, and a commune policeman, later took the man to a hill where the stolen money was allegedly hidden. When the police did not find the money there, he was beaten again: he was held at gunpoint, slapped and beaten, and kicked several meters down the hill. Taken back to the district police station, the man was tortured by the senior officer from about 7pm until 3am. He was hit, kicked and forced to stand on his head for a long time. The district policeman placed a plastic bag over the man's head, nearly suffocating him. The same officer then burned the bag, dripping hot plastic on the victim's penis. The man's back was also burned with a lit cigarette. The man eventually confessed and told the police where he had buried the money. The police sent the man, but not the money, to court. The victim's account of the torture was corroborated by a hospital examination and by photographs of his many wounds. He was interviewed by an investigating judge, who examined his injuries. The judge told Licadho that the man's body was blue with bruises, and he had burns to his penis and back. The judge remarked that the police were very cruel. He acknowledged that the police had tortured the man to get a confession. Despite the judge's knowledge of the torture, he did not initiate a prosecution of the police responsible. The victim, however, was convicted of theft and sentenced to 12 months imprisonment.

⁹⁹ For examples of armed violence and threats against the judiciary, see Chapter 20, Legal System in Crisis.

Some judges, indeed, seem to be quite at home with the concept of torture.

In a June 1996 trial in Kompong Cham court, “a maniacal judge with a vicious sense of humor” harangued and intimidated a defendant in a manner bordering on psychological torture. The defendant was a Vietnamese woman accused of poisoning her victim to steal a motorcycle. During the trial, the judge twice produced a glass of ‘poison’ – the same poison that she had allegedly used in her crime, he told her – and demanded that she drink it. The judge’s reasoning, apparently, was that if she drank the ‘poison’ without hesitation, she could theoretically be innocent; if she flinched or refused, it would prove her guilt and her intent to poison her victim. The first time that the judge presented her with the glass, the defendant “stared at him blankly for a couple of minutes, unsure of what to do,” two observers of the trial later wrote. “Looking helplessly at her defender, and then back to the judge, she finally relented to his demand. She drank the substance and the judge laughed, breaking an awkward silence that had filled the courtroom.” The trial completed, the judge spent the time set aside for his deliberations pacing the room, joking with the prosecutor and court clerk. “How much do you think she should get?” he asked several onlookers. He reasoned out loud that as a Vietnamese woman, the defendant probably intended to sleep with her victim before stealing his motorcycle. After his ‘deliberations’, the judge returned to his chair to deliver his verdict. Before he did so, he forced the defendant to drink another glass of ‘poison’. “Do you feel dizzy,” he inquired after she did so, before sarcastically offering to allow her to sit down. The ‘poison’, it turned out, was just water and an innocuous powder; the defendant got six months in prison.¹⁰⁰

A defendant or lawyer may well think twice before raising an allegation of police torture with this particular judge, whose actions, coincidentally, bear some resemblance to the 13th Century practice in which suspected thieves were given the choice of confessing or plunging their hands into boiling oil, safe in the knowledge that if they were innocent they would supposedly be unhurt.

Whether out of fear, indifference or spite, the judiciary’s failure to confront torture reinforces the police’s attitude that beating people is acceptable. As one Phnom Penh prosecutor in a 1996 trial reportedly yelled at a defendant who complained of forced confession under police duress, “Court hearings [are] not the place for complaints about police misconduct”.¹⁰¹

Box 7.2

TORTURE OF THE INNOCENTS

As a Cambodian proverb says, “A thief never admits to being a thief”, so violence or the threat of it is considered an effective way of loosening a thief’s tongue. Within this context, there is no presumption of innocence, just criminals who haven’t confessed yet. The only way a criminal suspect can, perhaps, prove his innocence is to withstand torture without confessing, which is likely to in turn lead to more severe torture to overcome his resistance.

Does someone who is not a thief, but who is falsely suspected of being one by the police, confess in order to avoid torture? Most police apparently don’t think so, according to a former provincial policeman. Asked whether the police ever consider the possibility of an innocent person confessing under torture, he sums up the police attitude: “If someone gives a confession, they must be guilty.”

Sok Sam Oeun, of the Cambodian Defenders Project (CDP), takes a somewhat different view. The police are well aware that some of the people they arrest may be innocent, he argues. But the police still consider that securing a confession is “the starting point” of a criminal investigation after an arrest. The only variation, he says, is that a good police investigator will make inquiries to try to corroborate the confession afterward, while a bad investigator will simply accept the confession and consider the case proven.

¹⁰⁰ Jennifer Smith and Tali Levy, “Justice a stranger at Kompong Cham courthouse”, *Phnom Penh Post*, July 26-August 8, 1996.

¹⁰¹ “Situation of Human Rights in Cambodia: Report of the Special Representative ...”, January 31, 1997 (para. 98).

The reality is that innocent people are arrested and tortured in Cambodia. Some of them confess. If the victim is lucky, the police, or the courts, might eventually realize the mistake.

Kim Phal, a 29-year-old pregnant woman, was arrested in Phnom Penh for theft in November 1994; she was accused because she had arrived at a house to visit a friend around the same time as a thief robbed the house next door. Taken to a police station, she was tortured and then detained in a small toilet for six days, and given only a bowlful and a bottle of water during that time. At one point, a policeman taunted her, saying: "I thought you would have hanged yourself already." When first taken to court, she collapsed on the floor and admitted: "Yes, I did steal." Sent to prison for pre-trial detention, she began bleeding and had a miscarriage after being transferred to hospital. Kim Phal later recanted her confession, saying that she had been afraid of being tortured again. At her trial, in which she was represented by a CDP lawyer, she told the judge of the police torture: she showed scars on her hands from cigarette burns, and told how her hearing in one ear was impaired from being slapped in the head. She stated that, if she had been detained one day longer at the police station, she probably would have committed suicide. The judge rejected Kim Phal's confession – which was the only evidence against her – and found her not guilty of theft.¹⁰² The judge never, however, mentioned the word torture in his verdict, and did not seek any investigation of Kim Phal's alleged torturers.

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In early 1998, a Kompong Som farmer was arrested on suspicion of committing robbery. Four policemen smashed a chair over his head, punched and kicked and struck him with a rifle butt. The torture was designed to extract a confession from the man, but he resisted giving one. The police eventually realized they had the wrong man (when the robbery victim told them so), and they packed him off home with an apology.

At times, the police jump to conclusions about supposed crimes being committed, without any evidence.

In October 1998, two men in Kompong Som town, one of them aged in his 60s, went drinking without their wives' knowledge. About 8:30-9pm, they were the only customers at a local restaurant. Worried that their wives might come and find them, they asked the restaurant owner to turn off the lights, and continued their drinking by candlelight. A group of police, who were apparently passing by, saw the two men, thought they were suspicious, and arrested them at gunpoint. The two men were taken to a police car, where one of them was punched several times, before being taken to the municipal police commission. They were punched and kicked repeatedly, and one of them had a gun pressed against his head, in a bid to get them to confess to planning or committing thefts. The torture lasted 20-30 minutes, before they were transferred to another police station. They were eventually released without charge the next day, after explaining the story of the candlelit drinking session to the police. A complaint against the police was made to the Kompong Som court; the police were not prosecuted.

It is usually in such cases (involving a clear police mistake) in which victims are most willing to file court complaints against their torturers. Even when they do, prosecutions are – in Licadho's experience – never initiated against the police. The complaints are either ignored, or are settled out of court by the police paying compensation to the victim.¹⁰³

The number of innocent people who are falsely accused and tortured by the police is unknown, as is the number of them who succumb to providing confessions that are not true.

Vietnamese woman Lam Heung, aged 48, had come to Cambodia to visit a dying relative in Battambang province in June 1996. When she arrived, her relative had already died. As she was about to return to Vietnam, Heung found herself accused of theft while shopping in Battambang's central market on June 18. Someone grabbed a necklace off another shopper and escaped. The victim clutched her neck and screamed. A crowd of people focused on Lam

¹⁰² The verdict was hailed as one of the first-ever acquittals by a judge since the Cambodian judiciary was given its independence by criminal laws and the Constitution in 1992-93. See Sou Sophornara, "Acquittal for abused woman", *Phnom Penh Post*, January 13-26, 1995.

¹⁰³ See Chapters 20 & 21 for the common practice of unlawful out-of-court settlements, in torture and other criminal cases.

Heung, who was nearby, and started asking her questions in rapid Khmer, which she had difficulty understanding. Unsatisfied with her response and sensing that she was an outsider, the crowd concluded that she was the thief and began to beat and kick her. Members of the crowd searched Heung and found a nail clipper in her handbag – ‘evidence’, they said, of her guilt – but no necklace. The police arrived and joined in the attack, kicking and beating her. She was arrested and taken to Svay Por district police station, where she was robbed of her belongings (including all her savings, which amounted to about \$200). Under interrogation, in which she denied being a thief, she was punched, kicked and beaten on her legs with a wooden stick until she was bleeding. A policeman held a pistol at her head and bragged that if he shot her, nothing would happen to him. Terrified, Heung confessed to being a thief in order to stop the beatings. She was detained for two days in a dark room without food or medical attention; she received only two small cups of water. At one point, as she was screaming loudly from pain, a policeman entered the room and gave her an injection and some pills that made her lose consciousness. After two days, she was taken to Battambang prison and then to court. She was carried into the courthouse because she could hardly walk, and questioned by a prosecutor who did not inquire about her injuries or offer her medical attention. Out of fear of being beaten again, Heung “confessed” to the prosecutor. When NGO workers visited her in prison two weeks later, Heung was afraid that the police would come to beat her again. After a month in prison, her legs were infected and still bleeding; five months later, they still bore scars. At her September 1996 trial, she and her legal defender told the judge about the torture; photographs of her injuries were also presented to the court. The judge ignored the torture and her claim of innocence, convicting her on the grounds of her confession to the prosecutor; no other evidence was presented against her. Lam Heung was sentenced her to a year in prison and a fine. The police who tortured her were not prosecuted.¹⁰⁴

Police and social attitudes

If the police – and perhaps some judges – consider harsh treatment of criminal suspects normal, they are, to some extent, merely reflecting attitudes of wider society. “When we shoot [alleged robbers], the people are happy and congratulate us,” as Ministry of Interior Chief of General Staff Mao Chandara has reportedly said.¹⁰⁵ Coincidentally, at least one in every 13 arrested criminal suspects in Phnom Penh in 1998 was killed or injured by police during arrest.¹⁰⁶ The beating of alleged criminals at a police station may be seen in the same light.

In this context, to oppose the torture or execution of people in police custody is to support thieves, robbers and killers. “Human rights protect robbers,” is a common refrain addressed to human rights workers in Cambodia from police and other officials as well as civilians. “It is sad to see property owners killed by robbers and then see that the robbers remain alive,” Kompong Cham provincial governor Hun Neng reportedly told a 1996 human rights seminar. Another speaker at the same seminar, to justify the beating of criminal suspects to obtain confessions and convictions, reportedly stated: “If we apply Western standards [of detention and interrogation], all the crimes will go unpunished.”¹⁰⁷ On another occasion, a senior government minister remarked in a meeting with human rights workers: “On one hand you have human rights, and on the other hand you have justice.”

Such statements have a familiar ring to them. It is common for police and other officials to complain of attempts, usually by human rights workers, to impose ‘Western’ standards of law and human rights on Cambodia. The implication is that such an ‘imposition’ somehow does not take into account the reality of crime and justice in Cambodia.

¹⁰⁴ Human rights and legal investigators’ reports; “Report of the Secretary-General: Situation of human rights in Cambodia”, UN General Assembly, October 17, 1997 (para. 89); Amnesty International Report 1997, Cambodia section.

¹⁰⁵ Adhoc, Licadho and Human Rights Watch, “Impunity in Cambodia: How Human Rights Offenders Escape Justice”, June 1999 (p. 16).

¹⁰⁶ Ibid.

¹⁰⁷ Huw Watkin, “The trouble with human rights...”, *Phnom Penh Post*, August 23-September 5, 1996.

A justice of sorts?

So what is the current 'Cambodian' way of law enforcement, and does it provide a justice of sorts? Does it weed out the guilty from the innocent, and punish them – even in unlawful ways, such as torture – in an arguably equal, even-handed manner?

Even the briefest observations of the Cambodian justice system reveal that any suggestion that criminals receive equal 'justice' is spurious. For a start, the innocent may be punished as well as the guilty (see *Box 7.2, above*). Secondly, the law enforcement process is chronically corrupt, and the guilty – if they can literally afford it – can avoid punishment.

Whether it means avoiding torture and getting out of a police station, or securing the dropping of charges or an acquittal from a court, your opportunities for freedom are commensurate with the size of your wallet. As Ang Eng Thong, of the Bar Association, notes dryly: "You do not see rich men in prisons. That does not mean that the rich respect the law."

This is part of a broader picture in which power or weakness, rather than guilt or innocence, are the dividing lines of justice, and wider society. "If you look at torture in police custody from a Western view, it's terrible, horrible," says a former government official. "But if you look at it in the [Cambodian] context of the general populace – where the strong always abuse the weak – it's not unusual. It's cultural."¹⁰⁸

Discontent with the justice system

It is that 'culture' of impunity and injustice which fosters widespread disgruntlement at the justice system, and encourages more acts of torture and other crimes such as executions, in a vicious cycle.

"The ordinary people say 'A robber is arrested today and in a few days we will see the same face [on the streets] again'," says Henrot Raken, the Court of Appeal general-prosecutor. "If a robbery happens, people don't have confidence in the police to catch and arrest the robber, and they do not trust the courts either... They do not have confidence...because they say the perpetrators are usually released. So they look for other ways to get justice."

The alternative way to get justice is torture and murder. To many Cambodians, the best way to ensure punishment of a robber is to beat or kill him. Suspected robbers are frequently beaten severely, often to death, by mobs of people in Cambodia, on city streets and in the countryside. In documented cases, the police have stood by and watched – if not orchestrated – the beating of alleged robbers by civilians (see *Box 7.3 below*).

Even the people who contribute to disgruntlement at the justice system use the deficiencies of that same system as an excuse for violence. In at least one case, a commune police chief privately justified, to human rights workers, the execution of several alleged robbers by stating that if he sent them to court and prison, they would buy their way out.

Justifications for the torture or execution of criminal suspects are only excuses. As long as the police and courts commonly attempt to extort money from detainees in order to release them, the authorities' claims that torture, forced confession or execution are somehow necessary to prove crimes or punish the perpetrators ring hollow. Such comments neatly avoid the real reasons why perpetrators escape justice in Cambodia – primarily corruption, the impunity of powerful people, and authorities' conscious failure to do their jobs according to the law – and the need to take concrete actions to address those reasons.

It is perhaps easier for officials to stick to the perverse logic by which any attempt to build a rule of law can be labeled as an attempt to protect criminals. And why should anybody care what happens to criminals? As a senior Battambang military police commander retorted to a human rights worker who complained of severe torture of detainees: "What do you want us to do – treat them like babies?"

¹⁰⁸ Author's interview with former government official, August 1999.

Box 7.3**MOB 'JUSTICE'**

A group of students, watched by several monks, beat two suspected thieves to death in the sacred grounds of a Buddhist pagoda. University students, studying at the Faculty of Fine Arts, run to join a crowd beating a suspected robber in a busy city street; they pick up heavy stones to smash on his head as he lies motionless on the ground. A man with a mental problem wanders close to someone's cow, and is attacked and beaten to death by the cow owner and other people who think he is acting strangely and must be a thief.

Cases of vigilante justice such as these (which all occurred in the past 18 months in Phnom Penh) are not uncommon in Cambodia, fuelled by popular anger at criminals and lack of trust in the judiciary.

The police frequently orchestrate or condone mob violence. They may stand by and watch while torture or murder is carried out before their eyes, or they may even actively facilitate such crimes by handing over suspected criminals to violent bystanders.

The true number of such cases, and whether mob justice is on the rise, is uncertain. However, between July and October 1999, there were at least 10 incidents in which suspected thieves were beaten by "angry mobs", causing the death of 11 people and serious injuries to several others. In six of these cases, the suspects were in police custody prior to being beaten to death by mobs.¹⁰⁹ One of the cases was that of Bich Phoeun:

Bich Phoeun, a 22-year-old from Kompong Cham, came to Phnom Penh with his father around October 11, 1999. They stayed at the house of Phoeun's sister and her husband, Kong Vy. Kong Vy allegedly is a well-known robber who has been arrested more than 30 times; he never stayed in prison for long because the court always released him, according to neighbours.

On October 13, Bich Phoeun was arrested in Dangkor district of Phnom Penh, allegedly in the possession of a motorcycle which had earlier been stolen at gunpoint. The police alleged that he, Kong Vy and another man had stolen the motorcycle. Phoeun was the only one arrested.

After interrogating Phoeun, the police brought him to show them where his sister's house was, so they could search it for Kong Vy and the other alleged accomplice. Neighbours watched as 20-30 police, with motorcycles and two cars, arrived at the house in Russei Keo district. They dragged Phoeun out of one of the cars by his handcuffs and butted him with an AK47 on the head.

The police stormed the house but found only Phoeun's 70-year-old father. Searching the house, they found four license plates, mirrors and other motorcycle parts. They took photographs of Phoeun with the 'evidence' of robbery. They interrogated Phoeun about the gun which the robbers had allegedly used, but he said he didn't know where it was; he told them that maybe Kong Vy had it.

The police didn't believe Phoeun. They took him to a nearby street, about 70 meters from his house, and removed his handcuffs and pushed him away. He refused to run away, knowing that he would be beaten or shot, and crouched down on the ground. A group of moto-dops (motorcycle taxi drivers) edged closer, picking up pieces of wood and other weapons.

The police walked away from Phoeun. The moto-dops, knowing they had the police's permission, moved in to attack him. Some kicked him, while others swung wooden sticks – some of them with protruding nails – over his head. They kicked and beat him on his head, body, legs. Phoeun begged for mercy, cried and pleaded for his father to help him, according to witnesses.

Eventually, Phoeun knew he had no choice. Bleeding profusely, he ran away. His right shoulder appeared to be broken, but he struggled to remove his shirt and wrap it around his bleeding head as he ran. He headed toward an area, just across some railway tracks, where there was

¹⁰⁹ "Situation of human rights in Cambodia...", UN Commission on Human Rights, January 13, 2000 (para. 42).

some high grass; he was presumably thinking of trying to hide in the grass. About 15 meters from the railway tracks, a group of police lay waiting for him. Ambushing him, they opened fire. He died almost immediately. His body, bearing four bullet wounds, was dragged out and thrown in the middle of the road.

Some policemen went back to Phoeun's sister's house, where his father was waiting. They told him that his son had escaped and that he shouldn't worry. They gave him 2,000 riels (less than \$1).

Photographs were taken of virtually the entire sequence of events surrounding Phoeun's beating and death, and were published in local newspapers. Faces of police officers and the license plate number of one of their cars were shown clearly in some of the photographs. Despite this evidence, no prosecution was mounted over Phoeun's beating and execution.

CHAPTER 8. TORTURE BY MILITARY & OTHER NON-POLICE AGENTS

Only designated judicial police officers have lawful powers of arrest and detention in Cambodia. However, other State agents – including village and commune chiefs, Royal Cambodian Armed Forces (RCAF) personnel, part-time militiamen and official bodyguards¹¹⁰ – frequently abuse their positions to unlawfully arrest and brutalize people.

Hundreds of human rights violations by non-police state agents, such as assault, extortion, kidnapping, illegal detention, rape, torture and execution, throughout Cambodia have been documented by human rights organizations. In many cases, these violations are committed in the manner of an 'ordinary' crime, rather than for any law enforcement or other supposedly official purpose.

In other cases, the violations are linked to the perpetrators' official positions and duties, or perceived duties. For example, the vast majority of the most severe torture committed by military personnel in recent years has been against alleged Khmer Rouge agents (see *Chapter 10, Political and Military Torture*).

Similarly, many non-police State agents may consider law enforcement part of their duties. Militiamen, soldiers and village and commune chiefs frequently carry out or participate in arrests and detention, although they have no lawful authority to do so. At times, their methods are horrific.

On April 2, 1998, a group of soldiers stopped 10 fishermen near a lake in Stung district of Kompong Thom province. The fishermen were marched to a secluded clearing and accused of stealing cows. They were tied up, searched and beaten, in an attempt to get them to confess and identify the location of the stolen animals. One man, whom the soldiers considered was the leader, was beaten particularly severely. When the soldiers spoke of killing the fishermen and leaving their bodies for "the fish to feed on", one of the men attempted to run away. A soldier shot him in the back. Soldiers kicked another man, making him fall over, and then shot him in the head. The soldiers began executing the rest of the fishermen, one by one. Another man made a run for it, and was chased and shot. In the chaos, one other man successfully escaped. He was to be the sole survivor; the bodies of the other nine fishermen, all shot, were left in the clearing. There was no doubt of what the soldiers had done; they radioed to other local officials, stating that they had apprehended a group of thieves, and killed at least eight of them. A subsequent police investigation identified

¹¹⁰ Every village and commune in Cambodia has a non-elected chief or chiefs; the Royal Cambodian Armed Forces, with an estimated 148,000 members, comprises the army, navy and air force; local militia forces (comprising ordinary people given uniforms and guns) were established in most Cambodian villages and communes since 1979, to provide a line of defense against Khmer Rouge and other guerrilla attacks until regular army soldiers arrived; many national and provincial officials have their own bodyguards, usually seconded from regular police or military forces.

*the soldiers as belonging to Navy Battalion 15 who had gone out on a mission to search for a band of robbers. No one was ever prosecuted for the torture and executions.*¹¹¹

Other examples of torture by military personnel in the past six years have ranged from the highly organized and systematic to the isolated and spontaneous.

*In 1994, systematic kidnapping, extortion, torture and execution rackets, controlled by senior military intelligence officers, in Battambang province were exposed by human rights workers. Their victims included traders and merchants, alleged robbery or kidnapping suspects, alleged Khmer Rouge, disgraced former military spies, and civilians including monks and nuns. The aim was to extort money from the detainees or their families, or simply kill them for perceived wrongdoings; none of those abducted were ever formally charged with any crime. The perpetrators ran at least two secret prisons, at which victims were detained, tortured, and often killed. Electric shocks and repeated rapes were among the torture reported. One man, arrested for a relatively minor civil offence, was forced at gunpoint to attempt to remove landmines planted at the perimeter of one of the "prisons"; he lost two arms, the sight in one eye and the use of one leg. Other victims who were killed reportedly had their bodies ripped open by the executors, who removed and ate body parts such as their livers.*¹¹² *At least 53 people had allegedly been summarily executed over several years. The perpetrators were also allegedly involved in systematic illegal taxation (extortion), banditry, prostitution and gambling. The government initially denied the allegations, which were documented by UN human rights staff, but later acknowledged unlawful arrests, detention, torture and killings. An investigation by a military prosecutor confirmed the existence of at least two secret detention centers, at Chhoeu Khmao and Vat Paccha. The Ministry of National Defense ordered the permanent closure of the centers.*¹¹³

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A Pursat man, accused of practicing witchcraft, was abducted, tied up, and beaten unconscious by four RCAF soldiers in November 1997. The victim – who was accused of putting a spell on the family of one of his abductors, making them sick – was taken to Phnom Penh by boat and car. In Phnom Penh, he was allegedly detained at a soldiers' camp and further beaten, including with an electric baton, until he again fell unconscious. After waking up, the victim was forced to thumbprint a statement promising to stop his work as a sorcerer. He was later returned to his family in Pursat province, where one of his torturers threatened to kill him. The perpetrator boasted he could kill the victim without being taken to court; he would just have to pay only one domlung of gold and a pack of rice as compensation to the victim's family.

National, provincial, district and other local officials, as well as their bodyguards, also use their positions to mistreat criminal suspects with impunity. The actions, which range in severity, often reflect wider social attitudes towards alleged criminals.

*A teenage boy was tortured and executed by bodyguards of the Kompong Speu provincial governor on February 23, 1998. Soy Sophea, aged 16, had allegedly entered the governor's compound to steal chickens. He was beaten and then executed about half an hour after his arrest by the bodyguards. According to a witness, his body bore bruises and other marks of beating on his neck and face. He had marks, apparently from being tied up, on both arms and a broken finger. He had been shot repeatedly. A police investigation concluded that the boy was a bad person and a thief; the perpetrators were not taken to court.*¹¹⁴

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¹¹¹ For a full description of the case, see Adhoc, Licadho & Human Rights Watch, "Impunity in Cambodia: How Human Rights Offenders Escape Justice", June 1999 (pp. 29-31).

¹¹² Traditional belief has it that eating the liver of your enemy gives one strength and longevity; the practice has long been reported among Cambodian soldiers, as well as civilians.

¹¹³ For the Battambang secret prisons, see: Nate Thayer, "Army's dossier of shame", *Phnom Penh Post*, August 12-25, 1994; "Situation of human rights in Cambodia: Report of the Secretary-General", UN General Assembly, November 3, 1994 (para. 92); Military Prosecutor's Office, Report # 229/94, July 11, 1994; Kingdom of Cambodia, "Report on the Application of Civil and Political Rights in Conformance with Article 40 of the ICCPR", 1997 (paras. 138-9).

¹¹⁴ For a full description of the case, see "Impunity in Cambodia; How Human Rights Offenders Escape Justice", a report by Adhoc, Licadho and Human Rights Watch, June 1999 (pp. 31-32).

In late May 1998, at least five (and reportedly as many as eight) men, accused of robbery or theft, were arrested by military police in Battambang's Moung Russei district. They were detained together at the district military police base, where at least one of them was beaten with a stick until he confessed. The district chief of Moung Russei (a civilian official with no law enforcement authority) visited the military police station and struck at least two of the detainees. He further instructed the military police to tie up all of the detainees, and march them around the local marketplace, to humiliate them. The military police did so, forcing the men to walk around the market shouting: "We are the thieves of Moung Russei – from now on, we will stop being thieves". Those who did not yell loud enough were beaten. The detainees were all charged with robbery or theft and sent to prison. Of the five men whose cases were documented by Licadho, three were later freed, and the charges against them dropped, after 2-4 months in prison. Another one was convicted of theft and sentenced to four months imprisonment. The last one was also released after four months in jail; it is unclear whether he was convicted or not.

It is not only in suspected criminal cases that State forces have detained and tortured people. Civil disputes – particularly over land ownership – have also led to violence by soldiers and other security forces. Land is a contentious, emotive issue in Cambodia; because of years of war and communism (in which land was considered public property), many Cambodians do not hold titles to the land they occupy. Disputes over land ownership, and land-grabbing by military or other officials, are common.

Elsewhere, even social welfare initiatives can be forums for torture and other inhumane treatment. Enforced detention and physical and sexual abuse or exploitation were reported at several state-run 'rehabilitation' centers for homeless people, on the outskirts of Phnom Penh, in 1998. Detainees at the centers were allegedly beaten, including with electric batons, by the guards. Girls or young women whom the guards found attractive were allegedly taken away, ostensibly to perform chores but in reality to be raped or coerced to have sex in return for their release. Other detainees were asked for money in order to be freed. Food and hygiene conditions are appalling, spreading disease and malnutrition.¹¹⁵

For some victims, torture is part of growing up.

A 7-year-old schoolgirl was beaten severely by her teacher, leaving welts up and down her back, in Samrong district of Takeo province on November 17, 1999. The teacher, who accused the girl of looking down on him because she did not follow his instructions in a Khmer language lesson, beat her dozens of times with a bamboo cane in front of the other students. The girl's mother later counted 24 big bruises and numerous smaller ones on her daughter's body. Her parents made a criminal complaint about the abuse but withdrew it after they received 600,000 riels (about \$150) from the teacher, in a deal negotiated by the local police. The teacher was not prosecuted. The Ministry of Education, following a complaint from Licadho, gave the teacher a written warning and suspended him from active teaching duties.

CHAPTER 9. TORTURE IN PRISONS

A. OVERVIEW OF PRISON TORTURE

Historical context

Torture has been synonymous with Cambodian prisons for decades, most notoriously at Tuol Sleng and other prisons during the Khmer Rouge regime. As well as physical torture, lack of food and medical care and other cruel or life-threatening conditions have long been part and parcel of prisoners' lives.

The arrival of UNTAC, the UN peacekeeping and electoral mission in 1992-93, saw the first outside access to Cambodia's prisons for decades. When UN personnel first visited prisons, they found

¹¹⁵ See Chea Sotheacheath & Martin Wikfalk, "Homeless face rape and squalor in detention centers", *Phnom Penh Post*, August 7-20, 1998.

shocking food and health conditions, widespread shackling of prisoners in leg irons, and the use of solitary confinement cells lacking light or ventilation for extended periods.¹¹⁶

*On July 1, 1992, UNTAC human rights officials visited T3 prison in Phnom Penh. They learned that at least five inmates had died in the previous three weeks; one had died shackled to a cement block, and the others in the prison hospital. Prisoners asserted that the deceased had swollen bodies before their deaths, and that one of them had lost his speech three weeks before dying. Many of the remaining 143 prisoners in T3 were in extremely poor health. In one building, 27 out of the 34 total inmates complained of swelling of their bodies, numbness and breathing difficulties. Nineteen prisoners claimed they vomited regularly after eating. Thirteen prisoners reportedly had malaria. All of the prison population was put into leg shackles each day from 3:30pm to 7am.*¹¹⁷

The situation was much the same at Phnom Penh's other main prison, PJ (from the French *Police Judiciaire*), and remained so for several years. A UN special human rights envoy, visiting PJ in mid-1994, found "appalling" conditions, with gross overcrowding, dark and inadequately ventilated cells, unremoved human excrement, poor water supply, at least one prisoner wearing iron manacles and another with a serious case of beriberi (a malnutrition-related disease).¹¹⁸ A delegation from the US-based Physicians for Human Rights (PHR) found a similar situation, labelling PJ prison as "a public health calamity ready to happen".¹¹⁹ PHR urged the closure of the prison, citing severe overcrowding (with more than 200 inmates housed in a space designed for 30-40), food and water shortages and an extreme level of prisoner-on-prisoner violence.

UN interviews with a total of 85 inmates at 13 prisons in 1994 found that they were locked in their cells, on average, 21 hours a day. Thirty-eight of the inmates (46%) reported the use of "torture" as a punishment in prisons, and 53 (65%) reported the use of "beatings"; the use of solitary confinement was reported by 42 inmates (52%), and shackles or other physical constraints by 32 inmates (40%); excessive physical exercise was cited as form of punishment by 20 inmates (25%).¹²⁰ The most common form of torture cited was enforced standing in the sun (sometimes on one leg or holding a heavy object) for long periods; excessive physical exercise almost always consisted of crawling around, running on all fours, or mowing grass by hand.

Beatings and other torture by prison guards were also reported to a medical team which studied health conditions in Cambodian prisons, in coordination with the UN human rights office, in 1994-95. In Phnom Penh's PJ prison, one guard was known to regularly enter the prison when drunk to beat and extort money from inmates. In Svay Rieng's provincial prison, one inmate estimated that 80% of prisoners had been beaten. To beat inmates, guards reportedly used pieces of metal, wooden poles and a special triangular-shaped stick. In Pursat province, an inmate accused of instigating an escape attempt had his hand bound with rope and was kicked in the head, stomach and chest and lashed with a nylon whip and a wooden stick; he coughed up blood and lost consciousness. Other inmates were also beaten by prison staff, including the director, for the same escape attempt.¹²¹

Current context

Five years later, inhuman living conditions – such as overcrowding and lack of food and medicine – continue to plague Cambodia's prisons. Many of the country's 24 civil prisons and one military prison are old or otherwise dilapidated, with poor cooking, water and other sanitation facilities. They are not big enough to accommodate Cambodia's prison population (of about 4,000). Medical care is often minimal, and sickness and malnutrition common. To keep someone in such conditions, under-fed and prone to disease, for months or years is as much torture as it is to beat them with sticks and guns.

¹¹⁶ UNTAC, "Human Rights Component Final Report", September 1993 (p. 18); citation taken from Cambodia Office of the UN Centre for Human Rights, "The State of Cambodian Prisons", 1995.

¹¹⁷ Ibid (p. 20).

¹¹⁸ "Situation of human rights in Cambodia: Report of the Secretary-General", UN General Assembly, November 3, 1994 (para. 91).

¹¹⁹ Ourk Vora, "Human Rights Group Calls for Closing of Phnom Penh Prison", *Cambodia Daily*, June 2, 1994.

¹²⁰ Cambodia Office of the UN Centre for Human Rights, "The State of Cambodian Prisons", 1995 (pp. 36-37).

¹²¹ Physicians for Human Rights, American Refugee Committee & Columbia College Of Physicians and Surgeons, "Health Conditions in Cambodia's Prisons", April 1995 (pp. 29-30). The report's authors studied health conditions in 13 Cambodian prisons for a five-month period in 1994 and two months in early 1995.

However, there have been some positive developments in Cambodian prisons, particularly with regard to the amount of physical violence inflicted on inmates. This is widely considered to have decreased in recent years, which may well be attributable to increased outside scrutiny such as regular visits to prisons by independent human rights, medical and other organizations.

It is impossible to quantify the perceived reduction in torture of prison inmates in recent years, but certainly there appears to be less physical violence, shackling, and use of dark cells and solitary confinement than was reported in 1993-95. However, the situation has varied from prison to prison in recent years, with evidence of systematic violence at some institutions. Torture has by no means been eliminated from prisons; without continued scrutiny, there is the danger that particular forms of torture – especially shackling – will increasingly resurface.

About 6.5% of inmates report having been mistreated while in prison, according to Licadho interviews with prisoners in recent years.¹²² Out of a total of 2,333 (pre-trial or convicted) inmates for whom information could be obtained, 150 had allegedly been mistreated¹²³.

The 6.5% figure is likely to be underreported, given that prisoners may be reluctant to provide information about mistreatment while they are still incarcerated. In particular, tortured prisoners may be threatened by prison guards not to speak about the torture.

One inmate allegedly whipped in prison acknowledged that he had scars on his back but refused to show them to Licadho staff. The guards, he said, would think that he was providing evidence to human rights workers.

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Another inmate was seen by Licadho staff about 10 days after he had attempted to escape. He had a massive inflammation of his right knee, and numerous bruises on his back. He claimed that he had fallen while running. Licadho medical staff concluded that the injuries (particularly those on his back) were not consistent with an accidental fall, but indicated beating or other violence.

Of the 150 cases of alleged mistreatment of inmates in prison custody reported to Licadho, at least 120 of them had reportedly involved physical torture or other violence or degrading treatment, committed or instigated by prison staff.¹²⁴ Beatings by prison guards¹²⁵ or by other prisoners (on the instructions of guards), as well as shackling for prolonged periods, were the most commonly cited forms of torture.

Among the 120 inmates:

- 73 (or 61%) had been kept in shackles or handcuffs for lengthy periods
- 47 (39%) had allegedly been beaten (with or without a object), kicked or otherwise physically assaulted; one inmate died (*see case of Peak Pich, Prey Veng prison, below*)
- Two female inmates were subjected to sexual abuse: one was raped by a guard and the other slept with a guard on the promise of food, money and help to be released from the prison
- Two inmates (interviewed in 1997) complained of being held in dark cells
- Two inmates complained of degrading punishment: one was forced to crawl along the ground, and the other to stand in the sun on one leg¹²⁶

¹²² The interviews were conducted at a total of 20 prisons 1997-99, except for four conducted prior to 1997. They include both pre-trial and convicted prisoners. Inmates were asked 'Have you been tortured, intimidated, threatened or harassed while in detention in this prison? Those who replied yes were asked to describe the alleged abuse.

¹²³ In the vast majority of cases, the allegation of mistreatment was made by the inmates concerned during the Licadho interviews. However, in a handful of cases when the inmate concerned would not (or could not, if they were dead or seriously injured) speak about the violence they suffered, information was collected from other prisoners with knowledge of the abuse.

¹²⁴ The other 30 inmates comprise: 20 inmates who alleged abuse to Licadho but did not provide details; six inmates beaten by other prisoners in circumstances in which it was unclear whether the beatings were ordered or sanctioned by prison staff; two inmates who complained of verbal intimidation or extortion by guards; one inmate who complained of being denied visits by his family; and one case of physical assault in which an inmate was taken from a prison to a police station, where he was beaten.

¹²⁵ Prison guards are seconded police officers; to distinguish between ordinary police working in law enforcement outside prisons, and those employed in prisons, the term 'prison guards' is used in this report.

¹²⁶ The above numbers include multiple responses; some inmates suffered more than one form of mistreatment.

For some inmates, it was not their first experience of torture. Of the 120 inmates, 29 (23%) had allegedly also been physically abused in police custody before being sent to prison.

B. CIRCUMSTANCES OF TORTURE IN PRISONS

Escape-related torture

Torture is now primarily used in prisons as punishment for specific alleged breaches of discipline or security, particularly attempted breakouts by inmates. Of 120 cases of alleged abuse of prison inmates documented by Licadho, 83 (or 69%) involved the punishment of prisoners who had attempted to escape. Attempted escapers or suspected accomplices are routinely shackled with leg irons, beaten, wounded or murdered.

After a mass breakout from Kompong Som prison on June 17, 1999, police killed three of the escapers. According to witnesses, at least two of the three were recaptured alive and marched back to the prison; later the same day, the two men were taken out of the prison by guards and four gunshots were heard. Subsequent exhumation of their bodies by human rights workers revealed that both had been shot twice, including once each at close range to the head. At least 19 other inmates were also recaptured; they suffered beatings, shackling, and forced deprivation of food, water and exercise, as punishment.¹²⁷

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Five convicts made a run for freedom from Kompong Cham prison on December 13, 1999 but were quickly recaptured. Marched back inside the prison compound, they were all severely tortured by a group of about six prison guards. All five inmates were struck repeatedly with the handle of a hoe or other wooden objects, and some were punched, kicked, slapped or hit on the head with rocks. The prison's director and its medical officer watched at least some of the torture, according to witnesses. After the physical torture, at least two of the prisoners were deprived medical treatment by the prison's health clinic, one for two days and the other for a week. For about two weeks after the beatings, the five prisoners were kept stripped of their clothes except for underwear, and deprived of mattresses, blankets and mosquito nets in their cell. They were also fed reduced rations and held in their cell 24 hours a day, in violation of prison regulations, for at least a month after the torture. Also deprived of water with which to bathe, several of them developed skin diseases. Prison authorities initially refused Licadho medical staff and interviewers access to the five prisoners, but eventually agreed.¹²⁸ When interviewed by Licadho a month after the beatings, four of the five prisoners still had multiple wounds or scars, and the other one appeared to walk with difficulty.

Such punishments are unlawful according to Cambodian criminal law and to prison regulations, both of which explicitly prohibit the use of torture or other cruel, inhuman and degrading treatment or punishment against prisoners.¹²⁹

Box 9.1

PRISON STAFF TORTURED

Prison officials, on at least one occasion, have themselves been punished by torture following a prison escape. In September 1996, an inmate escaped from the small provincial prison in Mondulkiri, one of Cambodia's most remote provinces. The province's second deputy governor, responsible for supervising the prison, allegedly ordered military authorities to arrest the prison director and two prison guards. One guard was quickly released, while the other two men were held in the provincial military headquarters for two days, during which they were tortured. The director and guard were stripped and left naked, shackled, beaten and repeatedly given electric shocks through electrodes applied to their open facial wounds. After two days, the pair was imprisoned for three months at the prison at which they formerly worked. Their arrest and detention was unlawful.

¹²⁷ Phelim Kyne, "Prison guards executed escapees", *Phnom Penh Post*, September 3-16, 1999; "Situation of human rights in Cambodia: Report of the Secretary-General", UN General Assembly, September 20, 1999 (para. 76).

¹²⁸ Despite a court prosecutor giving permission for Licadho to interview the prisoners in private, a total of seven prison staff including the director listened to each interview. At one stage, the prison director interrupted one interviewee, who complained of blurred vision after being hit on the head. The prison director accused the prisoner of lying about his vision, and told him: "I should shoot you and throw your body on the roof of the prison building".

¹²⁹ Transitional Criminal Law, 1992 (Art. 12); Ministry of Interior, "Proclamation on Administration of Prisons, March 31, 1998 (Arts. 4.7 & 4.22).

Use of prison inmates for discipline

Often, prison guards themselves may not commit violence, but coerce or order other inmates to do so. This utilizes a semi-formal system in some prisons, in which supposedly trustworthy inmates are given titles and positions of power – chief of prison inmates, chief of cell, inmate in charge of discipline, etc – over other inmates.

After four prisoners escaped from Kompong Speu prison on August 17, 1997, another inmate, Chan Chum, aged 22, was interrogated by a prison guard who accused of him of prior knowledge of the escape plan. Chan Chum denied the accusation. The prison guard gave a tin can to another prisoner and sent him to go and fill it up with sewage water. Then the guard ordered Chan Chum to “eat shit”. When he refused, the guard told the ‘prisoner-in-charge’ to beat him. This prisoner slapped Chan Chum several times, and then the guard did the same. The guard told Chan Chum that he would kill him, and report that he had tried to escape, if he did not drink the water. Chan Chum drank four mouthfuls. The torture stopped after the deputy prison director intervened.

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Twenty-five prisoners escaped from Prey Veng provincial prison on April 12, 1998. Ten were recaptured within an hour and returned to the prison. At least five inmates, apparently accused of leading the escape, were lined up and beaten by other inmates in the presence of police officers or prison guards. One of them, 33-year-old Peak Pich, was beaten to death by three inmates, including the ‘chief of cell’. Beaten with a shovel and wooden sticks, Peak Pich finally died on a pile of sand in front of the prison. At least two policemen or prison guards watched the beating. Peak Pich’s body, later examined by Licadho staff, was found to have large haemetomas on the neck and chest, heavy bleeding from the ears and many bruises on the torso. At least four other recaptured prisoners had visible signs of beating when Licadho medical staff treated them 15 days later; one had a broken arm. Several reported that they had been beaten by one of the same men, the ‘chief of cell’, who had beaten Peak Pich. The three assailants later stated that they had not wanted to kill Peak Pich but just teach him a lesson; they were angry because they believed that all the prison’s inmates would be punished because of the break-out. An official investigation committee was formed to look into Peak Pich’s death but, despite that the fact that his three assailants were identified, no legal action was taken. The local prosecutor later told Licadho staff that, although he knew the names of the three inmates who did the beating, he had no evidence of who ordered it.

The use of prisoners to discipline other prisoners violates Cambodian criminal law.¹³⁰

‘Routine’ torture

Although no longer believed to be widespread, systematic torture has been used to ‘break in’ new inmates, making them more submissive and obedient. This was the case in Svay Rieng prison in 1994, when every new prisoner was reportedly beaten or subjected to cruelties such as being forced to stand on one leg in the sun for hours.¹³¹ A similar practice was documented in 1996-97 at Koh Kong prison, where new inmates were severely beaten by other prisoners – cell chiefs, etc – in a standard welcome. In Kompong Som prison, new inmates who are charged with serious crimes have been kept in shackles for the first days or weeks of their incarceration. There have been reports of ‘routine’ torture from other prisons.

A man aged in his 30s, charged with a minor, non-violent crime, was sent for pre-trial detention in Prey Veng’s provincial prison in 1999. Immediately upon arrival, he was taken a room by two prison guards, made to undress down to his underwear and told to sit down. He was then kicked and punched and struck several times with the flat side of an axe, according to his subsequent account. The guards then entertained themselves by ordering him to lower and raise his underwear several times, while they watched, laughing. The guards warned him not to tell anyone about the beating, and escorted him to a cell. Comments made by the guards

¹³⁰ Article 12.2 of the Transitional Criminal Law, 1992, states that detention shall take place in accordance with the United Nations Standard Minimum Rules for the Treatment of Detainees; the Minimum Rules (Art. 28.1) state that: “No prisoner shall be employed, in the service of the institution, in any disciplinary capacity.”

¹³¹ UN Centre for Human Rights, Cambodia Office, “The State of Cambodian Prisons”, 1995 (p. 38).

indicated that they mistakenly assumed that he was a robber; they apparently had no idea of the charge against him. There were no witnesses to the torture and the man did not speak about it to anyone until after he was released from prison. Several months later, he still bore scars on his body, which he said were from being struck by the axe.

Box 9.2

WATCHING TORTURE

One Kampot court judge cannot deny the use of torture against criminal suspects: on one occasion, he watched it. In April 1995, guards at Kampot provincial prison tortured an inmate, who had been detained for alleged robbery and murder three months earlier. The man was repeatedly beaten, in front of other prisoners gathered for the occasion. The guards wanted him to admit to being a robber, which the man strongly denied. Beaten on the back with an iron bar, he fell to the ground in agony. He tried to get up again and again, but the guards continued to strike him with the bar, breaking his left arm. During the torture, an investigating judge and his court clerk were present, according to inmate testimonies collected by Licadho, but it was unclear in what role they were there. The injured man was taken to hospital, where his broken arm was bandaged, and returned to prison.

C. SHACKLES & HANDCUFFS

Shackles, also known as leg-irons, have a long history in Cambodian prisons, including during the Khmer Rouge regime of the 1970s and subsequent regimes. Usually fastened to the legs, but sometimes the hands, shackles are wide metal rings attached to a bar or a chain. They are extremely painful, severely restricting movement and usually rubbing the flesh raw and impeding blood circulation.

Shackles, and to a lesser extent handcuffs or other restraints, remain one of the most common forms of torture in prisons in recent years. Of 120 cases of physical abuse of prison inmates documented by Licadho, 73 involved the use of shackles or other restraints; in 52 of the cases, no violence or other abuse was reported, while in 21 cases the shackling was accompanied by beatings or degradations.

In the past several years, shackles have been used in at least six prisons: Kompong Som, Koh Kong, Kompong Cham, Kompong Thom, Prey Veng and T3 in Phnom Penh. Prison chiefs and guards frequently justify the use because of poor security resulting from lack of staff and old dilapidated prison buildings.

In September 1998, after a mass break-out at Kompong Cham prison, shackles were used on inmates. Advisors to the Australian-funded Cambodian Criminal Justice Assistance Program found prisoners shackled shoulder-to-shoulder with leg irons, which rubbed the flesh on their ankles raw; overcrowding and unhygienic conditions, with some prisoners being held in cells 21 hours out of 24, were also found. The prison chief justified the shackles on the grounds that the prison was old and its fence was broken. The practice was stopped at the request of the Australian aid program and human rights workers.¹³²

By using shackles – or indeed any other forms of torture – prison chiefs and their staff are breaking the law; they could themselves go to jail for up to five years (*see box at right*). None, however, have been prosecuted for the use of shackles. Indeed, court prosecutors, who are responsible for inspecting prisons, are at times complicit in shackling. In Kompong Som in 1998, for example, the prosecutor authorized the use of shackles at the provincial prison, meaning that he, too, was in direct violation of one of the laws he is entrusted to uphold.

The Law

“No detainee shall be subjected to cruel, inhuman or degrading treatment or punishment, nor be beaten or tortured. Each detainee must have access to appropriate medical care. Prisoners must not be shackled or kept in isolation, whether they are in pre-trial detention or already sentenced.”

– *Transitional Criminal Law, 1992 (Art. 12). The penalty for breaching this article is 1-5 years imprisonment (Art. 22 & 57).*

¹³² Chea Sotheacheat & Peter Sainsbury, “AusAID unshackles KR leg-irons”, *Phnom Penh Post*, October 2-15, 1998. One prisoner was fatally shot during the attempted escape. The bullet entered his buttock and exited his chest, prompting speculation that he was shot while kneeling on the ground; he later died at Kompong Cham hospital after medical staff allegedly made minimal effort to treat him.

Shackles have also been banned in prisons and other detention centres by government order since 1993.¹³³ More recent prison regulations state that handcuffs are the only permitted form of restraint of prisoners, and can only be used to prevent escape or to stop inmates from injuring themselves or others, or damaging property; handcuffs “shall never be used as a form of punishment”, according to the regulations. When used, handcuffs must be checked regularly to ensure the prisoner is not suffering from them.¹³⁴

D. CHILDREN & WOMEN IN PRISONS

Women and children, as a minority in prison¹³⁵, can be particularly vulnerable to physical or sexual abuse. As such, prison regulations afford them special protections. Women and men must be accommodated separately in prisons, as must minors from adults.¹³⁶ Each prison must have at least one female guard or official present or on-call at all times, and a female guard should accompany male guards entering buildings or cells where females are held.¹³⁷ In reality, however, there are few women prison guards and no special prisons for women in Cambodia, although Prey Sar prison near Phnom Penh has a separate compound for females. In the rest of the country, children and women are scattered throughout the prison population, although males and females are usually kept in separate cells.

An attempt to begin to segregate minors from adult prisoners came with the 1995 opening of the Youth Rehabilitation Center in Phnom Penh, a state detention facility for children accused or convicted of crimes. Torture was occasionally reported at the youth centre prior to December 1998, when the centre’s police guards were withdrawn and replaced with civilians.

On May 5, 1998, three youths aged 14-16 were whipped with electric wire at the Youth Rehabilitation Center. The three were apparently accused of planning to escape. The whipping was conducted by a police guard at the center, in front of other inmates; one inmate, the ‘chief of cell’, participated in the whippings of at least two of the three boys. One of them was whipped on two occasions, first in the morning and then in the afternoon, while another one was also kicked in the head. Licadho medical examinations of the boys five days later revealed that each had multiple wounds, consistent with whipping, on their backs, chests, necks and/or arms. Ten days later, one of the youth’s wounds had grown infected and abscessed.

Sexual abuse is a danger for female adult and child inmates in Cambodian prisons.

In remote, northern Preah Vihear province, Licadho staff’s suspicions were raised during a March 1997 prison visit when they noticed that a 16-year-old female prison inmate’s wardrobe consisted of party gowns and high-heeled shoes. One evening, the girl was seen alone around the town marketplace. Suspicions that the girl was being forced into prostitution by prison authorities could not be confirmed, but the girl asked Licadho’s help to be transferred to any other prison.

An example of severe sexual and physical torture – and a rare case where some action was taken by the authorities – comes from Koh Kong provincial prison.

In December 1996, Koh Kong prison’s second deputy director heard that his boss, the prison director, had raped and beaten a female minor prisoner. After investigating, the second

¹³³ Joint order issued July 7, 1993 by the Ministries of Justice, Interior and Health, which prohibited the use of shackles and chains on detainees and placed all detention centers under the supervision of these three ministries.

¹³⁴ Ministry of Interior, “Proclamation on Administration of Prisons”, March 31, 1998 (Art. 4.25).

¹³⁵ At the end of December 1998, there were a total of 3,007 prisoners in the 20 prisons regularly visited by Licadho. Of them, 176 (6%) were women, and 120 (4%) minors between the age of 13 and 18. According to the law, children aged under 13 cannot be incarcerated, although children as young as 9 or 10 have been briefly imprisoned from time to time. In 1999, UN human rights workers found a boy and a girl, both aged 12, who were imprisoned in Kompong Som for 17 and 19 days respectively. See successive Licadho reports, “Cambodian Prisons: Some Human Rights Issues”, January 1998 and September 1999; and “Situation of human rights in Cambodia...”, UN General Assembly, September 20, 1999 (para. 77).

¹³⁶ Ministry of Interior, “Proclamation on Administration of Prisons”, March 31, 1998 (Art. 4.3).

¹³⁷ *Ibid.* (Art. 3.3).

deputy director discovered that the girl had been raped at least four times, by prisoners, one guard, the prison administrator and the prison director himself. The prison director had beaten the girl on at least two occasions. The second deputy director presented his findings to the provincial court, police and governor and, after he received no response, later sent it to Phnom Penh. The Koh Kong prosecutor later conducted his own investigation and asked the provincial police commissioner's permission to prosecute the prison staff. A deputy police commissioner later allegedly advised the prosecutor to drop the case, as the prison director was a powerful man and the problem would be 'solved quietly'. (The prison director was reportedly related to the Koh Kong provincial governor, as well as to a Member of Parliament and a deputy police commissioner). On February 22, 1997, the prison's deputy director contacted Licadho to ask for help; the previous night, the prison director had raped the girl inmate again and beaten her with a wet rope. After complaints by human rights organizations, the Ministry of Interior in Phnom Penh dispatched a commission to Koh Kong to investigate. Eventually, the decision was made to transfer the prison director, along with the first deputy director and the prison administrator, from their positions. No legal proceedings were taken against them. The female inmate, released from prison after completing her sentence on March 1, was later threatened by the former prison director outside the prison. She went into hiding. The former director, who was not dismissed from Ministry of Interior employment, was transferred to a police post outside of the prison; he subsequently received a promotion.

Box 9.3

KOH KONG PRISON

Koh Kong prison warrants special mention, as the above case is just one of numerous incidences of torture there. During 1996-97, torture was documented at Koh Kong prison "to an extent that can hardly be found in any other prison in Cambodia".¹³⁸ Noting that considerable improvements have been made since the removal of the former prison director, the 1996-97 situation is worth reviewing as an illustration of how poorly-disciplined, sadistic prison staff, combined with a system of inmate "bosses", can get out of control.

In June 1996, a prisoner had his head shaved, was beaten and was forced to stand on one leg from 6am to 4pm by an identified guard (who has also been implicated in the torture of other inmates).

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In late 1996 or early 1997, another identified prison guard repeatedly punched a prisoner, leaving him with bruises, a black eye and two loose teeth. The victim stated that this guard, along with another one, frequently got drunk and then took inmates out of their cells to beat them, including with a metal hoe.

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In January 1996, a new inmate was struck every day for his first five days in the prison by a fellow inmate, who was 'in charge of discipline'. The victim was punched in the chest once every morning and once every night, and also occasionally kicked. He fell unconscious twice.

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On his first day in prison, in December, 1996, an inmate was badly beaten by two guards and one prisoner. Kicked in the chest, back, nose and hip, he was also struck three times with an ax. He fell unconscious and was revived with water, after which he was again hit and kicked. When Licadho medical staff examined him seven months later, his nose had obviously been broken and he complained of back pain.

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Another inmate, on his first day in prison, was kicked and punched several times by a fellow prisoner, the 'chief of cell', in April 1997. The victim later stated that this was standard treatment for every new prisoner.

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In August 1997, a 'chief of cell' beat a prisoner with a wooden stick because he had not cleaned the toilet. About a month later, the same prisoner was whipped with a belt by another inmate for talking too loudly in his cell. The victim stated that he could not sleep on his back for a month after the whipping.

¹³⁸ Licadho, "Cambodian Prisons: Some Human Rights Issues", January 1998 (p. 9).

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In 1997, a prisoner with the position of 'chief of prison discipline' whipped an inmate until his back bled, because the victim had fallen asleep when he was supposed to be 'guarding' the inmates in his cell. Prison guards witnessed the whipping. The victim later told Licadho that this punishment was standard for inmates accused of breaking the rules.

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In late 1996, a new inmate was kicked and whipped by a fellow prisoner whom he described as 'the chief of prisoners'. About a month later, the victim was one of a group of inmates ordered by a senior prison official to stand together in a row and beat each other; the victim bled from his ear during the violence. Six months later, in mid-June 1997, the inmate tried to escape. He was caught by a prison guard and beaten with the handle of an axe on his hands, back, shoulder and head. He fell unconscious and woke up to find the guard still beating him. Licadho medical staff later examined him and found whip marks on his back and a swollen right shoulder.

The above are just some of the torture reported at Koh Kong prison in 1996-7. Possibly the most tragic story to come out of the prison is the following:

In June 1997, a Licadho medical team visiting Koh Kong prison found a woman who appeared to be in the last stages of AIDS, sharing a cell with another woman and three children. The sick woman, named Touch and aged about 27, was emaciated, semi-conscious, had a high fever and severe dehydration; she was lying in a pool of urine and excrement, with ants crawling over her body. Touch's story was pieced together from fellow prisoners. She had arrived at the prison in early 1996. After a few months in prison, another woman prisoner had tried to escape but was caught; when interrogated, she stated that she had been helped by Touch. Both women were stripped naked by a prison guard and anally raped with the stem of a coconut. A few months later, Touch was later beaten by a guard because she had spoken about the rape to a court official. The guard beat her on the head and arms with a stick; afterward, she could not stretch one of her arms. In early 1997, Touch was raped by an inmate in the prison, and got pregnant. At the time the Licadho medical team saw her, seriously ill, the foetus was believed to have died, and was still inside her. A few weeks before the Licadho visit, Touch had been taken to hospital – which was just several hundred meters from the prison – at the request of a legal aid organization. She was returned to prison after one day; it was said that there were not enough prison guards to watch her in hospital. The Licadho staff did what they could for the moribund woman: they gave her a sponge bath, intravenous serum and antibiotics. They subsequently arranged for her to return to hospital, and hired a woman to look after her there. Within a few days of the Licadho medical team leaving Koh Kong province, Touch died. Her blood sample later tested HIV-positive.

E. PRISON LIVING CONDITIONS

Living conditions in prisons have long been appalling. At times, inmates are expected to live literally like animals.

In Stung Treng province, some inmates were kept in two metal cages, measuring about 2m x 2m, inside a prison building with inadequate light and ventilation. Five inmates were expected to sleep in each of the small cages, Licadho found during a prison visit in February 1997. Prison officials admitted that it was a "mistake" to keep prisoners in cages, but said they did not have the money to build new cells. As of December 1999, the cage was still being used to house inmates at night.

In 1994, the median space per prisoner in Phnom Penh's T3 prison was 2.8m², and by mid-1995 it was even less, according to Physicians for Human Rights (PHR).¹³⁹ In mid-1994, when PHR described conditions in Phnom Penh's PJ prison as a public health disaster waiting to happen, more than 200 inmates were being kept in a space designed for 30-40; the median space per prisoner was

¹³⁹ Physicians for Human Rights (PHR) press release, "Medical group calls for prison reform in Cambodia; cites torture, spread of TB, overcrowding and chronic food shortage", June 6, 1995; Physicians for Human Rights, American Refugee Committee & Columbia College of Physicians & Surgeons, "Health Conditions in Cambodia's Prisons", April 1995.

0.7m².¹⁴⁰ By mid-1997, PJ still suffered overcrowding, with a total of 100 inmates.¹⁴¹ In 1998, several prisons – including T3, Kompong Som, Kompong Thom and Battambang – exceeded their capacity by 100%.¹⁴²

A long-term companion to overcrowding in Cambodian prisons is insufficient food, both in quantity and quality. Food shortages have for years been blamed on inadequate, and often late, disbursements of government funds to prisons. As the UN human rights representative said in February 1998 of malnutrition in prisons, “people sentenced to imprisonment should not be punished with enforced starvation. A government which cannot feed its prisoners has no right to keep them locked up”.¹⁴³ Licadho food surveys in selected prisons in May and June 1998 showed that the majority of prisoners did not receive enough daily calories to support their basal metabolism (the amount of energy needed by a person in a resting state, for functions such as breathing and blood circulation).¹⁴⁴ The UN World Food Programme has at times provided emergency food supplies to prisons, but is reluctant to take over the government’s responsibility to feed prisoners.

Overcrowding (and consequent lack of hygiene), together with inadequate food, creates a dangerous health environment in which malnutrition-related diseases such as beriberi thrive, along with communicative illnesses such as tuberculosis. In 1998, the reported cause of death of three inmates in prison was tuberculosis, and at least one reportedly died from beriberi.¹⁴⁵ One fast growing medical problem within prisons are inmates with HIV-AIDS, whose weakened immunity makes them more susceptible to diseases such as tuberculosis. At least five inmates who died during 1998 were confirmed to be HIV-positive, and a further two were suspected to have the virus.¹⁴⁶

Once sick, many inmates get little medical care. Many prisons do not have an infirmary or trained medical staff. Prison authorities may deny medical treatment to some inmates, particularly those considered to have misbehaved. Delays in transferring seriously sick inmates from prisons to hospitals are not uncommon. Although some organizations, including Licadho, provide medical services to some prisons, there are limits to the coverage they can provide.

Whether overcrowding and poor food and health conditions cause increased prisoner-on-prisoner violence and more escape attempts – which in turn may lead to torture being used as a punishment – is unproven but logical. Physicians for Human Rights suggested that prison overcrowding might have contributed to prison breakouts in 1994-95¹⁴⁷, and a UN report similarly concluded a link between appalling conditions and extreme levels of prisoner-on-prisoner violence in Phnom Penh’s PJ prison¹⁴⁸. In the first five months of 1997, when food shortages were severe and at least seven prisoners died of sickness, nearly 100 inmates escaped or attempted to from various prisons; at least four escapers were shot dead, and others were shackled or beaten after recapture.¹⁴⁹

F. OUTSIDE ASSISTANCE: THE IMPACT

A number of non-government assistance programs to prisons implicitly or explicitly help to deter torture, treat victims and improve living conditions.

Licadho began regular visits to prisons in 1994. Currently, Licadho prison researchers regularly visit 20 prisons, interviewing inmates and staff to identify health, human rights and other problems; Licadho’s medical team regularly visits 11 prisons to treat sick or injured inmates and guards. Other NGOs, including Medecins Sans Frontieres, provide medical treatment or training to prisons; international organizations such as the UN human rights office and the International Committee of the Red Cross, also monitor human rights conditions in prisons. The Australian-funded Cambodian

¹⁴⁰ Ibid.

¹⁴¹ Licadho, “Cambodian Prisons: Some Human Rights Issues”, May 1997 (p. 12).

¹⁴² Licadho, “Cambodian Prisons: Some Human Rights Issues”, September 1999 (p. 1).

¹⁴³ Thomas Hammarberg, “Situation of Human Rights in Cambodia: Report of the Special Representative of the Secretary General for Human Rights in Cambodia”, UN Commission on Human Rights, February 20, 1998 (para. 96).

¹⁴⁴ Licadho, “Cambodian Prisons: Some Human Rights Issues”, September 1999 (p. 5).

¹⁴⁵ Ibid. (pp. 6-7).

¹⁴⁶ Ibid. (p. 7).

¹⁴⁷ Physicians for Human Rights press release, “Medical group calls for prison reform in Cambodia; cites torture, spread of TB, overcrowding and chronic food shortage”, June 6, 1995.

¹⁴⁸ Cambodia Office of the UN Centre for Human Rights, “The State of Cambodian Prisons”, 1995 (para. 107).

¹⁴⁹ Jason Barber, “Coping without cash – prisons in turmoil”, *Phnom Penh Post*, June 13-26, 1997.

Criminal Justice Assistance Program is rebuilding or renovating five prisons, and supporting training, medical care or food production programs in prisons.

As well as alleviating the plight of prisoners, the organizations' work also bring much-needed transparency to Cambodian prisons. The decrease in torture in prisons over the past five years (with dark cells virtually eradicated, and shackling, beatings and other violence lessened to some extent) may in part be attributed to this transparency. Prisons visits by non-government organizations provide a forum for identifying and raising abuses within prisons, and provide some deterrence to grave violations such as torture.

As a 1995 UN report noted, "those prison systems which are cloaked by secrecy and incommunicado detention are likely to be home to the worst human rights abuses".¹⁵⁰ Past experience indicates that torture and other abuses are more common in prisons that are not subject to outside scrutiny – for instance, Koh Kong in 1996-7, before human rights groups were permanently based in the province. The generally open nature of Cambodians prisons is a credit to the government and Ministry of Interior, and should be encouraged and built upon. Without continued transparency and discussion with the authorities, there is a danger that old practices – such as shackling, which has still not been eradicated – may return to widespread use.

CHAPTER 10. POLITICAL AND MILITARY TORTURE IN CAMBODIA

The torture in State custody described thus far in this report has generally been of the everyday, 'ordinary' variety, motivated by non-political reasons. A separate, unique category is that of political or military torture.

Political torture is often much more severe than non-political. To the torturers, the victim is perceived as a threat to themselves and their power and privileges; as such, the treatment they dispense can be particularly brutal (a higher proportion of deaths, for instance, being one apparent result). Furthermore, an aim of political torture may be to leave the victims (those who are not killed) in a psychological and/or physical condition that diminishes their willingness or ability to continue their political activities. Such breaking of their spirit serves several purposes: the victims may give up or reduce their political activity, while a strong message of deterrence is also sent to other political agitators.

Military torture is also often particularly brutal, usually to extract information or punish prisoners of war or suspected enemy agents.

Although the political and the military tend to be closely related in Cambodia, a distinction must of course be made between the two. For this chapter, political torture is defined as: the torture of someone targeted because of their lawful political activity or opinions, including the use of violence or threats to coerce a political victim to confess to crimes they did not commit. Military torture is defined as: the torture (sometimes accompanied by execution) of a suspected military enemy, in circumstances that fall outside of combat and the right to self-defence.

Militarily, the continued war (until recently) between the government and the Khmer Rouge was one of the biggest sources of torture and other atrocities, committed by both sides, in Cambodia. Politically, the country's transition from authoritarianism to democracy has seen the former ruling elite prepared to use all methods including torture against political opponents, to retain their privileged positions.

Since the ground-breaking 1993 UN-sponsored elections, torture has been used as a political weapon primarily by the forces of the Cambodian People's Party (CPP), which had ruled the country (under a different name) throughout the 1980s and into the 1990s. Forces affiliated to its government coalition partner since 1993, FUNCINPEC, have at times also used torture. A shaky government coalition (which eventually disintegrated into internal fighting between the CPP and FUNCINPEC), an outspoken political opposition, and the holding of second national elections (in 1998), all fuelled the use of political torture in recent years.

¹⁵⁰ Cambodia Office of the UN Centre for Human Rights, "The State of Cambodian Prisons", 1995 (para. 81).

The following brief, semi-chronological look at recent Cambodian political and military history reveals the corresponding use of torture and other violence.

A. MILITARY TORTURE: WAR WITH THE KHMER ROUGE

Between 1993 until 1999, the Khmer Rouge's continued guerrilla war against the government saw both sides committing severe brutalities, including torture and executions.

The Khmer Rouge, in line with their long-standing appalling human rights record, committed countless atrocities against Cambodians and ethnic Vietnamese (a favored target).

In 1994 alone, for example, the catalogue of Khmer Rouge atrocities included: the killing of at least 16 Cambodians in Kampot province; the ethnic cleansing of Vietnamese civilians, including the killing of 13 people, nine of them children, in Kandal province, the kidnapping and/or killing of 11 people in Kompong Chhnang province, and other abductions or murders in Kratie and Kompong Cham; the interception (and alleged subsequent murder) of 18 government police officers in Battambang; the murder of 50 inhabitants of Battambang and abduction of 71 civilians, including seven women, in one day alone; the rape of female villagers in Banteay Meanchey and Battambang; and the use in two provinces of entire villages as human shields to deter government shelling. Also in 1994, information emerged about one Khmer Rouge prison, in which (government and Khmer Rouge) soldiers and civilians were held, some of them were shackled 24 hours a day and allowed to bathe only once a month. Captured government soldiers were reportedly severely beaten, and all the detainees were said to be sick with malaria and skin diseases from poor hygiene. (These cases represent known Khmer Rouge abuses cited in two sources only.)¹⁵¹

On the Cambodian government side, the military and police used torture to punish or interrogate suspected Khmer Rouge agents. At times, they were quick to accuse, without evidence.

On the night of March 6, 1996, bombs (allegedly planted by the Khmer Rouge) exploded at a government building in Battambang town. Military policemen arriving at the building saw a man – the building's night watchman, aged 66 – and immediately seized him. Marching him from the bombed building, they beat him, including hitting him on the head with a pistol, causing a 3-4cm long injury, and in the chest with a rifle. Taken to the Battambang municipal police station, in Svay Por district, he was threatened with further beatings and death if he did not confess. Police, presenting him with a bucket of liquid, also threatened to make him drink salty fish sauce. The man was released without further injury thanks to the timely arrival of his boss, who vouched for his job as night watchman, and his innocence. Two months later, the victim still complained of chest pains, memory loss and poor eyesight, conditions he attributed to his beating. He quit his job out of concern for his security and refused to file a complaint to the court for the same reason.

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On May 4, 1998, a local government army chief sent one of his soldiers, along with two civilians, to go and catch fish in the remote Phnom Krom area of Siem Reap. The three were given an AK47 rifle each and a 'letter of permission' from the chief. While on their fishing mission, the three were spotted by eight soldiers from another military unit, who suspected they were Khmer Rouge. The three men were disarmed, arrested and taken to a Buddhist pagoda. They were tied to a post at a school and beaten by the eight soldiers' commander. Two of them were beaten on the head with an AK47 ammunition magazine, while the other suffered a broken right leg from being beaten with a piece of wood. They confessed, and were detained in a soldiers' camp. The two civilians escaped 11 days later and the soldier was eventually released after the intervention of his chief (who had sent him fishing).

From 1996 to 1999, the Khmer Rouge gradually disintegrated: many commanders and thousands of their troops defected to the government, and their former top leader Pol Pot died. The last rebel

¹⁵¹ See "Situation of human rights in Cambodia...", UN General Assembly, November 3, 1994 (pp. 14-17) and "Report on the Application of Civil and Political Rights in Conformance with Article 40 of the ICCPR [International Covenant on Civil and Political Rights]", Kingdom of Cambodia, 1997 (para. 120)

commander – Ta Mok, who had refused to defect or surrender – was captured in March 1999 and is currently imprisoned awaiting trial. The Khmer Rouge was dead, and Cambodia was without an armed opposition for the first time in decades. The government victory over the guerrillas removed one of the largest sources of torture and other atrocities in Cambodia.

B. MILITARY & POLITICAL TORTURE: INTRA-GOVERNMENT FIGHTING

On July 5-6, 1997, the unstable coalition government exploded into violence as CPP and FUNCINPEC military forces turned on each other. FUNCINPEC's armed forces were quickly routed by those of the CPP, and many of FUNCINPEC's commanders subsequently hunted down and killed. The party's leader, Prince Norodom Ranariddh, was ousted from his position as First Prime Minister¹⁵²; the party was 'asked' to nominate a new First Prime Minister. Some observers, including the UN's special human rights representative to Cambodia, labeled these events a "coup d'état" by the CPP; the CPP objected to this term, claiming that the military action had in fact been necessary to prevent FUNCINPEC forces – supported by alleged Khmer Rouge elements – from mounting a coup.

Thirty-three FUNCINPEC soldiers were captured on July 8-9 in Udong district, north of Phnom Penh, by Regiment 911 special forces paratroopers. Taken to the Regiment 911 base at Kambol, the 33 soldiers were detained in a small, closed room for 10 days; there was not enough room for them all to sit down, and several fainted from the heat and poor ventilation. All of them were interrogated, one by one, by four Regiment 911 officers. The interrogations included: beatings with a belt, a wooden table leg, or a wooden plank; kicking with combat boots and the knees; punching to the face and body; death threats, often at gunpoint; and, for several detainees, the use of an iron vice to crush their fingers or hands. The torture appeared designed to obtain intelligence about the soldiers' histories and commanders, and to extract confessions that they were Khmer Rouge agents brought to Phnom Penh by FUNCINPEC to kill CPP leader and Second Prime Minister Hun Sen. The detainees realized that their interrogators were not interested in the truth but in obtaining certain, standard responses. As one later told UN human rights investigators, "They asked me whether I was a Khmer Rouge... If I responded that I was not a Khmer Rouge, then they beat me up. So I had to admit to avoid being beaten. They also asked what was the purpose of the war we were pursuing and who did we want to kill. The expected response was 'Hun Sen'. The more you resisted, the more you would be tortured." The most senior of the 33 soldiers, Lt Col. Sao Sophal, never returned from interrogation; the others were told that he had been killed. None of the 33 soldiers were Khmer Rouge, according to the UN, but were regular Cambodian army troops affiliated to FUNCINPEC.¹⁵³

FUNCINPEC forces were also implicated in at least one possible case of torture during the initial fighting. A videotaped interrogation of four captured CPP soldiers by alleged FUNCINPEC military on July 5, the first day of the fighting, shows one of them bleeding from his head. The cause of his injury is unknown. The videotape shows that he, along with one other of the four soldiers, were tied up and threatened with death during their interrogation. The fate of the four soldiers, along with 11 others also allegedly captured at the same time, is unknown.¹⁵⁴

During the July fighting, and in ensuing nine months, more than 80 people, most of them senior FUNCINPEC military chiefs, their troops, bodyguards or acquaintances, were killed.¹⁵⁵ This figure excludes those forces killed in combat. Some of the dead bore signs of torture on their bodies.

Other FUNCINPEC commanders and troops ran away to the Cambodian-Thai border, where they established military positions (and aligned themselves with Khmer Rouge guerrillas). As the prospect

¹⁵² In the coalition government formed after the 1993 elections, Prince Ranariddh was appointed First Prime Minister and Hun Sen, the CPP leader, was Second Prime Minister.

¹⁵³ Summarized from "Memorandum to the Royal Government of Cambodia: Evidence of Summary Executions, Torture and Missing People since 2-7 July, 1997" (pp. 22-24), submitted by the UN Secretary-General's Special Representative for Human Rights in Cambodia, August 21, 1997. The 33 soldiers' commanders, FUNCINPEC generals Chao Sambath and Kroch Yoeum, were also captured, separated from their subordinates and executed. Chao Sambath's body, later exhumed, showed signs of torture.

¹⁵⁴ Special Representative of the UN Secretary-General for Human Rights in Cambodia, "Memorandum to the Royal Government of Cambodia", May 13, 1998 (pp. 3-5).

¹⁵⁵ Memoranda to the Royal Government of Cambodia submitted by the Special Representative of the UN Secretary General for Human Rights in Cambodia, August 21, 1997 and May 13, 1998.

of a new resistance war increased, a series of executions, torture and assaults against FUNCINPEC members, both senior and low-ranking, continued for months throughout the country.

On July 25, 1997 in remote Varin district of Siem Reap province, 12 local soldiers surrounded the house of Chhun Ma, aged 42. Opening fire into the house, the soldiers killed his 10-year-old son, Aun. Chhun Ma managed to escape. The soldiers then searched the house and beat his wife with rifle butts. The soldiers' commander encouraged his men to loot the house because Chhun Ma and his wife were FUNCINPEC members and therefore they were "robbers". The following morning, the soldiers returned to steal cows and timber from the house. "We must clean up all FUNCINPEC partisans and their accomplices," they reportedly shouted.¹⁵⁶

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On December 24, 1997, the bodies of two FUNCINPEC-aligned Border Police officers, Col. Chea Chanthoeun and Maj. Var Savuth, were found on the Phnom Penh outskirts. Both men had their hands tied behind them, and their necks showed marks of strangulation; the face of at least one of them displayed marks of beating. A police examination of the bodies concluded that both had been strangled after severe beatings. Chea Chanthoeun and Var Savuth were close friends and former army officers aligned to FUNCINPEC. On July 5, 1997, the first day of the FUNCINPEC-CPP fighting, Chea Chanthoeun had reportedly been present at FUNCINPEC's headquarters in Phnom Penh. Injured by shrapnel in CPP's capture of the party headquarters the following day, he managed to escape. A list of FUNCINPEC officers on duty at the time was reportedly seized by CPP troops. After several weeks, Chanthoeun returned to his Border Police job, where his commander had shifted allegiance to the CPP and reportedly encouraged him to do the same. He refused. In mid-December, three district policemen allegedly met Chanthoeun and accused him of helping the FUNCINPEC resistance forces in northern Cambodia. On December 22, according to relatives, Chanthoeun had drinks with Col. Sam Savuth, the CPP-affiliated Chief of Staff of the border patrol department. Chanthoeun was sent back home by Sam Savuth's driver late that evening nearly unconscious. He had severe abdominal pain and white foam was coming out his mouth. His wife suspected poisoning and called a nurse, who made him vomit. He recovered. Two days later, Chanthoeun left his house with his friend Var Savuth at 8am. Their bodies were dropped from an unmarked white car a few hours later. Their families learned of their deaths by reading about them in newspapers.¹⁵⁷

No one has been brought to justice for the vast majority of the more than 80 alleged political killings documented by UN human rights workers. UN criminal investigation experts who reviewed the Cambodian authorities' response to the first documented 41 killings concluded that "none of these cases had been seriously investigated or were being seriously investigated" as of May 1998.¹⁵⁸ Subsequently, a total of three suspects allegedly involved in two killings were reported prosecuted.¹⁵⁹

C. POLITICAL TORTURE: 1998 NATIONAL ELECTIONS

In the wake of the July 1997 violence, CPP leaders expressed their intention to proceed with scheduled national elections. But the political and military situation was not conducive to a fair election. FUNCINPEC's Prime Minister Prince Norodom Ranariddh and opposition leader Sam Rainsy were in *de facto* exile overseas, and many of their followers had also fled Cambodia. FUNCINPEC armed forces – supported by at least some Khmer Rouge troops – clung on to isolated positions in northern Cambodia.

Eventually, a deal was hatched, with foreign support, to break the deadlock and allow the elections to proceed. Prince Ranariddh, along with several of his military commanders, was convicted of firearms and conspiracy charges in two *in absentia* trials in Phnom Penh in March 1998¹⁶⁰; Ranariddh was

¹⁵⁶ Ibid., May 13, 1998 (pp. 12-13).

¹⁵⁷ Ibid. (pp. 22-24).

¹⁵⁸ UN High Commissioner for Human Rights, "Grenade Attack in Phnom Penh, 30 March 1997, and Extrajudicial executions, 2-7 July 1997: An assessment of the investigations", May 13, 1998.

¹⁵⁹ "Situation of human rights in Cambodia...", UN General Assembly, September 20, 1999 (para. 29).

¹⁶⁰ One of Ranariddh's commanders convicted "in absentia" was Chao Sambath, whose tortured and executed body had been found months earlier, in the wake of the July 1997 fighting; Sambath was posthumously sentenced to 20 years' imprisonment.

given a pre-arranged amnesty, allowing him to return to Cambodia, while a ceasefire was negotiated with his troops in northern Cambodia. Opposition leader Sam Rainsy also returned to Phnom Penh. Election preparations began.

The July 1998 elections, which were largely foreign-funded, were marred by numerous allegations of vote-buying, intimidation and violence including torture and murder by CPP-affiliated State agents. Of 29 killings investigated by UN human rights staff in the two months before election day, five were allegedly politically-motivated, and politics may have played a part in another 12.¹⁶¹

*Em lem, aged in his 60s, left home on his bicycle to go to the local office of the opposition Sam Rainsy Party, of which he was an official, in Tbong Khmum district of Kompong Cham, on the morning of June 10, 1998. On the way, he was stopped and arrested by a group of officials including the village chief, the commune police deputy chief and the militia chief. He was last seen, handcuffed and blindfolded, being taken away by four men on two motorbikes. A few days later, his body was found in a shallow grave. Exhumed, his body displayed fractures to the head, jaw, neck, and right hand, as well as several broken teeth and a smashed nose. Subsequent investigation revealed that on the eve of Em lem's arrest and murder, the village chief had allegedly stated loudly, at a social function, that anyone who joined a political party other than the CPP would be killed. He reiterated his threat several days later, at a CPP gift distribution, saying that Sam Rainsy Party members would be killed one by one.*¹⁶²

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*Also in Tbong Khmum, a FUNCINPEC-affiliated former policeman, Houng Sarun, was unlawfully arrested by soldiers June 25 after attending a campaign rally by Prince Norodom Ranariddh. Accused of possession of a grenade and a handful of spent bullet casings, he was taken to a private house and then a military base. The authorities allegedly cuffed his legs and produced several instruments of torture. "They said: 'I will beat you without leaving any marks, so it will be useless for you to complain to human rights workers'," Sarun later recounted. He signed a confession, he stated, out of fear of being tortured or executed. Under pressure from human rights groups, the military (who have no power of arrest or detention) transferred Sarun to police custody the following day. He later stated that the grenade in his possession had been for his security, and that the casings were those of bullets fired at his party office days earlier. He was charged with weapons offences.*¹⁶³

Box 10.1

'SUICIDE'

The worst case of politically-motivated torture during the 1998 national elections was that of Thong Sophal, aged 45, from Mouk Kampoul district of Kandal. Married with seven children, Sophal had been chief of his village for several years in the early 1980s during the one-party People's Republic of Kampuchea regime. He subsequently returned to ordinary life and, later, became a FUNCINPEC supporter. In April 1998, he and his wife were issued with CPP membership cards. However, in early June he enrolled with local election officials as a FUNCINPEC election observer, to monitor the voting in his commune on election day. On June 14 he was reportedly summoned to the local village office. When he returned, he was preoccupied and somber. Two days later, he disappeared. On June 27, his mutilated body was found several kilometers away. The left side of his face, and back of his head, had been crushed with a hard, square object; his eyes had been gouged out; his left ear had been cut off; his back displayed a large black mark; the fingers of both hands had been amputated; and his legs from mid-thigh to the feet including the toes had been stripped of skin and flesh. On the basis of a small fertilizer vial containing an unidentified fluid which was found nearby, the police concluded that the death was suicide. By April 1999, more than a year later, the Kandal court was "still investigating" the case. The culprits remain at large today.

The July 1998 elections were won by CPP, but not with a large enough majority for it to form a government alone. Public demonstrations, initially supported by FUNCINPEC and the Sam Rainsy

¹⁶¹ "Situation of human rights in Cambodia...", UN General Assembly, September 17, 1998 (para. 67).

¹⁶² Special Representative of the UN Secretary-General for Human Rights in Cambodia, "Monitoring of Election-related intimidation and violence", June 28-July 5, 1998.

¹⁶³ Ibid.; Bou Saroeun & Eric Pape, "Surviving the terror of Tbaung Kmum", *Phnom Penh Post*, July 3-16, 1998.

Party, broke out in Phnom Penh against the ballot result. A crackdown on the demonstrators saw the killings of two people by government security forces; dozens of protesters were beaten or injured by gunfire from the security forces, and others disappeared after arrest.¹⁶⁴ In a space of about two weeks after the police crackdown, a series of bodies – at least 24 in total – were found around greater Phnom Penh. The vast majority of them could not be identified; no direct link to the demonstrations could be established. Many of the bodies bore signs of violent death, including bullet wounds, broken limbs, strangulation marks and other signs of torture.¹⁶⁵

The demonstrations were quelled and, under considerable pressure, FUNCINPEC entered into a new coalition government with CPP in late September 1998.

D. POLITICAL TORTURE: MISUSE OF THE LAW

The use of the law as a weapon, to tar political opponents or other perceived miscreants with the brush of being ‘criminals’, has existed around the world for centuries. In Cambodia in recent years, the law has been repeatedly misused to justify the wrongful detention of people, or to try to implicate opposition political figures. Torture has been an element of such abuse, either for punishment or to extract false confessions from victims.

At times, misuse of the law has been little more than an impromptu expression of anger by a powerful person.

On the night of October 2, 1995, Heng Arth, a policeman formerly aligned to the royalist FUNCINPEC party, was drinking in a Kompong Cham restaurant. Heavily drunk, he allegedly made loud, derogatory statements about the monarchy in Cambodia. He was overheard by Por Bun Sroeu, a senior FUNCINPEC leader and Ministry of Interior official, who called in the military police to unlawfully arrest the drunk policeman. Heng Arth remembers nothing of that night, but woke up the next morning to find that the police had “handcuffed me, beat me, broke my eyebrow and took me to the provincial prison”. Por Bun Sroeu stated that Arth had used derogatory words about King Norodom Sihanouk, and that this was in breach of “constitutional law”; prosecutors were unable to find a law with which to charge Arth.¹⁶⁶ Kept in prison for a month and 24 days, the policeman was eventually released, at the request of human rights workers on the grounds that he hadn’t been charged with anything. Once released, he was promptly transferred to the Kompong Cham police commissariat for “administrative” detention, which was also unlawful. No charges were ever laid against him.¹⁶⁷

Other cases of political torture for alleged ‘legal’ reasons take on a far more sinister nature.

On July 13, 1995, three bodyguards of opposition party leader Sam Rainsy were unlawfully arrested by soldiers and tortured in a bid to extract confessions that they – and Sam Rainsy – were secret Khmer Rouge agents. The three, along with a fourth man, a bodyguard of a Siem Reap provincial official, were taken to dinner by an acquaintance. After dinner, they were invited to visit the house of several friends of their acquaintance. Instead, they were taken to the Ministry of the Defense, where 30-40 armed soldiers greeted them at gunpoint, handcuffed and searched them. Interrogated separately, they were threatened at gunpoint, beaten with rifle butts, punched and had their heads banged against tables. They were told they were arrested “for the political crime of involvement with the Khmer Rouge”. According to a subsequent statement by the bodyguards, the soldiers repeatedly tried to get them to state that Sam Rainsy was a Khmer Rouge agent. One of them was told: “If you don’t answer, your head will be soaked in blood... Even if you are not shot, your head will be smashed to bits, and no one will be able to help you.” Another one was given 15 minutes to confess that he was a Khmer Rouge agent, or the soldiers would take him away and “soften up” his bones.

¹⁶⁴ Special Representative of the UN Secretary-General for Human Rights in Cambodia, “Monitoring of Election-related intimidation and violence”, August 20-October 28, 1998.

¹⁶⁵ “Situation of human rights in Cambodia: Report of the Special Representative of the Secretary-General for Human Rights in Cambodia”, UN Commission on Human Rights, February 26, 1999 (para. 29).

¹⁶⁶ Cambodia’s Constitution states that “The King shall be inviolable”. However, neither the Constitution nor any other law states that it is a crime to abuse the name of the King.

¹⁶⁷ Jason Barber & Ker Munthit, “Royal abuse earns hangover and seven weeks jail”, *Phnom Penh Post*, January 26-February 8, 1996.

The bodyguards were forced to respond to questions with answers prepared by the soldiers; the soldiers' commander listened to the replies and, if he was not satisfied, insisted they repeat them correctly. Under pressure from human rights groups and others, the men were released after 16 hours in detention. No charges were filed against them. No charges were filed against their torturers.¹⁶⁸

Box 10.2**THE VANNAK CASE**

The most sophisticated, well-planned example of the use of the law as a political weapon is that of Srun Vong Vannak, chief of security of opposition Sam Rainsy Party¹⁶⁹, who spent 20 months in prison because of a conspiracy to frame him for murder.

Srun Vong Vannak was arrested on February 14, 1997 in connection with the murder three months earlier of Keo Samuth, brother-in-law of Hun Sen, the then Second Prime Minister and leader of the CPP. During 17 days of unlawful police detention before he was taken to court, Vannak confessed to police. He retracted his confession in his first court appearance on March 3.

At his subsequent trial on September 9, 1997, Vannak again recanted his tape-recorded confession given to police and detailed the psychological torture that had been used to extract it from him. Arrested by Mok Chito, the then-chief of Phnom Penh municipal penal (or criminal) police, Vannak said that he had been held in hotels and other unlawful detention sites for 17 days. Kept alone, often blindfolded and handcuffed, he was interrogated under threat of execution. "I was afraid for my life, so I had to tell them what they wanted...I answered that I was behind the killing," he told the court of his confession to police. (Vannak is a former policeman who once served under Mok Chito.)

The only other evidence against Vannak were the confessions of two alleged accomplices, Sos Kasem and Prom Meanrith, both of whom have histories in the government security forces. The key witness was Kasem (the alleged hitman) who had previously told police that he had been promised \$50,000 from Sam Rainsy, to be paid through Vannak, to carry out the murder.

Kasem and Meanrith, put on trial with Vannak, gave testimonies inconsistent with each other, and with their previous confessions to police. Meanrith initially told the court that he had never seen Vannak before and had done nothing wrong; his later testimony veered between saying that he had been present at meetings to plot the murder, to asserting that he had only written his confession to match Kasem's. As for Kasem, the trial judge noted that his testimony to the court was inconsistent with his written confession to the police on several points.

Police chief Mok Chito gave evidence at the trial, but the judge refused to allow defense lawyers to cross-examine him.

Despite the inconsistencies in evidence – and the allegations of unlawful arrest, detention and psychological torture of Vannak – all three defendants were convicted, and sentenced variously to between 10-15 years imprisonment. To many observers, the trial was a political show, revealing the court's lack of independence.¹⁷⁰ Suspicions that the verdict was pre-written seemed to be confirmed by the fact that the trial judge took only 10 minutes to deliberate and write his lengthy judgment – less time than it took him to then read it to the courtroom.¹⁷¹

¹⁶⁸ See Amnesty International, "Cambodia – Diminishing respect for human rights", May 1996 (pp. 17-19), citing "Joint Statement of the Bodyguards of His Excellency Sam Rainsy", July 14, 1995.

¹⁶⁹ Formerly called the Khmer Nation Party.

¹⁷⁰ Trial judge Nob Sophon reportedly admitted, the day before the trial, that the court was not independent. "The police have not cooperated fully with the court. Officially, the court is supposed to be independent, but we must work with other parties so the court is not really independent," he was quoted as saying (Elizabeth Moorthy, "Vannak faces justice: 13 years in 10 minutes", *Phnom Penh Post*, September 26-October 9, 1997.)

¹⁷¹ The then-Minister of Justice, Chem Snguon, later confirmed that it was customary for judges to write their judgments before trials were held; if any unexpected evidence were presented during trials, then the judges could modify the judgments at the end of them, he stated (Eric Pape, "Justice is not a wild horse – it must be controlled", *Phnom Penh Post*, November 7-20, 1997).

In the following weeks and months, the case against Vannak further unraveled. Allegations emerged that Sos Kasem was being paid \$20 a day in prison by the police. By late 1997, Prum Meanrith was writing letters from prison to human rights organizations, recanting his previous confessions. He said that the police, after his initial arrest, had held him in a hotel and coached him in what to say in his 'confession'. He agreed, under threat of death.

Finally, the last of the three convicted men, Sos Kasem, also recanted. In a March 1998 Court of Appeal hearing on the case, Kasem stated that he had confessed to the police because he feared for his life. He told a similar story to that of Vannak and Meanrith: that he had been arrested and detained at a hotel and various other places, and that the police had drilled him in what to say, both in his confession and before his court appearance. "If I agreed to answer what I had been told to, I and my family would be well fed. If I disagreed, I would be killed," Kasem told the Court of Appeal. Asked who arrested him, he replied: "Mok Chito," the then-head of the Phnom Penh penal police. The Court of Appeal hearing was adjourned, and remained so for months, without a verdict.

Meanwhile, momentum gathered toward a royal pardon for the three convicted men. In September 1998, Sam Rainsy Party leader Sam Rainsy secured Prime Minister Hun Sen's agreement to a royal amnesty for Vannak, on the condition, according to a Hun Sen aide, that Vannak drop the appeal against his original conviction.¹⁷² By October 1998, Vannak was pardoned and released from prison. Meanrith and Kasem were later also freed.

Other similar attempts to frame political opponents have since been reported.

On July 20, 1998, Danh Teav, a Ministry of Interior official, was arrested in Phnom Penh along with his wife, a Sam Rainsy Party reserve candidate in the national elections. When he asked to see an arrest warrant, he was punched in the head. His wife was released, but Danh Teav was detained and interrogated in the office of the serious crimes department of the municipal penal police. Accused of having organized the murder of a businessman earlier in the year, which he denied, he was beaten unconscious. Eventually, he succumbed and thumbprinted a statement of confession. He was then accused by the police interrogators of the attempted murder on June 8 of the director of the pro-CPP newspaper Koh Santeapheap. He rejected that accusation, and was beaten again, although never forced to sign a confession to that crime. On July 22, Danh Teav was taken to Phnom Penh municipal court and charged with murder. He was unable to stand without help, had bruises and abrasions on his back and chest, and cuts around the wrists where he had been shackled, according to Amnesty International delegates who saw him at the court. Five other men, arrested in connection with the same case, were also seen at the court. At least three of them appeared to have been beaten; two of them were covered in blood and had cuts and swelling on their faces. Detained in prison by court order, Danh Teav was denied access to his lawyer or his wife for a week. Despite complaining of severe pain, he was denied medical treatment until August 3. Danh Teav was released without charge in October 1998, after more than two months in prison. Coincidentally, one of the crimes he had been accused of was later blamed on a senior CPP-aligned police officer.¹⁷³

¹⁷² Srun Vong Vannak effectively became a bargaining point between Prime Minister Hun Sen and opposition leader Sam Rainsy. Hun Sen had first agreed to a royal amnesty for Vannak months earlier, in January 1998, but his final agreement for a pardon came during political negotiations over the formation of a new government following the July 1998 national elections. See Beth Moorthy & Pok Sokundara, "Freed Rainsy man holds no vengeance for jail 'game'", *Phnom Penh Post*, October 16-29, 1998.

¹⁷³ In December 1998, senior CPP police chief Mok Chito publicly accused Heng Peo, the CPP-aligned deputy chief of the national anti-drug police, of involvement in the attempted murder of the Koh Santeapheap newspaper editor; Samreth Sopha, "Rival police chiefs set to slug it out to the bitter end", *Phnom Penh Post*, December 11-24, 1998.

PART III: TORTURE IN CIVILIAN CUSTODY

CHAPTER 11. TRAFFICKING & PROSTITUTION

Human trafficking and forced prostitution is a form of slavery. Slavery invariably involves physical and mental abuse. Sexual slavery is probably the fastest-growing form of torture in Cambodia in recent years. Human traffickers and pimps use unlawful detention and severe violence as a matter of course, primarily to force their victims to have sex with customers. Few other categories of torture victims endure such a complete traumatic experience: physical, sexual and mental abuse, deprivation of freedoms and liberties, feelings of worthlessness, shame and guilt (from society's attitudes toward prostitutes), and the high risk of infection with sexually-transmitted diseases including HIV-AIDS. Many survivors of forced prostitution are left physically, emotionally and socially shattered; some are left facing a death sentence.

Cambodia's lucrative sex trade, which has grown rapidly over the past seven or eight years, is perpetrated or protected at all levels by police, military or other officials. Their patronage is the single largest barrier to the enforcement of the law, punishment of offenders, and rescue and rehabilitation of victims.

A. SEXUAL TRAFFICKING PRACTICES

The well-worn paths by which girls and women are forced into the sex trade include being:

- Kidnapped by strangers and sold;
- Sold by relatives, including parents, or boyfriends, acquaintances, etc;
- Deceived or lured (by a relative, friend or stranger) under false pretences, usually on the promise of a job as a garment worker, waitress or some such other opportunity.

The similarities in the stories of victims, collected by human rights and other organizations, are striking. A young, attractive girl or woman, often from a desperately poor family, is sold, lured or kidnapped – either from her home village, or from elsewhere (particularly when she has gone in search of work). If taken from her home province, she will likely be sold in another province, cutting her off from family and friends. Once sold, she is locked up in a brothel, safe house or hotel. Her services are touted to customers by the *maebon* (pimp/brothel owner); if she is a virgin, she will attract a higher price. Usually, the girl or young woman tries to escape, or refuses to sleep with the first customer/s. To make her more compliant, she is beaten or whipped – sticks, guns, electric wire, ropes and electric shock are all commonly used – by the *maebon* or their accomplices. Sooner or later, the victim is raped by the first customer (if she is a virgin, the customer may buy her for several days or a week).

Bopha's first customer, a Thai man who took her to a hotel for a week, told her that he was not raping her as he had bought her for a large sum of money.

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*Thearee's first client paid [about \$130] to take her as a virgin to a hotel for a week. Thearee had been raped in her village but had not told her parents or the brothel owners; when the customer discovered she was not a virgin he "took money from the brothel owner" and as a result Thearee was beaten.*¹⁷⁴

After her first customer or few customers, the victim may be resold to another brothel, or kept at the original one. If she had been a virgin, her market value rapidly plummets after her first customer.¹⁷⁵ She is put to regular work, along with the other prostitutes at the brothel, serving however many

¹⁷⁴ Both case examples above, involving children, are cited from World Vision International, Cambodia, "Regaining Honor: Cambodian Children's Experiences in Prostitution, and After", March 1996 (p. 18).

¹⁷⁵ A victim may be sold to a brothel for anywhere between \$40 and \$500 (but most commonly about \$150). If virgins, their first customer may pay around \$300-400 for sex with them for a week. Afterward, they may be sold from one brothel to another for \$30-100. The prices, indicative only, are for child sex workers, as cited in several studies conducted in 1995. See UNICEF Cambodia, "The Trafficking and Prostitution of Children in Cambodia", December 1995 (pp. 8-9).

customers she is told to, which may be five, 10 or more a day. The *maebon* pays her a pittance. The victim is told that she owes a 'debt' to the brothel – usually the same amount as the brothel owner paid to initially buy her, or whatever figure the *maebon* makes up – and must work to pay it off. Attempts to escape, or other transgressions of the *maebon*'s rules, are punished by violence.

For the human traffickers, brothel keepers and many of their customers, any pretence of humanity is dispensed with. The girls and women are objects, to be bought, sold, raped, beaten and used in any way their master sees fit. They are not human beings, let alone human beings with any rights.

"I was lured to becoming a sex worker under false promises. I was sent to Stung Treng. I was beaten when I refused to accept men. Shortly after I was taken to Stung Treng, a man came to pay for me to go with him – he paid my maebon – [and] he took me to the pig slaughter house where he worked and locked me in a dirty, smelly cell. Then [he] came back with six other men; they all – one by one – raped me, one man raped me twice. After a whole night of gang rape, I was faint with pain. When the morning came I heard the workers preparing to start their work. I heard the pigs being pushed into the pens, they were screaming. I knew what that feeling was like – I was no better than the pigs to these men, they could have killed me. Something inside me did die, and I will never be the same."¹⁷⁶

If a prostitute seeks to leave a brothel, or if anyone – a relative, friend or NGO – tries to take them away, the *maebon* will demand money for their release, citing the so-called debt owed by the victim. The prostitute is a 'possession' and, like a cow, car or house, the *maebon* will only give it up by selling it. Traffickers and *maebon* will go to great lengths to maintain their possessions.

'N', a girl aged 16 who was sold to a brothel by an older woman who had promised her a job, was initially taken to a karaoke bar and told that she would be a waitress. One night, she was given some "medicine" and fell asleep. When she woke up, she was in bed. She saw blood and felt pain, but did not immediately realize she had been raped. Later, she was again raped. Angry with the karaoke owner, she tried to leave but was restrained. She was taken to another town and sold to a brothel. She wanted to leave, but the brothel owner said that he had paid \$500 for her, and that she had to work for him to pay back the money. N refused her first customer at the brothel, and was severely beaten by the brothel owner and his brother. Later, N and five other young women planned to run away. However, one of them dug a hole in the ground under the bathroom and fled alone while everyone was asleep. Friends of the brothel owner caught her and brought her back. The brothel owner was furious. He beat the woman with a bamboo stick, knocking out three of her teeth and leaving her badly bruised all over. She was sold to a brothel in another town. The other girls were also severely beaten by the brothel owner, who threatened to kill them and throw acid on their faces. N was so frightened of him she agreed to whatever he wanted."¹⁷⁷

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In September 1999 a young woman (sold by a relative to a trafficker) jumped from the first floor of a central Phnom Penh building where she was being detained, injuring her back and leg as she landed. Neighbors wanted to take her to hospital, but the trafficker strenuously objected. Eventually, the trafficker relented and the woman was taken to Calmette, Phnom Penh's main state-run hospital. The next day the trafficker, accompanied by a military policeman, entered the hospital and abducted the woman (who could not walk), threatening to kill her mother, who was present, if she objected.

Use of Torture

The primary reason for torture in the sex trade, as already noted, is to force the victims into submission so that they have sex with customers and earn money for the *maebon*, as well as to punish escape attempts and other perceived wrongdoings. Customers, many of whom are drunk, may also beat sex workers. Brothel living conditions are often appalling and inhuman, with the prostitutes

¹⁷⁶ Chan Dina, of the Sex Workers Union of Tuol Kork, in a speech to the First National Conference on Gender and Development in Cambodia, Phnom Penh, September 7-9, 1999.

¹⁷⁷ Physicians for Human Rights, "Commercial Sexual Exploitation of Women and Children in Cambodia – Personal Narratives; a Psychological Perspective", 1997 (pp. 20-22).

poorly-fed, overworked, exposed to sexually-transmitted diseases, and denied contact with the outside world.

A 1994 survey of 399 prostitutes in the Phnom Penh's redlight district of Tuol Kork found that 29% identified abuse by customers, and 6% cited abuse by brothel owners, as a "common problem". Among the torture they described were whippings with cords and wires and beatings with pieces of burning firewood. Of those surveyed, 13% stated that they "lived like animals".¹⁷⁸

In 1998, at least two sexual-trafficking victims died and 98 were wounded, according to the Cambodian Women's Crisis Center (CWCC).¹⁷⁹ These figures, representing cases known to CWCC, most of which occurred in Phnom Penh, are undoubtedly far lower than the real toll.

Of growing concern is the force-feeding of narcotic drugs – such as heroin, valium, amphetamines, or a mixture – to victims. This practice, often combined with physical assault, is designed to make the victim submissive to sex and dependent on the *maebon*; amphetamines are used to make the victim stay awake and work harder, serving more customers each day. Addiction to such drugs also serves to prevent escape attempts, or to force victims to return to the brothel after leaving.

Nineteen-year-old Theary, on her first night in a brothel after being abducted at gunpoint from a Phnom Penh street, was told that she had to sleep with three customers. "I refused, so I was beaten with electric wire, made of three wires wound together, by a man I did not know. He hit my hands, legs and body. He also beat my head with a pistol many times. Then he took a stick which was as big as my wrist to beat my back." Theary was beaten unconscious. "When I woke up, the man pointed a gun at my head and threatened to shoot me to death if I refused to sleep with the clients. I was so frightened that I agreed. After agreeing, the man who had beaten me tied my hands and forced me to lie face down. Then another man injected me in the head two times. They untied the knot and made me take ten tablets. After the injections and tablets, I felt very happy and I loved men."

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A 20-year-old woman kidnapped near her home in Takeo and brought to a Phnom Penh brothel, where she was forced, under threat of beating, to take heroin and amphetamines. The drug cocktail enabled her to service 30-40 men a day. One day, she ran away but returned "when the drug [withdrawal] caused me to suffer". Later, her father found her and took her from the brothel. "You have to come back, otherwise you will die," the brothel owner told her as she was leaving. The next day, as withdrawal took hold, the woman started crying out: "Hot! Hot! Give me pills!" and collapsed to the ground."¹⁸⁰

One rehabilitation organization for women, Agir Les Femmes en Situation Precaire (AFESIP), estimated that about 30% of former prostitutes it sees are addicted to drugs.¹⁸¹

Through the use or threat of physical violence, and/or drug dependency, girls and women at brothels may not surprisingly become outwardly compliant. They learn submissiveness as a survival tactic, to avoid violence. Even if their obedience deters further physical assault, they are still being tortured, in the form of repeated rapes; they have been robbed of their right not to consent to sex. As one sexual-trafficking researcher in Cambodia has noted: "Rape does not only occur when overpowering force is used and the rape victim fights back; rape implies lack of consent between individuals. When an individual has been beaten into submission, has become passive and accepting of what is done to her because she is a captive, then any sexual encounter that she has is a rape."¹⁸²

¹⁷⁸ Cambodian Women's Development Association, "Prostitution Survey Results", 1994, in UNICEF Cambodia, "Trafficking and Prostitution...", Appendix 2.

¹⁷⁹ Cambodian Women's Crisis Center, "Statistics of monitoring program: January – December 1998".

¹⁸⁰ Cambodian Women's Media Center; see Bou Saroeun, "Prostitutes forced into drug addiction", *Phnom Penh Post*, September 3-16, 1999.

¹⁸¹ *Ibid.*

¹⁸² Physicians for Human Rights, "Commercial Sex Exploitation of Women and Children in Cambodia...", 1997 (p. 24).

Box 11.1**HIV-AIDS**

As well as physical and sexual violence, victims of sexual-trafficking face another devastating threat – infection with HIV-AIDS.

Cambodia has the fastest-growing HIV-AIDS rate in Asia, with an estimated 100 Cambodians a day contracting the virus¹⁸³; ultimately, AIDS will likely claim more victims than Pol Pot and the Khmer Rouge did. About 164,000 Cambodians are infected with HIV, and 16,000 have developed AIDS, according to a 1998 survey by the National AIDS authority¹⁸⁴. In August 1999, the Ministry of Health estimated that as many as 1,700 children would die from the virus over the next year; the number of orphans aged under 15 infected with the virus would reach more than 12,000.¹⁸⁵

Prostitutes are at extreme risk of contracting HIV, through unprotected sex and intravenous drug use. Studies in 1995-96 found that 38-52% of sex workers surveyed were HIV-positive, one of the highest, if not the highest, infection rates of prostitutes in Asia.¹⁸⁶

Many Cambodian men, married or single, visit prostitutes; sex workers speak of difficulties in persuading customers to use condoms. Anti HIV-AIDS programs focussed on brothels have centered on providing education and condoms to sex workers and *maebon*. While this is necessary, it is clear that far less effort has been put into the (admittedly difficult and dangerous) job of preventing and reducing the sexual trafficking which forces girls and women into brothels in the first place. Logically, someone detained and forced to have sex against their will has little or no power to insist that the customers use condoms.

*"You, the development organizations, give us condoms and teach us all the time about AIDS... Ask us if we have the power to demand condom use from our clients. Look at me, you see a woman, but my boss sees dollars; an extra payment to my boss, and the client does not wear a condom. If I protest, I receive a beating. If I die tomorrow no one cares; there are many other girls who will be tricked and trafficked like me..."*¹⁸⁷

Extent of Sexual Trafficking

The number of girls and women¹⁸⁸ sexually-trafficked in Cambodia is impossible to document, but there is considerable evidence that it is a massive problem noted for its rapid growth in recent years. Prostitution has boomed since the opening up of the country after the Paris peace agreements of 1991. Prostitute numbers in 1994-96 were estimated at around 13,000-14,000; today, they are put at 20,000-30,000 or as high as 50,000-55,000 nationwide.¹⁸⁹

Some are in prostitution voluntarily, or were originally sold into the trade but remain in it (even if able to leave) for reasons of economics, fear of social stigma if they return to their villages, and so on. The majority of prostitutes in forced or voluntary prostitution today are believed to have been originally trafficked.¹⁹⁰ Studies in 1993-94 showed that about half of girls and women surveyed were forced into prostitution¹⁹¹; of the remainder, most became sex workers because of poverty, or after leaving their homes because of assaults, rapes or conflicts.

¹⁸³ Associated Press, "1,700 youngsters 'will die from Aids over next year'", published in *South China Morning Post*, August 11, 1999.

¹⁸⁴ Gina Chon & Sovirak Chea, "Mothers, Children Growing Victims of AIDS", *Cambodia Daily*, December 1, 1999.

¹⁸⁵ Associated Press, "1,700 youngsters 'will die from Aids over next year'", published in *South China Morning Post*, August 11, 1999.

¹⁸⁶ Ministry of Health HIV surveillance studies, 1995-96; James Chin, "1996 HIV Surveillance Data – Cambodia", Family Health International/AIDSCAP, October 1996. See citations in Physicians for Human Rights, "Commercial Sexual Exploitation...", 1997 (pp.4-5).

¹⁸⁷ Chan Dina, Sex Workers Union of Tuol Kork, speech to the First National Conference on Gender and Development in Cambodia, Phnom Penh, September 7-9, 1999.

¹⁸⁸ There is also sexual exploitation of boys, particularly by pedophiles who prey on street-children. Such abuse of boys is conducted in a different manner from girls and women; they are rarely detained in brothels but usually solicited on the street.

¹⁸⁹ See Keo Keang, "Causes and Evolution of Trafficking", Oxfam Hong Kong, and Oung Chanthol, "Current situation of women in Cambodia", Cambodian Women's Crisis Center, in "Looking Back: Moving Forward – Proceedings of the First National Conference on Gender and Development in Cambodia", Phnom Penh, September 7-9, 1999.

¹⁹⁰ Ibid.

¹⁹¹ See UNICEF, "Trafficking...", 1995 (p. 6 and Appendix 2).

In 1998, a total of 177 sexual trafficking cases (the majority of them in Phnom Penh) were recorded by the CWCC, involving 486 victims (339 adults and 147 children).

Younger victims

As trafficking and prostitution has grown, the age of victims has dropped. A Cambodian Women's Development Association (CWDA) survey in 1992 found the minimum age of sex workers was 18, which had dropped to 15 when the next survey was done in 1993; in 1994-95, surveys by CWDA and Human Rights Vigilance of Cambodia found that 30-35% of prostitutes interviewed were aged 17 or younger.¹⁹² Girls aged 12 or 13, or as young as 9, have been reported in brothels, serving as many as 10 customers a day.

Romanee, a 13-year-old orphan, has a confused history, but it seems that she was sold a brothel in Poipet [on the Thai border] at the age of 9. She says she cried and shouted loudly when raped by her first customer, so was gagged with a scarf. She also cried with subsequent customers but was given "a medicine to relax...two medicines to take per week".¹⁹³

In September 1995, the beating to death of a 15-year-old girl in a Battambang brothel led to police raids on 26 brothels. A total of 236 prostitutes were freed, of whom 62 were aged under 18. Forty of the 62 said they were forced into prostitution. Of 39 of the child sex workers interviewed by Licadho, 38% reported being abused by brothel owners; methods cited included being beaten with electric wires, pieces of wood and plastic tubes, receiving electric shocks and being doused with battery acid.

The apparently decreasing age of victims reflects the 'virgin industry' within prostitution; virgins are prized by customers and attract a higher price, encouraging traffickers and *maebon* to find younger girls to purchase or kidnap. The virgin industry may also be partially attributable to the HIV-AIDS epidemic; customers may believe that it is safer to have sex with children.

International trafficking

The sex trade spans Cambodia's borders, particularly with neighbouring Vietnam and Thailand; foreign prostitutes are trafficked into the country, and Cambodian ones are sent abroad. For a sexually-trafficked girl or woman taken outside their home country, their dependency on their *maebon* is that much higher, and opportunities for escape conversely much lower. While the majority of prostitutes in Cambodia are believed to be Khmer, there are also Vietnamese (in particular), Chinese and other nationalities. Some redlight areas, such as Svay Pak in Phnom Penh, are largely comprised of Vietnamese sex workers. While some may have come voluntarily to Cambodia for economic reasons, others – including very young girls – are trafficked. As for the trade out of Cambodia, a 1995 study by Human Rights Vigilance concluded that about 25% of sex workers may eventually be sold to another country¹⁹⁴. Thailand is one of the main destinations; the key Cambodian transit points to Thailand are the southwestern province of Koh Kong and the town of Poipet in the northwestern province of Banteay Meanchey.

B. INVOLVEMENT OF STATE FORCES

The flesh trade is a lucrative business and, like most lucrative businesses in Cambodia, is controlled by people with weapons and influence. Police, military police, army and other State personnel are deeply enmeshed in the trade, actively running or protecting trafficking rings and brothels.

"There is a growing and increasingly powerful and well connected network of buyers, middlemen and brothels supporting this illicit trade," the UN human rights representative warned of the child sex trade in January 1997. "Judges, local authorities and even some high ranking government officials admit that much of this trade is carried out by, or with the complicity or the protection of, senior police or military officials. This business is carried out openly and in full knowledge of the authorities."¹⁹⁵

¹⁹² Ibid. (p. 4 and Appendix 2). The statistics on child sex workers are likely to be under-reported, given that all such surveys are based on interviews with prostitutes; younger prostitutes are likely to be kept locked away, or otherwise prevented from speaking to interviewers, by brothel owners.

¹⁹³ World Vision International, Cambodia, "Regaining Honor: Cambodian Children's Experiences in Prostitution, and After", March 1996 (p. 19).

¹⁹⁴ Keo Keang and Im Phally, "Notes on the March-April 1995 Rapid Appraisal of the Human Rights Vigilance of Cambodia on Child Prostitution and Trafficking", Human Rights Task Force (p. 4).

¹⁹⁵ "Situation of human rights in Cambodia...", UN Commission on Human Rights, January 31, 1997 (paras. 48-49).

In 1998, two human rights workers, one from Licadho, were eating dinner with a provincial official at a popular restaurant in Koh Kong. The restaurant owner approached the official with an offer to sell him a 14-year-old virgin. The official declined. The owner continued from table to table, and various customers began bidding for the girl. It was like an auction. The girl, who was in fact being sold by her mother through the restaurant owner, was present. The rights workers sought the advice of the provincial official with whom they were dining on how to secure the rescue of the girl. The rights workers discussed the various State agencies – the provincial police, military police, army headquarters, etc – which could be approached for help. The official responded by pointing out, one by one, senior chiefs of all those agencies who were present at the restaurant at the time and who were actively involved in bidding for the girl. As such, there was no authority which would help to free the girl, he said. The rights workers then contemplated buying the girl themselves, but did not have enough cash on them. Eventually, a policeman won the bidding. He bought the girl for around \$500.

Senior officials have also been implicated in the running of brothels where children are offered.

In Koh Kong province in 1998, large-scale prostitution of children and young women took place in a newly-built hotel owned by a high-ranking government official. Most of the clients were soldiers.¹⁹⁶

Invariably, brothel owners either have to be powerful people themselves, or pay off local police and other authorities for protection.¹⁹⁷ In Svay Pak commune of Phnom Penh, one of the capital's large brothel districts, "the brothels are directly protected by commune military, district gendarmerie and commune police for the simple reason that they are paid money by the brothel owner every month," noted a 1997 report by the National Assembly's human rights commission. "This example is not only to be found in Phnom Penh but can be seen in almost every province in the country."¹⁹⁸

The National Assembly report continued: "As for common citizens, they tend not to dare to open brothels because they have neither power nor weapons. According to interviews with the Police Commissioners of Sihanoukville, Koh Kong and Battambang, the job of protecting and opening a brothel is a very complicated one which ordinary people cannot do: only the powerful or armed people are able to protect and lend their names to [...] brothels."

In August 1996 an NGO worker convinced police to raid a brothel, one of many known to offer young virgins trafficked from Vietnam, in Svay Pak, Phnom Penh. Four girls, aged 8-12, were rescued. The brothel was closed for less than a day; no charges were laid. Nearly a year later, in May 1997, a consultant employed by End Child Prostitution in Asian Tourism (ECPAT) International requested another police raid on the same brothel. A local police chief agreed to provide five police to go with the ECPAT consultant to conduct the raid; the policemen were not told in advance where they were going. Upon arrival, the policemen pushed aside two girls, allowing them to escape, as they entered the brothel. A third girl was helped to escape out a brothel window by a police officer, according to witnesses. Four additional girls, all minors, were rescued. The reason for the police allowing the other girls to escape soon became apparent: two of the policemen who participated in the raid were part of the brothel's operation, according to the four rescued girls. According to one girl, one of the policemen had brokered her original sale to the brothel; a contract between the girl's mother and the brothel pimp had been signed by the policeman as a witness to its 'legality'. Meanwhile, the female pimp, who was arrested and taken to the local police station, was seen to approach the two policemen and angrily demand: "Why didn't you tell me they were coming? Why didn't you warn me?"¹⁹⁹

¹⁹⁶ "Situation of human rights in Cambodia...", UN Commission on Human Rights, February 20, 1998 (para. 126).

¹⁹⁷ Brothel owners in Kompong Cham and Kompong Som reportedly stated that they usually pay \$150-200 to policemen to avoid "disturbances"; in Svay Pak, Phnom Penh, it is the practice to give \$600 to the police to open a café or bar offering prostitution services, and then \$100-200 per month thereafter. See "Situation of Human Rights in Cambodia...", September 17, 1998, (para. 123).

¹⁹⁸ National Assembly Commission on Human Rights & Reception of Complaints, "Report on the problem of sexual exploitation and trafficking in Cambodia", May 1997 (pp. 14-15).

¹⁹⁹ Gary Way, "Children of brothels: the long road to rescue", *Phnom Penh Post*, May 30-June 12, 1997.

Such a case, in which a successful police raid was orchestrated, is exceptional. Given the complicity of police and other officials in the sex trade, efforts to enforce the law and prosecute sexual traffickers and torturers have only been of limited success. The police are generally reluctant to respond to requests to arrest traffickers and *maebon*; if they agree, the perpetrators are often tipped off and have disappeared by the time the police arrive. If arrested, suspects are frequently later quietly released, either by the police or courts; the sex trade is profitable, and most offenders can afford to pay to escape the law.²⁰⁰

CHAPTER 12. NON-SEXUAL HUMAN TRAFFICKING

The trafficking of humans occurs not only for sexual purposes, but also for manual labor and other jobs. The prime destination for Cambodian victims is Thailand, where some are put to work in slave-like conditions, overworked, underpaid and physically or mentally abused. Some are fed drugs to make them work harder. Arrest by Thai police is always a danger for Cambodian workers; beatings and rapes by the police have been reported.²⁰¹

Migration to Thailand has boomed in recent years; thousands of Cambodians go there each year. Many go voluntarily, in the hope of escaping their poverty and getting decent jobs, but others are lured, deceived or sold to Thai middlemen and employers. There are many similarities with sexual trafficking. On the Cambodian side, the recruiters and traffickers prey on the vulnerable poor, luring them with the prospect of lucrative jobs. Children, too, are targets. There is a large ‘begging industry’ in Thailand, in which foreign children, as well as elderly or handicapped people, are put to work collecting money for organized rings.

There are an estimated 82,000 illegal Cambodian workers in Thailand²⁰², but the proportion of them who were trafficked or who end up in enforced labor is unknown. “Cautious official statistics” show that there are at least 500 Cambodian children living in the streets of Thai cities, begging or doing other work for their masters. About 400 Khmer children a month are deported back to Cambodia, the majority of whom were allegedly exploited by traffickers and subjected to threats, violence or abusive labor conditions.²⁰³

Many adult Cambodian migrants go voluntarily, paying large amounts of money (\$80 or more) to middlemen to be taken to Thailand and given jobs²⁰⁴. Many are cheated, and abandoned along the way, while others end up in poorly-paid jobs with harsh conditions – usually as construction workers, fishing boat crew, ferry porters or at manufacturing and food processing firms.²⁰⁵

Ferry porters, who unload boats at Thai ports, may work for up to 24 hours at a time, forcing almost all to take drugs such as amphetamines. Some report that their employers put drugs in their water; when the porters become addicted, they then have to buy the drugs themselves. After about a year of intensive drug use, users reportedly become mentally unstable and physically weak.²⁰⁶

For other Cambodians who get jobs on fishing boats, some may be treated simply as slaves.

On the advice of a middleman, Sek Vy, 25, went to Thailand and got a job on a fishing trawler in mid-1999. The Thai captain promised him a good salary. After five days at sea, Vy learned that he had been “sold” to the ship as unpaid, indentured labor. “The ship’s captain told me

²⁰⁰ See Chapter 21 for more on the lack of law enforcement against sexual trafficking.

²⁰¹ Chan Sophal & So Sovannarith, “Cambodian Labour Migration to Thailand: A Preliminary Assessment”, Cambodian Development Resource Institute, June 1999 (p. 9).

²⁰² “Trafficking and Labour Migration Movements within and across the Borders of Cambodia”, International Organization for Migration, paper presented to the First National Conference on Gender and Development in Cambodia, Phnom Penh, September 7-9, 1999.

²⁰³ Ibid.

²⁰⁴ Chan Sophal & So Sovannarith, “Cambodian Labour Migration to Thailand: A Preliminary Assessment”, Cambodian Development Resource Institute, June 1999 (p. 8).

²⁰⁵ Ibid. (pp. 6-8).

²⁰⁶ Ibid. (pp. 9-10).

that he had paid a lot of money for me so I wouldn't get any money for the work I did." Vy and a Khmer co-worker were treated badly. "We were cursed, beaten and kicked by the captain and crew every day, for no reason." After a few more days, "the captain started saying that we would soon be thrown off the boat and that he and the other Thais would all give us a phou [strangulation with fishing rope] before throwing us off." After one of the Thai crew told Vy that it was almost time for him to be killed, he took desperate action; he jumped overboard, with no land in sight. After 12 hours of floating, a passing ship picked him up. Vy eventually made it back to his home village in Siem Reap province, vowing never again to go in search of easy money.²⁰⁷

The problem is not limited to Thailand; some Cambodian labor migrants suffer abuse further afield. Cambodian women sent to Malaysia, to work as domestic maids, have reportedly been beaten, slapped or kicked, and detained for long periods in locked rooms with minimal food.²⁰⁸

As with the sex trade, other forms of human trafficking appear to benefit from the protection or participation of police or other officials. In late 1997, human rights workers exposed a trafficking ring based in Koh Kong which allegedly supplied teenage boys and young men to work in fishing, forestry or other industries in Thailand. Some of the victims were, while in Koh Kong awaiting transportation to Thailand, allegedly fed with sedatives, to keep them docile. On the other side of the border, they were allegedly fed with amphetamines, to make them work harder.²⁰⁹

Investigations revealed that the existence of the network was well-known in Koh Kong, and that other victims, including children, had been previously found, but no action was taken by the authorities. The police commissioner reportedly acknowledged that some of his policemen were involved in the trafficking, but that they had fled to Thailand.²¹⁰ No one was brought to justice over this case.

CHAPTER 13. DOMESTIC VIOLENCE

Domestic violence is rarely equated with the term torture, simply because it involves violence usually committed in the home by a relative of the victim. Domestic violence, in Cambodian and elsewhere, is a unique problem requiring unique solutions, and should be treated as such. But to exclude domestically-abused children and women from consideration as torture victims is to risk ignoring what may well be one of the most common forms of torture practiced in Cambodia today.

There are some clear parallels between 'torture' (as most people would define it) and severe domestic violence. Both scenarios invariably involve someone in a position of authority (most often a husband, in the case of domestic violence) inflicting repeated violence on someone whom they consider to be under their control. There is also usually an element of confinement; victims of domestic violence are often tied or locked up, but in a house rather than a police station or elsewhere. There are, of course, many differences: domestic violence victims may not be detained 24 hours a day, but free, at least in theory, to come and go. For them, however, financial, cultural, social and family pressures for them to remain with their abusers can be as big a barrier, or an even greater one, as a locked door.

While not all domestic violence necessarily constitutes torture, the available studies on the issue reveal that some of it undoubtedly does.

"He beats me every day. Sometimes he ties my arms behind my back and whips me with a rope. If I cry or call for help, he will hit me more. I get bruises and sometimes I bleed. I have many, many scars on my legs. There are so many stories, so much violence. Once he pulled a piece of burning firewood from the stove and...swung it into my back with all his might. It

²⁰⁷ Chea Sotheacheath & Phelim Kyne, "Khmers escape slavery at sea", *Phnom Penh Post*, October 15-28, 1999.

²⁰⁸ Chea Sotheacheath, "Cambodian maids beaten and detained in Malaysia", *Phnom Penh Post*, September 18-October 1, 1998; "Situation of human rights in Cambodia...", UN Commission on Human Rights, February 26, 1999 (para. 88).

²⁰⁹ "Situation of human rights in Cambodia...", UN Commission on Human Rights, February 20, 1998 (paras. 138-143); see also Eric Pape, "Victims rescued as Thai slave labor ring exposed", *Phnom Penh Post*, December 19, 1997-January 1, 1998.

²¹⁰ *Ibid.*

hurt so much when it burned my back. I still have this ugly scar... [Another time] he took a metal bar that is used to construct houses and thrashed me with it. He knocked me unconscious with about five blows. Then, he locked the door and he smashed the plates and broke the pots and pans. He took an axe and chopped the column of our thatch house until it broke. While I was unconscious, he poured kerosene on my belongings around the house and he set it all on fire. As I started to wake up, I smelled the kerosene and saw the flames jumping from my bed mat. When my neighbors saw the smoke and the fire, they came to rescue me.”

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Sopheap was locked in her windowless apartment for days on end by her soldier husband, who repeatedly beat her. When her husband begins a session of torture and abuse, Sopheap is not allowed to speak. It only enrages him more. He closes the door to the apartment so that no one can hear her screams. Their children are held witness, but cannot help. They are terrified of their father. Sopheap is beaten with electrical cords, fan belts – whatever object he first lays his hand on.

• • •

“I saw him grab for the plastic rope. He whipped me and whipped me and just kept whipping me with the rope. He whipped me all over my body. I couldn’t stop crying and he wouldn’t stop whipping me until finally I fell onto the ground and asked him, ‘Will you whip me and let me live, or are you going to whip me until I die?’. He told me: ‘I’m am going whip you until you are dead’. I tried to plead with him not to kill me... Then he put the rope around my neck. The plastic cut into my skin. He dragged me out of the house by the rope. Sliding through the dirt, my sarong slipped off and left me bare. I thought I would die of shame.”

The above examples are taken from a 1994 qualitative study, “Plates in a Basket will Rattle”, which revealed the “breathtaking” intensity of physical and sexual violence against woman in the home.²¹¹ During the research, the authors learned of at least 10 women who had died as a result of beatings, including one who had her head nearly chopped off with an axe and left to die in a ricefield. One woman (the last example cited above) – whose back was full of cuts, bruises and scars from being beaten with both a plastic rope and a chain – killed herself a month after being interviewed.

Extent and severity of domestic violence

Domestic violence is widespread in Cambodia, according to a subsequent quantitative study, the first such one in Cambodia.²¹² Sixteen percent of all women surveyed – or roughly one in every six women – suffered physical abuse by their husbands; and 10% of men surveyed reported that they physically abused their spouses.²¹³

Of the women who were abused, one half had sustained injuries. More than 50% of reported injuries were to head or face (head injuries, black eyes or broken teeth).

Slaps, blows to the head with knuckles and hair-pulling were the most commonly used forms of domestic violence. However, 32% of abused women (and 52% of those who suffered injuries) had been hit with an object, such as farm tools, bamboo and rattan canes, firewood, metal pipes, pots, pans and plates.

The prevalence of weapons in Cambodia was highlighted by the finding that 22% of abused women (and 36% of those injured) had been threatened with a knife or gun (and almost 4% and 6% had been actually stabbed or shot at).

²¹¹ Cathy Zimmerman, Sar Samen & Men Savorn, “Plates in a Basket will Rattle: Domestic Violence in Cambodia”, December 1994. The title refers to a Cambodian proverb used to explain family problems, and that they are ‘normal’ and to be expected.

²¹² The Household Survey on Domestic Violence, conducted by the Project Against Domestic Violence (PADV) and the Ministry of Women’s Affairs. The survey sampled 1,374 women and 1,286 men in Phnom Penh and six provinces in May 1995.

²¹³ These figures, according to the survey authors, are likely to be conservative, given that both victims and perpetrators may be reluctant to acknowledge domestic violence. An interesting comparison figure is that 73.9% – or more than seven out of 10 – of all the men and women interviewed reported that they knew of at least one family with domestic violence.

Twenty percent of abused women (and 34% of those injured) had been hit repeatedly, or “beaten up”; five percent of abused women (and 9% of those injured) had been “tied up and hit”.

Children are also victims of domestic violence. More than 7% of all women surveyed (and 28% of abused women and 36% of injured women) stated that their spouses hit their children after a spousal conflict.

More than 70% of all women and 57% of men believed that is right to hit their children as a disciplinary measure; abused women and abusive men were more likely to believe that.

At least three women were killed by their husbands, 58 assaulted by their husbands, and seven women killed and six wounded by other domestic violence, in 1998, according to the Cambodian Women’s Crisis Center. There were at least 32 suicides of women following the use of violence against them. The figures are conservative, representing only cases known to the CWCC.²¹⁴

Lack of action

Domestic violence in Cambodia, as in many other countries, is widely seen as a family affair and not a crime. As one wife-batterer shouted at a police officer who told him to stop his violence: “It’s none of your business. I’m only hitting my wife.” The police officer did nothing more.²¹⁵

The police, courts and other authorities do not take domestic violence seriously. In practice, they believe that existing offences under Cambodian criminal law – such as physical assault and rape – do not apply to domestic violence situations. They are wrong, as the law makes no such exception.

The 1994 *Plates in a Basket will Rattle* report on domestic violence graphically illustrated the official attitude toward domestic violence. “Hitting a family member is never a crime because the husband sometimes gets angry and then they love each other again,” one policeman told the report’s authors. Said another: “Whipping is not a crime because some husbands use this method to teach their wives a lesson. Domestic violence is a common thing. The couple needs to be friends again. If the police know that there is [domestic] violence, they say ‘don’t do that again’ and if it happens again, they say it again.” A judge, asked what he could do to help a battered woman, replied: “A judge can assist only according to what his job permits. If a woman is bleeding and uneducated, I can have someone bring her to hospital.” Regarding spousal rape – a common feature of domestic violence – one judge volunteered the opinion that: “To say that a husband raped a wife is really not possible, not true... because this is a marital problem. If another man rapes her, this is a crime and can be sentenced from between five to ten years [imprisonment].”²¹⁶

By failing to protect victims and punish perpetrators, the authorities become accomplices to domestic torture; they permit it to occur with impunity.²¹⁷

It is not just a lack of legal protection which battered women and children face. Social and family pressures and stigmas – such as the shame of the family breaking up, concern for their children’s welfare, financial dependence on their husbands and lack of anywhere else to go – serve as barriers to women who want to leave abusive husbands.²¹⁸

Domestic violence, although a unique problem, has many similarities to other forms of torture: the infliction of physical and emotional abuse in circumstances that are officially accepted or ignored. Indeed, because domestic violence involves a family member and usually takes place within the victim’s home, the consequences and dangers of it are that much greater, and more difficult to avoid.

²¹⁴ Cambodian Women’s Crisis Center, “Statistics of monitoring program: January – December 1998”.

²¹⁵ Cathy Zimmerman, Sar Samen & Men Savorn, “Plates in a Basket will Rattle...”, 1994 (p. 143).

²¹⁶ Ibid. (Appendix B)

²¹⁷ For more on legal issues surrounding domestic violence, see Chapter 21, Torture Victims & the Law.

²¹⁸ For more on the psycho-social and economic effects of torture, and social attitudes which encourage women to remain in abusive relationships, see Chapter 16, Section C.

PART IV: HEALTH AND SOCIAL ISSUES

“Anyone who has been tortured remains tortured... anyone who has suffered torture will never again be at ease in the world; the abomination of the annihilation is never extinguished. Faith in humanity, already cracked by the first slap in the face, then demolished by torture, is never acquired again.”

– Jean Amery, Jewish intellectual and survivor of Auschwitz, in his memoir “At the Mind’s Limits”. Amery committed suicide in 1978.²¹⁹

Torture does not end when the torturer ceases his work. For the victims, the physical and psychological (as well as social and economic) consequences of torture continue for weeks, months and years. Indeed, while some symptoms may be able to be relieved, the experience of torture never fully leaves a human being. Torture survivors may see themselves as ‘the living dead’, or their lives as a ‘living hell’. Our understanding of that hell relies upon the expression of it by torture survivors, many of whom find that words are not enough to describe it. As Jean Amery also remarked, “Torture is the most horrible event a human being can retain within himself,” and he added that: “The howl of pain defies communication through language.”²²⁰

Any attempt to summarize the consequences of torture (particularly by someone who is not a torture survivor) must begin with the acknowledgment that the explanation will be grossly inadequate; torture and its effects cannot be neatly described and understood. Certainly, the physical symptoms of torture are far easier to express than the psychological effects. Unfortunately, it is the latter which is frequently the most debilitating.

CHAPTER 14. PHYSICAL SYMPTOMS OF TORTURE

The effects of beating and kicking – the most common torture method in Cambodia and around the world – are the same as for any traumatic injuries, such as those suffered by accident, for example. They may include fractures, dislocations, lacerations, bruises, concussions, injuries to muscles, tendons, joints, nerves and blood vessels, etc. In beatings to the head, the eyes, ears, nose and teeth are particularly vulnerable. Internally, there can be hemorrhaging and damage to organs. Death, of course, can result from beating.

For survivors, the longer term effects of beatings and other torture can include: lung or other infections such as tuberculosis (from being detained in unhygienic conditions, etc); spine injuries (from being kept or forced into unnatural positions, or from whiplash syndrome caused by sudden movement of the head); and headaches (tension, concussion or whiplash). Rape/sexual torture can cause urogenital or anal wounds or infections, infection with the HIV virus or other sexually-transmitted diseases, etc. Electric torture can cause muscular lesions, and potential brain damage from convulsions (during the torture). Torture (particularly whipping, beating, electric shock) may cause temporary or permanent scarring.

International research

The most common long-term physical symptoms cited by torture survivors relate to the musculoskeletal system – muscles, tendons, nerves, joints and other tissues – according to foreign studies.²²¹ About 90% of survivors studied complained of such symptoms, and their complaints were generally corroborated by medical examination. Neurological complaints, such as impaired memory or concentration, dizziness and tiredness, were cited by 85% of survivors (most commonly by those who had been knocked unconscious); however only about half of them had objective medical signs of damage to the nervous system. Heart symptoms, such as stabbing pains, palpitations and breathing

²¹⁹ Citation is taken from David Chandler, “Documenting Torture in Pol Pot’s Secret Prison”, presented at the University of Chicago conference *Investigating and Combating Torture*, March 4-7, 1999.

²²⁰ Ibid.

²²¹ Juhler, 1993 and Juhler & Smidt-Nielsen, 1995, cited in Lone Jacobsen & Knud Smidt-Nielsen, *Torture Survivor – trauma and rehabilitation*, International Rehabilitation Council for Torture Victims, 1997 (pp. 63-68 & 90).

difficulties, were reported by about 75% of the survivors, but were rarely supported by pathological medical findings. Gastrointestinal complaints, such as ulcer-type symptoms, nausea, vomiting and weight loss, were cited by 70%; in only 30% of the cases, however, were the complaints supported by medical findings.

Except for musculoskeletal symptoms and, to some extent, neurological ones, there is a large discrepancy between the complaints of survivors and medical findings. This indicates a high level of psychosomatic complaints (those thought to be caused or aggravated by psychological stress).

The Cambodia experience

No medical studies have been conducted on torture victims in Cambodia. However, many torture victims seen by Licadho's medical team²²² cite similar symptoms. Headaches, pain in the joints and muscles, chest pains and breathing difficulties are the most common longer-term complaints reported by survivors, according to Licadho medical staff.

In the shorter term, some of the most common specific torture injuries seen by the medical team include:

- Open wounds, bruises and lacerations from beating (with hands or with weapons, which are most often sticks, batons or guns) to the head, frequently on the scalp or around the eyes and chin. Often such wounds required stitching, but because of delays in medical treatment, have not received them; they usually heal into ugly scars.
- Bruises and lacerations to the head, legs and elsewhere from kicking (often with boots).
- Pain and swelling to the arms and legs from beating and kicking; bruises on the upper hands and wrists, from victims' attempts to shield themselves, or to the wrists and ankles, from handcuffs or shackles.
- Lacerations, particularly on the back but also elsewhere, from whipping (most often with pieces of electric wire).

Other torture methods, and their consequences, seen by the medical staff include:

- Electrical shock: Victims' testimonies (which usually refer to electric batons as the weapon) are often corroborated by small marks of brown discoloration on their skin, which can be permanent.
- Rape and other sexual torture or mutilation: The rape or repeated rape of women in prisons, or by police, soldiers, civilians or as the result of sexual trafficking has been widely reported. Associated urogenital disorders have been treated, and some victims (particularly in the sex trade) have tested HIV-positive. One man with severe lacerations to his penis, inflicted by torture, has been treated.
- Near drowning or suffocation: Several detainees in police or prison custody have reported being nearly-suffocated with plastic bags, although this is difficult to corroborate medically; victims who had been nearly-drowned in water soiled with urine and faeces were seen in the aftermath of the July 1997 intra-government fighting.
- Limb-crushing: Several victims (tortured in official custody) have been seen with wounds to their feet or lower legs from this form of torture.

Broken bones and ribs, as well as miscarriages (by pregnant women struck in the stomach), are among the more serious injuries of torture victims seen by Licadho's medical team. Some, but relatively few, cases of permanent and serious physical disability caused by torture in official custody have been reported to Licadho staff. They include an alleged robber, aged 24, left deaf in one ear from a beating during interrogation by police in Kompong Speu, October 1995, and a murder suspect, aged 34, blinded in one eye by police interrogators in the same province, January 1996.

²²² The medical team has treated torture survivors (and victims of other violence), inside prisons and outside, since 1994. It has also participated in exhumations of the bodies of people tortured before death.

CHAPTER 15. PSYCHOLOGICAL SYMPTOMS OF TORTURE

Fear, anxiety, depression, guilt, shame, distrust and suspicion, insomnia, nightmares, flashbacks – the words are just labels, and fail to sum up the extent of psychological debilitation that is frequently caused by torture. “I can never be what I was before,” is a common belief of torture survivors abroad.²²³ A survivor has often not only had their faith in fellow human beings shattered – as one World War II torture survivor described it, “A crack went through the image of God”²²⁴ – but has also lost trust in him or herself. Many survivors feel that their identities, or personalities, have been irrevocably changed.

Psychological reactions to torture may begin immediately, or take months or even years to manifest. Often survivors will repress their memories of the experience, and seek to ‘get on with life’. Survivors have been seen to function for years following torture and then suddenly break down and even commit suicide.²²⁵

International research

The majority of torture survivors (up to 90%) are believed to suffer chronic psychological symptoms.²²⁶ Clearly, not all torture survivors suffer the same. A variety of factors – age, sex, ethnicity, education, childhood difficulties or trauma, previous psychiatric disorder – are assumed to influence a person’s psychological reaction to torture. A firm religious or political ideology may help recovery, as it may be easier for the victim to understand and rationalize the torture experience.²²⁷ Obviously, the circumstances of torture – the severity of physical torture and whether it was accompanied by specific psychological methods, and/or sexual abuse or humiliation – is a critical factor.

More than a dozen overseas studies have similarly identified common psychological effects of torture, including: anxiety; depression, irritability/aggression; mood swings; self-isolation/withdrawal; confusion/disorientation; memory, concentration and reading impairment; lack of energy; insomnia; nightmares; sexual dysfunction.²²⁸

The following explanations of common psychological symptoms comes from the Rehabilitation Center for Torture Victims in Denmark²²⁹:

- Anxiety, sleep disturbances and nightmares: Anxiety is present almost daily, and can be worsened by sights which remind the victims of the torture – small rooms, men in uniforms, etc. Anxiety can include flashbacks, where the victim loses touch (partially or completely) with reality, and is transformed back to their torture experience. Nightmares about the torture are common, and may make survivors afraid of falling asleep; they may get only a few hours sleep a night. When they do sleep, nightmares may wake them and, frightened and insecure, the cycle of anxiety continues.
- Guilt: Torture survivors, along with victims of war and other violence, often feel guilt for having survived (particularly if others did not). They may also feel guilty for providing a confession or other actions or responses during torture; the guilt is exacerbated if family, friends or colleagues suffered because of their detention and interrogation.
- Shame: Survivors of sexual torture or other humiliations often feel shame, guilt, loss of dignity; they may even blame themselves for “taking part”.
- Impaired memory and concentration: These are very alarming for survivors, who fear the torture has destroyed their brains. Anxiety, nightmares and other stresses may cause, or contribute, to these impairments.

²²³ Lone Jacobsen & Knud Smidt-Nielsen, *Torture Survivor – trauma and rehabilitation*, International Rehabilitation Council for Torture Victims, 1997 (p. 124).

²²⁴ Peter Vesti & Marianne Kastrup, “Treatment of Torture Survivors: Psychosocial and Somatic Aspects”, Chapter 14, *Traumatic Stress: From Theory to Practice*, Plenum Press, 1995 (p. 348).

²²⁵ Vesti & Kastrup, “Refugee Status, Torture, and Adjustment”, Chapter 9, *ibid.* (p. 223).

²²⁶ Reid & Strong, 1987; cited in Jacobsen & Smidt-Nielsen, *Torture Survivor* (p. 55).

²²⁷ Peter Vesti, Finn Somnier, Marianne Kastrup, *Psychotherapy with Torture Survivors*, Rehabilitation and Research Centre for Torture Victims, Denmark, 1992 (p. 31).

²²⁸ Metin Basoglu, “Torture as a Stressful Life Event: A Review of the Current Status of Knowledge”, Chapter 3, *Clinical Disorders and Stressful Life Events*, International Universities Press, 1997.

²²⁹ See *Torture Survivor*, 1997 & *Psychotherapy with Torture Survivors*, 1992.

- Self-isolation: Having lost self-respect and confidence in others, victims may withdraw socially.
- Changed personality: Many survivors report a feeling of changed identity, particularly if they were active or extrovert before the torture but end up the opposite afterward.

As previously noted, some of the physical symptoms (such as heart complaints or stomach disorders) cited by torture survivors are believed to be psychosomatic. Such symptoms, and others, are often inter-related, causing and contributing to each other. Survivors' inability to recognize their psychological reactions adds to the cycle of anxiety and fear.

Many foreign studies on torture victims have focused on Post Traumatic Stress Disorder (PTSD), a concept used to diagnose and classify the psychological symptoms of severe trauma. To be diagnosed as having PTSD, a person must suffer a certain number of categorized symptoms (including many of those cited above); the criteria itself (see *Appendix 2 of this report*) is a useful summary of the psychological reactions associated with trauma.

The definition and use of PTSD as a diagnostic tool is controversial, both in regard to torture victims and other trauma survivors. Criticisms of it include that it is applied internationally (taking no account of cultural differences in reactions to trauma), and that it groups all types of trauma (torture, accidental injury, natural disaster, war, violent crime, etc) together. The PTSD criteria includes many, but not all, of the symptoms of torture survivors; were it to be used for the purposes of providing compensation for victims, for example, some survivors would likely be excluded.²³⁰

The Cambodian experience

The bulk of the small but growing body of research on torture has been conducted in developed countries, involving the treatment and study of refugees or exiles who were tortured in their home countries, often years earlier. In Cambodia, specific study of the mental health consequences of torture is lacking. Comparisons, for instance whether the psychological trauma is lesser or greater for torture victims who remain in their countries than for those who flee abroad, are impossible to make.

Common psychological symptoms described by torture victims to Licadho medical and investigation staff include:

- Fear, often for no reason or even if the person knows they are in a safe place
- Anxiety/worry (often described as *kit chran*, literally translating to 'thinking a lot')
- Headaches
- Chest pains and heart palpitations
- Fever, sometimes described as coming and going in cycles over a long period of time
- Tiredness/lethargy; lack of strength
- Tension/shakiness
- Sleeping disturbances: nightmares, insomnia
- Irritability & anger

Similar symptoms are reported by mental health organizations working with the community at large, including torture and other trauma survivors.²³¹

Many Cambodians, torture victims among them, are more likely to speak of their complaints as physical, rather than psychological. While this may reflect a level of psychosomatic complaints, much the same as is reported among torture survivors overseas, it is also a reflection of the Cambodian culture of health. As one of the few publications on Cambodian mental health notes, it is important to understand the traditional view of illness: "It is not simple to separate mental illness from physical disease. When people do not feel well, they get sick (*chomm ngie*). There is no clear distinction between physical, mental or spiritual problems."²³²

Many torture victims seen by Licadho's medical or investigation staff appear to have symptoms of post-traumatic stress, to varying degrees.

²³⁰ See *Traumatic Stress: From Theory to Practice* (pp. 225-6) & *Psychotherapy with Torture Survivors* (pp. 33-4).

²³¹ See Transcultural Psychosocial Organization, *Community Mental Health in Cambodia*, 1997.

²³² *Ibid.* (p. 44).

A 36-year-old man arrested in Phnom Penh in early 1998 was struck three times in the head with an AK47 rifle and then beaten repeatedly with a rubber baton on his hands, back, legs and head. He provided a confession to robbery, against his will. When human rights workers first saw him in Phnom Penh's T3 prison nine days later, he had swollen ankles, a bruised right eye, and large wounds to his forehead and back of his head. More than a month later, when Licadho medical staff treated him in prison, he complained of chest pains, bouts of pain all over his body, shortness of breath, palpitations and insomnia. These were attributed to anxiety attacks or other symptoms of post-traumatic stress.

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A woman aged in her late 30s was detained for 10 days at a Phnom Penh police station, where she was beaten, whipped with electrical wire and nearly suffocated with a plastic bag. More than a year later, the woman, imprisoned in T3 prison, complained of chest pains, palpitations, weakness, insomnia and repeated nightmares. "At night, I am terrified. When I sleep, I get bad dreams. Or if I am awake, and another prisoner touches me, I am terrified," she said.

Severe psychosis, such as hallucinations, or violent aggression has occasionally, but rarely, been seen by Licadho staff.

A young woman, who had been detained and tortured at a military base, later tried to kill one of her children during a psychotic episode. About a week after her release from detention, the woman tried to strangle her youngest daughter. Her husband saved the child. The woman did not recognize her family members, and thought that her daughters were the soldiers who had tortured her. Her husband sent the daughters to another room. When the woman saw the children looking at her through a window, she grew terrified and screamed: 'There are the soldiers!'. The woman, in her three weeks of unlawful detention at the military base, had been subjected to extreme physical and psychological torture including mock executions and sleep deprivation. She may have been repeatedly raped during her detention, although she later gave conflicting accounts about this.

Suicide

Foreign research indicates that torture survivors appear to have a higher suicide rate than that of comparable populations not subjected to torture.²³³ Attempted or successful suicides by torture victims in Cambodia do occur, but their extent has not been researched.

Attempts at suicide may be made *during* torture, as well as in its psychological aftermath. In Cambodia, deaths in police custody are usually officially attributed to suicide. While independent investigation has indicated the truth to be otherwise in some cases, it is also plausible that other detainees do kill themselves. To some, suicide may be preferable to torture.

Kim Phal, a 29-year-old pregnant woman, falsely accused of theft and detained for six days at a Phnom Penh police station in 1994, was beaten in the head, burned with cigarettes, and deprived of food and water. "I thought you would have hanged yourself already," a policeman taunted her at one stage. Had she remained at the police station one day more, she probably would have killed herself, she stated later.

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A man was detained for 27 nights at a Koh Kong police station, and subjected to severe torture: repeated beatings, electric shock, prolonged shackling and deprivation of food. Once he tried to commit suicide with a pocket knife; a policeman stopped him, pointing a gun at his head and then firing two shots in the air.

It is often difficult to establish whether deaths in custody were suicide or homicide. However, evidence of beating indicates that, even if the official verdict of suicide were true, the police likely caused or contributed to the victim's suicidal psychological state.

Chea Bun Than, aged 30, was arrested without warrant on suspicion of robbery and murder and taken to Kien Svay district police station, Kandal province, on September 24, 1999. A witness who saw him later asked him if he had been beaten. He replied 'yes', but did not

²³³ *Psychotherapy with Torture Survivors* (p. 45).

elaborate. By the next morning, he was dead, having allegedly hung himself, with his hands cuffed in front of him, with his belt. His body bore bruises. Conclusive evidence of whether the death was suicide or homicide was lacking.

For other types of torture victims, such as those abused in the home or in brothels, shame and other social pressures may increase the likelihood of suicide, although evidence to confirm that is lacking. Of the 12 sexually-trafficked girls and women interviewed by Physicians for Human Rights (1997), at least one felt many times that she “did not want to go on living”.²³⁴ Of the 50 domestic violence victims surveyed for “Plates in a Basket will Rattle” (1994), five admitted that they had considered suicide, at least three attempted it and one woman hanged herself a month after the interview.

*Sopheap knew that she could take no more and had nowhere to turn. She explained, “I took the poison that kills the rats.” Not long after, she vomited and knew she had failed. Soon she was back in the rice fields, feeling alone and broken and wondering how much more her heart could endure.*²³⁵

The extent of suicides by Cambodian torture survivors in the weeks, months or years after their torture is unknown. Licadho is not aware of any such cases, but that does not mean there are none. Many torture victims seen by Licadho do express suicidal feelings; it is not uncommon for victims to say that they feel their lives are hopeless or have no meaning, and that they have thought of killing themselves.

Violence

A particular domestic violence-related issue is the killing of perpetrators by their victims. It is not uncommon in Cambodia for abused wives to kill their husbands; many of the women in prisons are believed to be there for this reason, although statistics are lacking.²³⁶

*After years of regularly beatings and rapes – and after several days of particularly brutal rapes – Naly exploded. “I couldn’t stop the memories of all the horrible things he had done to me. I couldn’t stop the flow of those images. I have never been happy in my life since I met him. I went straight into the house with the axe to wake him. I wanted to warn him not to do these things to me anymore. He wouldn’t wake up. He opened his eyes. I closed my eyes and I swung the axe.”*²³⁷

Licadho is not aware of cases of other categories of torture victims, for example those abused in police custody, taking violent revenge on their tormentors. Certainly, however, many victims talk of their desire for revenge against their torturers.

Sen, who along with his wife was severely tortured by a brothel pimp, has repetitive dreams and nightmares, including one in which he visions himself “shooting pimps”.

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Two years after he was tortured by official bodyguards until he was sure that they would kill him, Soheat still hates men in uniforms. He has several times told Licadho staff of his feelings of anger when he sees uniformed policemen on the street; gesturing with his trigger finger, he says he would like to take a gun and shoot them.

Torture survivors seen by Licadho often refer to their irritability, mood swings and sometimes sudden and intense feelings of anger. While there is no evidence that torture survivors generally become more violent, in some cases it is clear that they take their frustrations out on the people around them, particularly family members such as their children.

A 25-year-old divorced mother of two was arrested in her remote Kompong Cham village in March 2000 and beaten unconscious by a policeman. Released without charge, she became depressed, non-communicative and suicidal. She stopped doing any work, which added to her

²³⁴ “Commercial Sexual Exploitation...” (p. 16).

²³⁵ “Plates in a Basket...” (p. 79).

²³⁶ Internationally, there is growing debate about the use of the so-called “Battered Women’s Syndrome” as a legal defense by women who injure or kill abusive partners.

²³⁷ “Plates in a Basket...” (pp. 145 & 189-90).

extreme poverty and lack of food. She soon became increasingly irritable with her brother and sister, who lived in the same village, and grew angry when they provided food to her children. She withdrew her eldest child, a 7-year-old boy, from school and began beating him regularly at home.

CHAPTER 16. PSYCHOSOCIAL AND ECONOMIC EFFECTS OF TORTURE

A. OVERVIEW

As the above example illustrates, it is difficult to divide the psychological reactions to torture from social and economic issues. All are inter-related, causing and feeding each other, in what can produce a continuing cycle of trauma.

On a fundamental level, everyone needs to make a living to survive. Physical and psychological wounds take time to heal, but most Cambodian torture survivors cannot afford the luxury of a slow recovery: they need to work, to support themselves and their families. Physical disabilities, temporary or permanent, can obviously prevent a victim from doing certain types of work. So, too, can psychological symptoms such as depression.

Virtually all victims dealt with by Licadho speak of worries about their economic futures. Several have been unable to find or keep jobs (apparently due to their psychological state), while numerous others experience concentration difficulties, lethargy or weakness while working.

In a poor country like Cambodia, economic concerns are a major source of worry for the majority of the population. For torture survivors, the fear or realization that they cannot work as hard as they used to adds to that worry, in turn creating further anxiety manifesting itself in psychological symptoms. That in turn makes them less able to work; they are caught in the spiral of anxiety.

A critical issue, for the social, psychological and economic recovery of victims, is their ability to reintegrate with their families and communities. Families and communities can provide an invaluable pillar of stability and compassion for a torture survivor, or they can be a reservoir of cruelty and misunderstanding.

Some victims, of course, do not have families (given the number of people who lost their parents or other relatives under the Khmer Rouge regime). For those that do, there may be reasons why they are reluctant to return to the families or home villages. A person tortured after arrest by the local police or military authorities may not want to return to their community, where the perpetrators remain. Political torture victims, in particular, may be afraid of being arrested again if they return home. Stigma – such as fears of being branded a criminal, prostitute or other ‘bad’ person, or of being criticized for not looking after their family – can also prevent victims’ return to their communities. Shame and guilt may be particular barriers to sexually-trafficked torture victims returning to their families and villages.

Obviously, the attitude of a torture survivor’s family is all-important. Many families have suffered severely from torture long before the victim returns home; for people who have been in prison, for example, their families have had to cope (economically, emotionally, etc) without them for some time. The return home may or may not be a happy one. Torture produces stresses within the family: a Chilean study showed an increased divorce rate among torture survivors²³⁸, while several studies have shown that psychological complaints are common among children of the tortured.²³⁹ A survivor’s recovery is likely to be far slower if his or her relatives do not understand or empathize with the torture experience, and the physical and psychological effects of it. “Silence within the family” – torture victims, struggling with their own psychological reactions, may not talk to their spouses or children about their ordeal – is reportedly common, and can contribute to misunderstanding and lack of compassion. In Cambodia, ever-present economic concerns add to all these existing stresses, particularly if a torture victim has ‘failed’ to provide for his family.

²³⁸ Gonsalves, 1990, cited in *Traumatic Stress: From Theory to Practice* (p. 221).

²³⁹ Montgomery et al., 1989 & Cohn et al., 1985, cited in *Torture Survivor* (p. 76).

Socheat, a soldier who was severely tortured for political reasons, separated from his wife after his release. At the time, he was suffering numerous physical and psychological complaints. "My wife used to ask me 'why are you sick so often? Always sick, always in pain'," he explains. A further problem was that Socheat's wife and mother-in-law had, while he was incarcerated, bribed some officials to try to secure his release. After his release, he was unable to pay them back, angering his mother-in-law, in particular. "My mother-in-law said to me 'Don't step inside this house again'." Socheat's wife and mother-in-law also reproached him for failing to earn a decent living to support his family: "They would say to me: 'Other police and soldiers have money to pay their families, so why not you? This is a violation of us, as your family'." Now, says Socheat of he and his wife: "We are separated – I don't go to see her."

B. SEXUAL TORTURE

For victims of sexual torture, the feelings of shame and guilt can be extreme. According to a Cambodian proverb, "Men are gold, women are cloth"; men retain their value even if tarnished, while women, if soiled, are ruined forever. For a woman who has been sexually tortured, returning home brings not only the fear about their relationship with their husbands or other family members, but the prospect of gossip from neighbors and others in the community. They may be accused of provoking or causing their own misfortune; they may even believe that themselves. Furthermore, many sexually-trafficked girls and women were sold by their parents, other relatives or someone else whom they trusted – consequently, their trust in (and expectations of any support from) fellow humans is likely to be destroyed. Feelings of stigma, worthlessness and betrayal may serve to keep sexually-trafficked women in brothels, in the belief that they have no alternative future.

Some psychological insights into sexually-trafficked girls and women, during and after their ordeals, are provided in the case studies included in a 1997 Physicians for Human Rights Report (interviewees are identified by their initial).²⁴⁰

P, a widow with two children, was sold to a brothel at age 23 by a man who promised her a job as a waitress. In the brothel she feels like a slave. She cannot leave. There is no freedom in her life and it feels unbearable. Some of the customers want to be her boyfriend, but she believes they would just sell her to another brothel. P does not trust anyone and fears betrayal again. The men seek her out because she is new and pretty, and the other young women are jealous of her. When she has sex with a client, P says she "goes away in her mind". She pictures her mother and her children. She feels that her soul has left her body, a feeling that first occurred when she realized she was trapped in the brothel. P lives in a constant state of fear. Her heart beats fast and she feels tightness in her chest. She complains that many men are drunk, and she fears being hurt by them. She has dreams of people chasing her and wanting to kill her, and of being in hell. She believes that she has sinned horribly. She feels very damaged and ashamed by having to do commercial sex work. She feels trapped and hopeless about her future.

• • •

Since leaving the brothel one year ago, N [who had been tricked into a brothel on the promise of another job at the age of 16] cannot forget the past but she is not as sad as before. In the beginning, she had frequent nightmares and was plagued by horrible memories of the brothel. Slowly over the ensuing year she has become more hopeful about her future. She enjoys reading and learning, and is studying hair styling. She has sent some money to her mother, but N is helping herself first. She has not told her mother what happened because she feels ashamed and is not yet ready to reveal her story. She fears her mother may blame her or be angry with her, and she fears the reactions of the villagers.

• • •

K was sold to a brothel, at age 16, by her stepmother after her stepfather raped her. He gave her a drug to make her sleep, and she woke up to find that she has been raped. K blames herself for this, because she was not careful while she slept and should not have been in such a deep sleep. She felt that she lost her spirit, that her soul was taken away from her. Her stepmother also blamed her for the rape, because she "did not keep herself safe", and sold her. K was rescued from the brothel after four months. One year later, she still has painful

²⁴⁰ Physicians for Human Rights, "Commercial Sexual Exploitation of Women and Children in Cambodia". The extracts are summarized.

memories of the brothel, but her nightmares have stopped. She enjoys learning to sew and hopes to become a seamstress. She thinks and talks about where she can go, and whether she can be reunited with family members. She is still very angry with her stepfather and blames him for causing her to end up with this life. K is less angry with her stepmother, but is very sad to acknowledge that her stepmother does not really care about her and is still living with her stepfather. She thinks more about what happened with her stepfather than what happened in the brothel.

While some families and communities may be supportive, other victims find that their fears are confirmed.

"They [villagers] look down on me. No one wants to make friends with me. There is only one person who wants to contact me, but that is a bad person like me."

• • •

"My father said that I am his daughter, whether I did something wrong or not. He told me to cook for the pagoda, so I will get merit²⁴¹. My mother said that I am spoiled already, so I should continue to do that [sex] work in order to get money to buy a house. Then nobody would criticise me. She only thinks of money... Sometimes my parents quarrel a whole day because of me."²⁴²

Some victims try to build lives elsewhere, away from their home villages, and try to keep their stories secret from their new neighbours and acquaintances.

"If they know we have been prostitutes, they don't want us to rent their houses. They are afraid that we would infect their children with diseases... They don't know about me. If they know, they will hate me."²⁴³

C. DOMESTIC TORTURE

For those who are tortured in the home, the shame and humiliation can similarly be extreme. Several factors may contribute to this, including that the abuse is committed by someone whom the victim knows and (in theory) should be able to trust, and that it frequently involves sexual violence. Not least of all, domestic abusers frequently make their victims feel worthless and shameful, and blame them for provoking the violence. Verbal abuse, profanity, insults and other psychological abuse are a common element of domestic violence in Cambodia, and this abuse may be more distressing to victims than the physical violence.²⁴⁴ Death threats, and the constant worry of when the next beating or rape will come, also keeps the victim in a state of anxiety and fear.

Victims of domestic violence display many of the same symptoms of traumatic stress as other torture victims, such as anxiety, fear, shame, disorientation, and impaired memory and concentration, as well as eating disorders, and weight loss and repeated severe illness.²⁴⁵

Many victims may consider that they have little or no opportunity to escape from torturous relationships; the abuse – and the psychological trauma – continues indefinitely. The phenomenon of women remaining in abusive relationships is well reported around the world. In the Cambodian context, traditional social attitudes (which infiltrate the legal process) also help to prevent women from escaping their abusers. The police and the courts cannot be relied upon to protect victims. Family, friends and others may well 'look down' upon those who leave their abusive husbands and try to build new lives. The best-known example of social attitudes about how women are 'supposed' to act is the *Chbab Srey* (the Law, or Rules, of the Woman), an ancient poem. According to the *Chbab Srey*, a wife should "follow the commands of the husband like a slave", ensure a happy home, and never react to his insults or violence. Such teachings encourage women to stay in abusive relationships and blame themselves for their spouses' violence, and promotes the social attitude that "The woman who

²⁴¹ The concept of gaining merit, to make up for past sins and to bring a better reincarnation, is part of Buddhism, Cambodia's main religion.

²⁴² Both case examples are cited from Annuska Derks, "Reintegration of Victims of Trafficking in Cambodia", International Organization for Migration & the Center for Advanced Study, 1998.

²⁴³ Ibid.

²⁴⁴ Zimmerman, "Plates in a Basket Will Rattle..." (p. 91).

²⁴⁵ Ibid. (pp. 91-94).

endures or 'bears' ('droam') the beating to save her marriage and keep her family together is to be revered; the ones who leave are reviled".²⁴⁶

*Pranay ran to her mother for refuge. There she was advised by her mother, "Please go back home. Don't be afraid of your husband, he won't beat you until you are dead. At most, he will just hit you until you are unconscious. If he beats you to death, I will bury your bones." Her mother concluded, "You ought to stay in the house, if you run away from the house, you are wrong, you disobey the Chbab Srey."*²⁴⁷

For those who do run away, the social stigma and economic worries may be more destructive than for other categories of torture survivors: they may have children to worry about, be financially dependent on their husbands, and have nowhere to run.

D. LACK OF JUSTICE & FEAR OF FURTHER TORTURE

Most torturers – whether they be in a police station, prison, brothel or the home – do not face any justice. The psychological impact on the victim, knowing that their abuser has got off scot-free, may well be high. Many torture survivors seen by Licadho (including those who are too afraid to pursue court complaints) speak of the lack of justice for their attackers. Comments such as "I wanted them to go to prison" or "They can do whatever they want, there's no justice in Cambodia" are common. Many express the fear that the torturer may return to hurt them again, or that they will go on to torture other people.

Sen and his wife were detained at a brothel and badly beaten with electric wire and gun butts, leaving permanent injuries or scars for both of them. It was a rare case, in that the perpetrator, a soldier, was prosecuted. The perpetrator received a suspended sentence meaning that he only had to serve one year in prison. "It should have been 20 or 30 years because he was so cruel to us," says Sen. "When he is released, maybe he will commit other cruel things against other people." Sen and his wife also fear revenge. "I feel scared every day. I am afraid that the relatives of the pimp could come and take revenge on us."

Much of the international research on torture has focused on survivors who left their home countries to become refugees in the West. While they face added stresses (separation from their countries, friends/relatives, etc) the situation is very different from that of people who remain in their country of torture. Western studies speak of "avoidance behaviour" by survivors, in which they consciously or otherwise try to avoid people or situations that remind them of the torture (crossing the street to avoid a policeman, for example, or not going to do a dentist or a doctor because of the instruments which they know will be there). In Cambodia, it may not be so much a case of a survivor avoiding a situation which reminds them of torture as avoiding the *actual* torturer or torture place.

Saroeun, stripped and beaten by the local police when he was aged 17, lives a few hundred meters away from the police station where he was tortured. He has to pass the station any time he goes to the local marketplace, or anywhere outside of his village.

• • •

Teng, falsely accused of robbery and beaten unconscious by four policemen, keeps to himself and stays mainly on his farm since the torture. One day, however, he saw one of his torturers on the street. "He didn't say anything to me, and I didn't say anything to him. I was afraid to talk to him."

²⁴⁶ Ibid. (p. 26).

²⁴⁷ Ibid.

CHAPTER 17. REHABILITATION SERVICES FOR TORTURE SURVIVORS

A chapter on the rehabilitation of torture survivors in Cambodia can, unfortunately, be brief. There are few services to assist them to rebuild their lives; most are left to fend for themselves.

Like all Cambodians, torture survivors generally rely upon traditional healers (*kruu*), private doctors or the state-run hospital and health clinic system.²⁴⁸ There are some well-established NGO rehabilitation programs catering for physically or sexually abused children and women, street children and other vulnerable groups. There are also several mental health organizations treating people (who include survivors of torture and other trauma) with psychological or psychiatric conditions. The demand, however, is far bigger than the services available.

The government health system, destroyed by the Khmer Rouge regime and neglected for years since, is of poor standard. Treatment is officially free but the reality is different; patients may be turned away, or given even poorer than usual service, if they do not have money to pay. Government doctors often also have their own private clinics, and prefer to treat people there (to gain more profit) than at state-run medical facilities.

Torture victims often speak of the amount of money they spent on medical services, and of the debts they accumulated. For prolonged medication, or major treatment such as surgery, victims and their families are often faced with the choices of borrowing money, scrimping on necessities such as food, or coping without the treatment.

Fear, too, can keep survivors out of hospitals. Political torture victims, in particular, may be extremely reluctant to trust State doctors. For survivors who do go to government hospitals or health clinics, the words or actions of the medical staff may further victimize them. Sexually abused women, political torture victims and 'criminals' who have been in prison can face prejudice and scorn from the staff. Whether deliberate or otherwise (government doctors are paid low salaries, face high workloads and often lack training, experience and ethics), the standard of treatment can be poor. Licadho has documented dozens of cases of victims of torture or other violence dying or suffering life-long disabilities while attempting to receive treatment in government-run medical facilities.

As for mental health services, there are 10 qualified psychiatrists in Cambodia – less than one for every million people.²⁴⁹ The 10 are all recent graduates who finished training in 1998; another 10 trainees are currently studying and will graduate in 2002. There is one small outpatient mental health clinic at a Phnom Penh hospital, and minimal functioning mental health facilities in government hospitals and clinics elsewhere in the country.

*Vannary stayed in a hospital for injuries caused by having been kicked repeatedly in the back and ribs by her husband. After a two-month stay, the doctor told her, "You have a psychological problem. Don't worry so much." She was sent home to her abusive spouse.*²⁵⁰

For many of Cambodia's torture victims, those who are arrested and tortured by the police and then sent to prison, medical services are minimal and psychological/psychiatric treatment non-existent. Overcrowding, poor hygiene and food, and the threat of further violence are likely to exacerbate the effects of physical or psychological trauma.

A 1994 health survey of inmates at 13 Cambodian prisons found that over half of the prisoners surveyed reported experiencing nightmares, with a mean of three nightmares a week. Seventy-two percent of these inmates said that the nightmares affected them for the rest of the day or the week. Many reported nightmares with violent content that included shooting, torture and mistreatment of

²⁴⁸ *Kruu* practice traditional forms of healing such as herbal remedies and magic. In line with the Cambodian concept of health (in which the physical, mental and spiritual are intertwined), *kruu* are a sort of physician, psychiatrist, pharmacist and spiritual healer. They may specialize in different methods or sicknesses (children's diseases, or illnesses brought on by sorcery, etc). Most Cambodian villages have at least one *kruu*. Other types of healers in villages include monks and their assistants, and spiritual mediums.

²⁴⁹ There were 12 psychiatrists in 1975, when the Khmer Rouge seized power; they all died or disappeared during the Khmer Rouge regime, taking the country's entire mental health service with them.

²⁵⁰ "Plates in a Basket..." (p. 93).

prisoners. Thoughts of suicide were reported by 21% of inmates surveyed, while 9% reported planning suicide attempts while in prison.²⁵¹

Five years later, a 1999 medical survey of 135 prisoners in northwestern Banteay Meanchey province found that 48% of them complained of sleeping difficulties at night. The (multiple) reasons cited by those who suffered insomnia included: stress (38%); hunger (38%); noise (27%); temperature inside the cell (25%); overcrowding (17%); and nightmares (10%). Of the total of 135 surveyed prisoners, 9% described themselves as depressed and 56% as sad. The remainder, who answered that they were 'OK', 'happy' or 'very happy', were leaders of prison groups or probably prisoners privileged by the guards, according to the survey's authors. Seven percent of the interviewees stated they had thought about committing suicide.²⁵²

²⁵¹ Physicians for Human Rights, American Refugee Committee & Columbia College of Physicians and Surgeons, "Health Conditions in Cambodia's Prisons", April 1995 (p. 41).

²⁵² Prom Yim & Pierre Lacerte, Medecins Sans Frontieres Cambodia, "Prisoners Health Conditions Screening – Banteay Meanchey Prison", May 1999 (pp. 12-13).

PART V: PSYCHOSOCIAL CONTEXT OF VIOLENCE

“Even today, because of what happened to me, I sometimes feel as if I am again living in darkness. Still, sometimes when it rains, or when darkness falls, my mind is their prisoner and I struggle to be free.”
 – Roeun Sam, a survivor of the Pol Pot regime.²⁵³

CHAPTER 18. HISTORICAL LEGACY

War & trauma

Torture cannot be separated from the broader pattern of violence and repression in Cambodia, and from the psychological trauma which permeates society. Today’s torturers, their victims and those who tolerate the use of torture (government officials, prosecutors and judges and, to some, extent, ordinary people), all live and work in the context of a society where violence, and the trauma, fear and mistrust it causes, has long been a way of life.

As Cambodia emerges from decades of war and devastation, it has become almost a cliché to speak of the country’s cycle of violence. No one doubts the destructive legacy of this era, and in particular the 1975-79 Pol Pot regime. Twenty years later, the horrors of that regime, and its impact on Cambodians individually and collectively, remain virtually incomprehensible. As Vann Nath, survivor of Pol Pot’s Tuol Sleng torture center, has written:

*“My story is surreal, a bizarre tale of millions of people massacred by their own government without hesitation or judgment. As for those who escaped death, they were deprived of all rights and even emotions, sculpted to serve as the tools of the rulers. When Cambodia’s doors reopened in 1979, little remained but tears and piles of bones. Today the blood has dried but the scars remain. The legacy of the Khmer Rouge lives on today – in the separated families, the orphans, the thousands of wounded, haunted people.”*²⁵⁴

The physical and material impacts of Pol Pot’s rule – the massive loss of life and the virtually complete destruction of the systems of health, education, law, and so on – are more easily calculated than the psychological and social toll taken on the “thousands of wounded, haunted people” who survived. Few Cambodians have been untouched by fear and grief. This neither began nor ended with the Pol Pot regime, although that was certainly “Year Zero” as the Khmer Rouge described their warped bid to systematically shatter and rebuild society. In the past 30 years, disease and hunger, as well as bullets, bombs and landmines, have been frequent visitors to countless lives. Many people have personally experienced violence, and/or the deaths or disappearance of loved ones. Millions have fled their homes, often repeatedly. Innumerable people have been armed, sent into combat, or have otherwise committed or been co-opted into violence. The threads of society – family, religion, education, health, and so on – were literally torn apart. Fear, distrust, suspicion, and the realization that human life is very cheap, spread like epidemics.

The extent of the trauma suffered is sobering, as starkly depicted by statistics from what is believed to be the only survey of its type on the psychosocial and psychiatric consequences of war and conflict in Cambodia. The Transcultural Psychosocial Organization (TPO), in a 1996-97 survey of more than 600 randomly-selected people, found that:²⁵⁵

- 96% had been exposed to at least one war-related event; the average was 4 events per person
- More than two-thirds (71%) had been exposed to Khmer Rouge violence or deprivation (food, shelter, medical care, etc)
- 36% had lost a family member during the years of war and genocide
- 18% witnessed the torture or murder of a family member
- 15% were imprisoned or seriously injured

²⁵³ Roeun Sam, “Living in the Darkness”, *Children of Cambodia’s Killing Fields: Memoirs of Survivors*.

²⁵⁴ Vann Nath, *A Cambodian Prison Portrait: One year in the Khmer Rouge’s S-21*.

²⁵⁵ Transcultural Psychosocial Organization, “Psychosocial and Psychiatric Consequences of War and Conflict in Cambodia: Results of the Epidemiological Study conducted by TPO in 1996-97”, summary of results made public in June 2000. The survey was conducted in Phnom Penh and Battambang and Kompong Speu provinces.

The psychosocial & psychiatric consequences

The extent of trauma-related mental disorders among Cambodians appears to be high. Among its sample of respondents, TPO found that:

- 28% suffered symptoms which would qualify for a diagnosis of Post Traumatic Stress Disorder (PTSD)²⁵⁶
- 13% suffered from Major Depressive Disorder (MDD)²⁵⁷
- 9% of respondents had both PTSD and MDD, meaning that a total of 32% of respondents had PTSD, MDD or both.

The disorders were more common in older age groups than younger ones. They were most common in people who were exposed to multiple war events in the past, or to repeated violence or conflicts within their families or communities in more recent times (see *Chapter 19, below*). The prevalence of PTSD and MDD was higher among women than men.

As well as the mental toll on individuals, TPO has argued that trauma in Cambodia must be looked at in terms of the cumulative effects. “In Cambodia, due to the widespread and massive trauma of the recent past where everyone has been affected in one way or another, one has to think in terms of collective trauma for the family, the village and the nation,” according to a 1997 TPO book.²⁵⁸ It adds that many Cambodian symptoms of trauma – such as *bebakchet* (which means ‘difficult heart’ and roughly translates to depressed or upset) – are so prevalent in the community that they cannot be considered as abnormal.

Collective trauma is a concept particularly relevant to Cambodia, as few other countries in modern history have had their entire social structures so systematically and rapidly torn apart. The impact of this upheaval on social values, attitudes and behaviour is far from being fully understood.

A common tenet of survivors’ writings about the Pol Pot regime is fear, the loss of dignity and emotions, and the shattering of trust in fellow human beings. War and repression invariably cheapens human life, but the Khmer Rouge were masters at dehumanizing people. They bombarded the population with propaganda about the lack of value of human life – to “keep you is no benefit, to kill you is no loss” was a Khmer Rouge motto – and deliberately sowed paranoia and distrust. To avoid the regime’s endless hunt for ‘enemies’ of the revolution, Cambodians learned to lie about their pasts. The Khmer Rouge recruited spies, including young children, and encouraged people to denounce their own friends and relatives. As one survivor has written: “We survived by becoming like them. We stole, we cheated, we lied, we hated ourselves and each other, and we trusted no one.”²⁵⁹

Under the Khmer Rouge, Cambodians were forced into survival mode. To survive in extreme circumstances, people may lose their usual values; they may do things they would never otherwise do, simply to stay alive. Many commentators have suggested that the behaviour and values that Cambodians were forced to adopt by Pol Pot – distrust of others, loss of dignity and inability to plan for the future, and the use or fear of violence as ‘normal’ behaviour – continue to plague the country 20 years later.

As Cambodian psychologist Seanglim Bit has written: “Shared experiences do not necessarily lead to closer relationships. In the specific case of the Cambodian trauma, it has led instead to a fracturing of the community, which leaves its residents trapped in suspicion and distrust... [T]he skill needed to survive execution cannot be instantly discarded even when the immediate threat has subsided. At the community level, social cohesion suffers from a continuing atmosphere of distrust between individuals and between leaders and their followers.”²⁶⁰

²⁵⁶ See Appendix 2 of this report for the symptoms of Post Traumatic Stress Disorder, which are also the most common symptoms suffered by torture survivors.

²⁵⁷ Symptoms of Major Depressive Disorder include: depressed mood; markedly diminished interest or pleasure in all or almost all activities; significant weight or appetite change; insomnia or hypersomnia; fatigue; feelings of worthlessness or guilt; reduced ability to think, concentrate or make decisions; recurrent thoughts of death or suicide.

²⁵⁸ Transcultural Psychosocial Organization, *Community Mental Health in Cambodia*, 1997 (p. 105).

²⁵⁹ Teeda Butt Mam, “Worms from our skin”, *Children of Cambodia’s Killing Fields: Memoirs by Survivors* (p. 15).

²⁶⁰ Seanglim Bit, *The Warrior Heritage: A Psychological Perspective of Cambodian Trauma*, 1999, (p. 87).

Historical & societal factors

Violence and repression, of course, did not begin with Pol Pot. Seanglim Bit has argued that Cambodians have a “warrior heritage”. The ancient Angkorian period is “celebrated for the glories of achievement primarily as evidence of a convincing demonstration of military power and cultural superiority.”²⁶¹ Military conquests, brave warriors and all-powerful gods and kings are common themes in the roots of Cambodian folklore and religious mythology. Virtually every Cambodian leader in recent decades, including Pol Pot, have evoked the image of Angkor Wat as a basis of their own political visions.

Cambodia’s strongly hierarchical society has long placed great importance on the holding of “absolute power” by its leaders, Bit argues. The traditional concept of power and leadership is based on patronage; leaders provide security for their followers in return for their loyalty and defense.

“In a society with basically two classes, those with power and those without, the characteristics of authoritarianism flow throughout the social order,” writes Seanglim Bit. The stronger members of society “consistently operate in a repressive manner”, while the weaker ones “develop excessively obedient behaviour”. A corollary to authoritarianism is the role of aggression and violence within society, Bit argues. “Violence begets violence as an acceptable means of exerting one’s will. If the endeavor is not successful, it demands more aggressive attempts or intensified efforts and does not provoke a search for other techniques in problem solving. If the intended victim is perceived as ‘without merit’, generalized hostility is acceptable and the perpetrators are exonerated from public disapproval for their aggression.”²⁶²

From ancient times through to the 20th Century, aggression has been cultivated to serve the interest of those with authority and the State – most extremely by the Khmer Rouge regime. “Through exposure to widespread violence, the consequent loosening of inhibitions to engage in violence, and the incentives offered by the authorities to eliminate the regime’s enemies, aggression and collective violence were inextricably linked,” writes Bit.²⁶³

An element of Cambodia’s hierarchical society is that, within families and communities, Cambodians are traditionally expected to behave “correctly” and in line with their social status and responsibilities. Codes of conduct, such as the *Chbab Srey* (the Law of Women), which requires that women be demure and obey their husbands, have been passed down from generation to generation since ancient times. People must address each other correctly, depending on age and status. Buddhist practices, such as the need to make merit for future lives, and proper respect and worship for one’s ancestors, are also included in traditional concepts of behaviour. Failure to observe proper behaviour may attract reprimands, or worse. There are specific physical/mental/spiritual disorders that are attributed to violations of codes of conduct.

These traditional concepts of behaviour reinforce, in particular, the need to save ‘face’, to hide one’s feelings and suppress emotions, particularly strong ones such as anger.

As Seanglim Bit writes, “The unique attributes of Cambodian society have converged to create a standard for ideal behavior that emphasizes serenity, acceptance of injustice, conformity to a higher authority, and Buddhist principles of accepting suffering as the expected order of life. Expressions of displeasure with one’s life or with the denial of basic human rights have few acceptable outlets, either through individual behaviour or through social institutions.”²⁶⁴

Such religious and traditional beliefs, and particularly the suppression of emotions, leave few outlets for the release of rage and frustration, according to Bit. “At times the inevitable frustrations of living in repressive circumstances which thwart the instinct to seek improvement has erupted into destruction of basic human rights. An apt analogy would be the effects of a volcano which has suppressed enough energy to finally force an undirected outpouring of its contents.”²⁶⁵

²⁶¹ Ibid. (p. 8).

²⁶² Ibid. (pp. 61-62 & 65).

²⁶³ Ibid. (p. 67)

²⁶⁴ Ibid. (p. 89)

²⁶⁵ Ibid. (p.33)

Bit referred to this “volcano effect” in the context of armed insurgencies and political or racial violence, but can this release of frustration and anger be applied to the other types of violence, including torture, which continue to mar Cambodia today?

CHAPTER 19. THE CYCLE OF STRESS & VIOLENCE

Violence and trauma in Cambodia is not simply a matter of past experience. Cambodia is now at peace, but many people have yet to reap the benefits. While some of the most horrific dangers and stresses may have been alleviated, many others remain.

Cambodia continues to be a dangerous and fearful society. Violent crime is common; for a motorcycle or other property, robbers frequently kill their victims. (In the four months of June-September 1999, a total of 450 armed robberies and killings were reported – an average of more than three a day – according to government figures.) The military and police are firmly entrenched across all levels of society, and their personnel commit crimes with impunity; the strong continue to repress the weak. Guns and grenades are plentiful, thanks to the war years. Images and references to violence – from the comedies and soap operas on television to the gory pictures of the maimed and dead that grace the front pages of the country’s best-selling newspapers – constantly remind Cambodians of the threats to their security and lives. This violence is not limited to external forces. Violence within the family is widespread, and can be as brutal as that committed by outsiders.

As well as the fear of violence, and possibly more debilitating, are numerous other stresses. Poverty is one of the biggest, if not the biggest, causes of anxiety for the largest number of Cambodians (36% of the population live below the poverty line, by the government’s figure, and others put it higher). Education and healthcare are by no means guaranteed for all; lack of education, skills and jobs leaves families trapped in the poverty cycle. Feeding and raising a family remains, for many, a desperate, difficult task. Many Cambodians are still, by necessity, in survival mode.

These stresses, as well as the traumas of past violence, take a psychological and social toll. As the Transcultural Psychosocial Organization (TPO) found in its 1996-7 random survey:

- **Marital problems:** 24% of females and 10% of men reported marital problems and conflicts; of all married women, 19% reported that they were exposed to domestic violence
- **Death of family members:** As noted previously, many people (36%) reported losing family members during the war and Khmer Rouge regime, but a high toll continued to be taken on families after the war period: at the time of the survey, 81% of respondents had lost one or more family members; 17% of women had lost their husbands, and 31% had lost children.
- **Family & communal conflicts:** 17% of respondents reported conflicts over resources within their families or communities
- **Worries about family members:** 64% reported they are worried about a family member with disability, illness or other problems; more than 14% of respondents had a disabled family member
- **Poor physical health:** 46% of women & 28% of men perceived that they had poor general health; at the time of the study, more than half of the respondents reported that they were ill, and 30% were using medicine of some kind

As noted in the last chapter, Post Traumatic Stress Disorder (PTSD) and Major Depressive Disorder (MDD) were prevalent not only among people who had experienced multiple past war traumas, but also those who had repeated family or community conflicts today.

As well as PTSD and MDD, the survey found that:

- 20% of all respondents showed symptoms of mild stress, while 17% showed severe stress symptoms
- 30% showed symptoms of grief and sadness, of which one half had severe symptoms
- 19% reported cognitive problems (of memory, thinking or concentration)

Years of war and repression have produced, some believe, a cycle of stress and tension – producing ongoing social and psychological problems including aggression – which afflicts new generations as

well as the old. The Khmer Rouge arguably continues to claim the minds of people, subconsciously, as prisoners.

“If someone says ‘No, I have not suffered any problems from [experiences during] the Khmer Rouge regime’, I do not believe them,” says Kann Kall, managing director of TPO. “There are many physical and mental problems. Mental problems can manifest themselves in physical problems. When you first go into a community and talk about mental health problems, everyone says they have no problems. When you dig deeper, they cry and cry. They talk about physical complaints: cannot sleep, back pain, chest pain... a thousand complaints.”²⁶⁶

Kann Kall continues: “The Khmer Rouge did not create only the killing fields. They have destroyed generations of Cambodians. Most of our kids now have aggressive behaviour. This is from the tension of their parents, which they have transferred to their children without even realizing it. [Families] tend to fight rather than talk. This is due to their stress and tension. They fear the future, and mistrust society. This mistrust was created by the Khmer Rouge to maintain control... by making people mistrust each other, they cannot join together. It was not only under the Khmer Rouge, but other regimes too. Today, many people suffer many complaints, including the fear of uncertainty, the fear of society. There is a lot of risk in this society, there are robbers, etcetera. All of this is projected to the children by the parents. The process has been gradual, but it has taken Cambodia to the bottom line. Society should realize this, and get rid of his vicious cycle.”

The torture context

Generalizations about the root causes and contributing factors of torture are to be avoided. What is certain is that the vast majority of Cambodian torturers today, as well as their victims, have themselves been victims of violence, loss of dignity and extreme hardship in one way or another. Cambodian society as a whole has been subjected to extreme, prolonged violence and trauma. As many Cambodian observers believe, the consequent breaking down of social morals and values, and of inhibitions to commit violence, is arguably great.

As well as the traumas of the past, which continue to haunt the minds and souls of many Cambodians, there are the stresses of the present. Does Seanglim Bit’s “volcano effect” (the so-called frustration-aggression theory in Western psychology) partially explain acts of torture today? Is beating or killing a suspected robber, or battering your wife or children, an “outlet” for releasing pent-up anger and frustration? If so, does it apply to systematic torture, such as that which occurs in police stations?

Or is torture and other violence just part of exercising power? A police officer, soldier, prison guard, sexual trafficker or domestic batterer all hold some degree of power; to them, violence is a standard, if not acceptable, manner of wielding it to achieve one’s wishes. As a former government official noted (as previously cited in Chapter 7): “If you look at torture in police custody from a Western view, it’s terrible, horrible. But if you look at it in the [Cambodian] context of the general populace – where the strong always abuse the weak – it’s not unusual. It’s cultural.”

Perhaps the greatest legacy of this ‘culture’ is the acceptance of the use of force as ‘normal’ behaviour, and the destruction of willpower to change the status quo. This is reflected in victims who do not file complaints against their torturers, by police officers who use their fists rather than their brains to ‘investigate’ alleged crimes, and by prosecutors and judges who find it easy to neglect the law. Perhaps, compared to the violence of the not-so-distant past, anything which occurs today is easier to dismiss as ‘normal’.

²⁶⁶ Author’s interview with Kann Kall, September 7, 1999.

PART VI: LAW AND IMPUNITY

“The law guarantees there shall be no physical abuse against any individual. The law shall protect the life, honor and dignity of the citizens.”

– Article 38, Constitution of Cambodia, 1993.

Whether they are tortured in a police station, prison, military base, brothel or home, the vast majority of Cambodian torture victims have one thing in common: their torturers are unlikely to be punished. Of the more than 50 case examples of torture (in police stations, prisons, the sex trade, etc) cited thus far in this report, only a handful of them led to prosecutions of the alleged perpetrators. Of the police torture cases cited, a grand total of two – the deaths of Ry Sarith in Prey Veng and Liv Peng Harn in Kompong Cham – led to prosecutions (*see Chapter 23 for details*).

By failing to properly investigate and prosecute cases, the Cambodian, police, judiciary and government not only ignore their legal obligations, but also condone torture. The impunity enjoyed by torturers is the single largest reason why torture continues to be inflicted on Cambodians today.

CHAPTER 20. LEGAL SYSTEM IN CRISIS

There are unequivocal prohibitions against torture contained in the Cambodian Constitution and criminal law, and in international law. There are also a number of provisions in Cambodian criminal law that can be used to punish torturers (*see Chapter 5, Legal Framework: Prohibitions on Torture*). Laws, however, are only as good as their enforcement. In Cambodia, the law means little or nothing to most torture victims; it is rarely enforced. This reality is by no means limited to torture cases; indeed, it is misleading to separate torture cases from dozens of other crimes, all of which are routinely committed with impunity.

If a nation’s law enforcement system is to be judged on how well it does that – enforces the rule of law – then Cambodia’s justice system is in a state of crisis, and has been so for years. There is ample evidence of the chronic failure of the police and judiciary to impartially follow the law, prosecute criminals and provide justice to victims. Many of the common practices of the police and judiciary are themselves illegal; the people responsible for upholding the law frequently break it.

In such circumstances, torture – and the lack of action against it – is predictable. It is not surprising that a law enforcement process that frequently begins with an unlawful arrest or detention should proceed to the use of torture, and may end unlawfully one way or another (for instance, by a detainee paying a bribe to escape the law, or by being convicted on the basis of an unlawful forced confession).

The deficiencies of the criminal justice system – and the stark difference between the law vs. the reality – are well known and documented. What follows is a summary of some of the critical issues.

Lack of Training, Qualifications & Resources

The 1975-79 Khmer Rouge regime destroyed the legal system and killed most judges. Only five surviving judges were reincorporated into the new judiciary after the regime’s collapse; new judges were recruited and given short-term training to prepare them to “learn on the job”²⁶⁷. In recent years, further training has been given to judges, with the support of legal and human rights organizations. Of Cambodia’s 135 judges, only 20 reportedly have bachelors or masters’ degrees.²⁶⁸ Police officers also learn largely “on the job”; there is no police academy or college. Many police have only a superficial understanding of their legal rights and responsibilities, and those of the judiciary.

²⁶⁷ Kingdom of Cambodia, “Report on the Application of Civil and Political Rights in Conformance with Article 40 of the ICCPR [International Covenant on Civil and Political Rights]”, 1997 (para. 216).

²⁶⁸ See “KR Victims Deserve Justice”, letter to the editor by Seng Syvutha of the Ministry of Justice, *The Cambodia Daily*, April 7, 1999.

The judiciary, and to a lesser extent the police, is grossly under-funded. Justice receives about 0.2% of the national budget, according to a 1997 government report (it has since reportedly risen to about 0.37%). Funds are not allocated or paid for police, prosecutors and investigating judges to do their jobs properly; they frequently cite lack of money for transportation, etc, for why they have not investigated alleged crimes, particularly those in remote areas.

There is also a lack of qualified, trained lawyers to represent criminal defendants in Cambodia; there are about 220 lawyers admitted to the Bar in the entire country. Although access to legal counsel has improved in many provinces in recent years, some defendants continue to go to trial without any legal representation.

Judicial Lack of Independence and Impartiality

After decades of government control over the courts, many police and other officials have had difficulty coming to terms with the separation of powers and the independence of the judiciary ushered in by the 1993 Constitution and other laws. "The independence of the judiciary is guaranteed by law. However, practice has shown that, owing to interference and pressure from other branches, the courts are not fully independent," the government has acknowledged.²⁷⁰

Interference in the judiciary can come from a variety of inter-related levels, including: political pressure or bias (most prosecutors and judges are historically affiliated to the powerful Cambodian People's Party); interference from provincial or municipal authorities (the legacy of the 1980s, when prosecutors and judges were appointed by, and subservient to, provincial authorities); instructions from the Ministry of Justice (which is sometimes consulted by judges over cases, and which also issues guidelines to the judiciary on how to apply laws and procedures).

Examples of interference and intimidation, particularly by provincial officials, include:

- In Svay Rieng, in December 1994, the provincial governor ordered the release of a military policeman who had been arrested under court warrant; a similar case in Siem Reap, in 1995, saw a Member of Parliament and deputy provincial governor order the release of a lawfully-arrested suspect.²⁷¹
- A deputy governor of a province summoned court staff in January 1998 and organized them into a CPP branch; he also instructed them to delay the hearing of any complaints against the government, or complaints made by opposition party members, until after the July 1998 national elections.²⁷²
- In October 1998, a police commissioner and some of his deputies visited a provincial court president and chief prosecutor to discuss a murder prosecution against a police officer (who claimed self-defense). The police did not acknowledge the court's power to arrest and investigate a police officer (despite the Ministry of Interior having given explicit approval for the prosecution).²⁷³
- Prey Veng provincial authorities arbitrarily gave amnesties from prosecution to at least 15 alleged criminals in September 1999, in return for the criminals 'surrendering' to the authorities and promising not to commit further crime. The Prey Veng governor publicly warned the provincial court not to "interfere with our policy".²⁷⁴ Court staff told Licadho that the amnestied people included at least eight men wanted by pre-existing court warrants for serious crimes including murder and armed robbery.

The Law:

"The judicial power shall be an independent power."

Constitution, 1993; Art. 128²⁶⁹

"Only a judge shall have the right to adjudicate. A judge shall fulfill this duty with strict respect for the law, wholeheartedly and conscientiously."

Constitution; Art. 129

²⁶⁹ Previously Article 109. The Constitution was amended in 1999, changing some of the original numbering of articles; article numbers cited in this report refer to the revised version of the Constitution.

²⁷⁰ Kingdom of Cambodia, "Report on Civil and Political Rights..." (para. 209).

²⁷¹ Ibid. (para. 155).

²⁷² "Situation of human rights in Cambodia...", UN Commission on Human Rights, February 20, 1998 (para. 82). See also Eric Pape & Elizabeth Moorthy, "Rogue courts flout law", *Phnom Penh Post*, June 19-July 2, 1998.

²⁷³ "Situation of human rights in Cambodia...", UN Commission, February 26, 1999 (para. 57).

²⁷⁴ Sarah Stephens, "Amnesties galore: Prey Veng boss scorns courts", *Phnom Penh Post*, October 29-November 11, 1999.

- The director of the National Police, Hok Lundy, publicly stated in October 1999 that the Phnom Penh municipal court could not investigate a case without his prior permission. “The court cannot investigate the suspect unless I agree...” he reportedly said. The court prosecutor, who complained of “many orders from on high”, later stated that he had dropped the investigation. The case involved the smuggling of Chinese nationals through Cambodia, in which police or government officials were allegedly involved.²⁷⁵

Police and government officials often display little understanding of the presumption of innocence – except in cases in which they themselves presume it – and of the judiciary’s sole role in deciding the guilt or innocence of a suspect. “The release of defendants or suspects [by the courts] often creates friction between the police and the courts,” the 1997 government report on civil and political rights noted. “The police criticize the courts for deliberately releasing individuals whom they have made every effort to arrest. This disaffection is the result of a limited understanding of legal matters and the poor relations between the two institutions.”

It is not only the release of suspects that makes the police or other authorities “disaffected”; to the contrary, they are most likely to display their anger when a court attempts to prosecute or rule on cases involving State perpetrators, their relatives or acquaintances. Given that the police and military have guns, the results can be extreme:

- Several soldiers attacked the Battambang prison in March 1994 in an attempt to obtain the release of people imprisoned for drug trafficking.²⁷⁶
- In a similar incident in Banteay Meanchey in November 1996, the chief of the judicial police (reinforced by 30 heavily-armed police and an armoured vehicle) stormed the local prison to release one of his subordinates who had been arrested for battery; the police chief later threatened the life of the prosecutor who had issued the arrest warrant.²⁷⁷
- In May 1994 military personnel attacked the home of a prosecutor in Kompong Som in an attempt to kill him; a few hours later, they burst in on a court hearing, sending the judge, prosecutor and court clerk fleeing in fear.²⁷⁸
- On December 28, 1995, an attempt to enforce a 1992 civil judgment (a house eviction) by the Phnom Penh court was met for the third time with organized obstruction by military police, armed with pistols, rifles and submachine guns²⁷⁹. The obstructers reportedly stated that they were following the orders of the commander of the National Military Police, Gen. Kieng Savuth.²⁸⁰
- Also on December 28, 1995, about 200 civilians and monks armed with machetes, axes, clubs and diesel oil mixed with acid, attacked the Kampot provincial court. The mob, angry at a court’s overruling of a decision by a district governor involving land near a Buddhist pagoda, destroyed the court fence, door, offices, chairs, and 100 civil and criminal case files. District authorities allegedly encouraged the attack; provincial police stood by and watched it.²⁸¹
- In June 1998, the Koh Kong provincial court was prevented from holding a hearing on a land dispute which involved the wife of the chief of the judicial police; the police chief and about 10 policemen disputed the proceedings, forcing the court to adjourn the hearing indefinitely.²⁸²

The judiciary has not been the only target of such violence and intimidation; various police units have also fought among themselves. A case in point is the besieging of the house of Heng Peo, then-chief of the national anti-drug squad, by about 100 military police in Phnom Penh, March 6, 1998. Heng Peo was lucky to emerge alive after his house was riddled with bullets. A day earlier, a military

²⁷⁵ See Phann Ana & Kevin Doyle, “Court Official Says Illegals Case Obstructed”, and “Progress Stalls in Case of Trafficking Chinese”, *Cambodia Daily*, October 15 & November 18, 1999. According to the 1993 Law on Criminal Procedure (Art. 56), prosecutors do not require a complaint or report from the police in order to investigate alleged crimes.

²⁷⁶ Kingdom of Cambodia, “Report on Civil and Political Rights...” (para. 204).

²⁷⁷ “Situation of human rights in Cambodia...”, UN General Assembly, October 17, 1997 (para. 80).

²⁷⁸ Kingdom of Cambodia, “Report on Civil and Political Rights...” (para. 205).

²⁷⁹ *Ibid.* (para. 206).

²⁸⁰ Minister of Justice, letter (# 06.96) dated January 3, 1996 to the Ministers of Interior and Defense and the armed forces Chief of General Staff.

²⁸¹ Kingdom of Cambodia, “Report on Civil and Political Rights...” (para. 206); Minister of Justice, letter (# 76.96) dated January 18, 1996 to the Minister of Interior; “Situation of human rights in Cambodia...”, UN Commission, January 31, 1997 (para. 69).

²⁸² “Situation of human rights in Cambodia...”, UN General Assembly, September 17, 1998 (para. 78).

policeman arrested by Heng Peo had been convicted and sentenced to 10 years imprisonment for smuggling six tons of marijuana.²⁸³

In this climate, it is perhaps understandable that the courts display little eagerness to investigate and prosecute alleged cases of torture by the police and military police. This is particularly so, given that intimidation or violence against the courts is rarely punished; the judiciary has little reason to feel that they will be protected against attacks.

Box 20.1

MILITARY POLICE LAW

The most striking example of intimidation of the judiciary over a torture case is the June 10, 1998 surrounding of the Phnom Penh Municipal Court by military police.

The military police had arrested two men, both civil servants aged in their 20s, in connection with the murder of a military policeman. The men were tortured into making confessions, and detained longer than the legal limit of 48 hours before being sent to court. At court, a prosecutor interviewed the men, saw their injuries, and ascertained that there was little other evidence against them except for their (forced) confessions. The prosecutor also later justified his decision to release them on the grounds that the two suspects were government employees, and therefore could not be prosecuted without the consent of their ministry (under the civil servants law, see sub-section on 'Impunity' below).

About 50 heavily-armed military police surrounded the court to prevent the suspects' release. The court was obliged to hand the two men back over to the military police. Taken to the military police headquarters, the two were further tortured, again to force them to confess. They were kept in illegal detention until the following day, when they were transferred to prison; the court was compelled to issue a warrant of detention for the men, on the grounds that it was necessary to "ensure their security".

A Licadho medical team later documented the torture suffered by the two men, which included being blindfolded, handcuffed, beaten, kicked and shocked with electric batons; one of the men was threatened with electric shocks to his penis, and later taken outside and subjected to a mock execution, while the other one had a gun placed in his mouth.

Following the incident, the head of the Phnom Penh municipal military police and four of his subordinates were suspended from their duties. The court sought to prosecute them, and at least two of them were subsequently arrested. The two military policemen were granted bail by the court; the Minister of Defense requested their release on bail. The Minister of Justice, however, backed the court's bid to prosecute the military policemen responsible.²⁸⁴ (Later in 1998, several grenades were thrown or found on the grounds of the Minister of Justice's house, in an incident some believed was linked to the military police case.) Ultimately, no military police were taken to trial over the incident. The two torture victims, meanwhile, were quietly released after more than a month in prison.

Extortion & Corruption

Justice is a business in Cambodia; police officers, court clerks, prosecutors and judges solicit and/or accept bribes. Police officers frequently demand money from victims in order to investigate a crime, or from perpetrators in order not to investigate. If a case gets to court, Cambodians almost take it for granted that they will need to pay bribes if they want their case to proceed – or not proceed. People admit to Licadho and other non-government organizations that they have paid bribes, including directly into the hands of prosecutors or judges. Some police, court and other officials privately acknowledge bribery, but invariably point the finger at any agency but their own. Low salaries implicitly encourage corruption; judges earn about \$20-30 a month, the police even less. "Some judges, unable to bear the difficulties of their daily living conditions, accept bribes and take biased decisions, thus weakening the principle of equality before the law," said a 1997 government report²⁸⁵. Despite this acknowledgment of the link between low

The Law:

Any civil servant or official agent or political official who solicits or attempts to solicit money, property, services, etc, in the course of their official duties is guilty of the crime of corruption/extortion. Penalty: 3-7 years imprisonment and a fine.

Transitional Criminal Law,
1992; Art. 38

²⁸³ Christine Chaumeau, "MPs shoot up house of anti-drug chief", *Phnom Penh Post*, March 14-27, 1998.

²⁸⁴ "Situation of human rights in Cambodia...", UN General Assembly, September 17, 1998 (paras. 79-81); Article of *Chakraval* newspaper, Volume 2, #791, July 4, 1998.

²⁸⁵ Kingdom of Cambodia, "Report on Civil and Political Rights...", 1997 (para. 207).

salaries and corruption, judges' salaries have not been raised. Corruption cannot necessarily, however, be attributed solely to a matter of survival, particularly when judges and senior police are frequently seen with expensive homes, cars, jewelry, etc.

Trading the Law for Money

Out-of-court financial settlements between complainants and perpetrators – often brokered by police or other officials, who take a slice of the proceeds – are an extremely common form of corruption. Described as “reconciliation” or “resolution”, this occurs in all manner of crimes including murder. The alleged perpetrator, or his or her family, pays money to the victim (or family), on the condition that the complainant does not pursue a criminal complaint to the police or court. Police officials frequently mediate such deals, taking a percentage of the money as a type of brokerage fee. (In some cases, the police take all or most of the money, rather than give it to the victim.) By negotiating such deals, the police are acting unlawfully. If they also fail to report the alleged crime and the result of their investigation to a court prosecutor, they are doubly breaking the law. But even when aware of such settlements, the courts tolerate, or even participate in brokering, them.

Ang Eng Thong, president of Bar Association, gives an example: “In Kompong Chhnang, a forest worker killed someone. He made some arrangement to pay \$600 to the wife of the dead man, and he thinks the case is closed. I asked the court ‘Why do you accept this? The money is on one side, but on the other side is that a criminal case should be conducted according to the law’. The court just said to me: ‘Why do you raise this case? The victim has accepted the money, so they cannot complain to the court.’”

The Kompong Chhnang court official who said that is wrong. The 1993 Law on Criminal Procedure explicitly states that criminal complaints cannot be resolved by “any arrangement”, but must be reported to and ruled upon by the courts.

Officials who negotiate financial settlements between victims and perpetrators usually prey on the poverty of the victims and their ignorance of the law. Invariably, victims are given the choice of pursuing a criminal court complaint (and the prospect of the perpetrator being sent to prison) or getting some cash. What they are not told is that, under the law, they are entitled to file both a criminal complaint and a civil claim for compensation from the alleged perpetrator; in theory, the offender, if convicted, can go to prison and be ordered to compensate the victim. There are, of course, few guarantees that the perpetrator will not be released because of corruption or other reasons, or that, even if the offender is convicted and ordered to pay compensation, that the victim will actually receive the money.

In any event, many victims and their families may feel intimidated or otherwise pressured to accept out-of-court settlements, particularly if someone in a position of authority – policeman, village chief, court official – advocates that they do. They may also fear reprisals from the perpetrator, if they do not accept the settlement.

Such out-of-court deals, like all corruption within the law enforcement system, undermines the concept of the law being a deterrence to crime – the idea that would-be offenders may think twice before committing a crime because they know that, if caught, they will be punished. On the contrary, trading the law for money encourages people to commit crime, safe in the knowledge that the repercussions will not be serious. It is not coincidence that police, soldiers and other perpetrators of human rights abuses frequently boast to their victims that they will not be punished for their crimes, or will just have to pay some money or a few bags of rice as compensation.

Impunity

There is little equality before the law in Cambodia, for various reasons including those cited above. The judiciary is frequently unable or unwilling to hold State officials, in particular, accountable for their actions. A minimum of 263 people were allegedly killed by members of the police, military police,

The Law:

“In any case, the officers of the judiciary police have no right to [close a file on] a penal case that they have received... They shall always forward their reports to the competent prosecutor.”

Law on Criminal Procedure, 1993; Art. 48

“Public action [a criminal case] may not be settled by any arrangement. The court of applicable jurisdiction... shall decide on the case.”

Law on Criminal Procedure; Art. 7

military, militia, bodyguard units or the civil service between January 1997 and October 1998. By June 1999, not one of the 209 suspected perpetrators had been brought to justice.²⁸⁶

From 1994 until recently, impunity for State officials was legalized and institutionalized, in the form of an unconstitutional clause in a law which required the courts to seek the government's permission to charge any civil servant.²⁸⁷ In 1999 – after years of criticism and pressure for its abolishment – that provision was amended. While the amendment is to be welcomed, it remains to be seen how quickly the entrenched impunity of State agents can be removed in practice. Fear of reprisals from perpetrators, or friendships with them, may continue to prevent police, prosecutors and judges from carrying out proper investigations and prosecutions into crimes committed by State agents. Stories of crime victims who find their perpetrators sitting at the local police or commune office have become almost legend.

The Law:

“Every Khmer citizen shall be equal before the law, enjoying the same rights, freedoms and fulfilling the same obligations regardless of race, color, sex, language, religious belief, political tendency, birth origin, social status, wealth or other status.”

Constitution; Art. 31

Two weeks after an April 2, 1998 torture and massacre of nine fishermen by soldiers in Kompong Thom province, the sole survivor was called to the local police post to be interviewed. “By chance, when I got there, one of the perpetrators was sitting in the police post,” said the survivor. “They hadn’t arrested him – he just happened to be there, chatting. I’d shaved my head [as part of funeral ceremonies] and quickly covered my face with my scarf. I was so afraid that I was shaking and couldn’t control my feelings.” He left quickly, later learning that the perpetrator was a friend of the local police chief. None of the perpetrators were brought to justice.²⁸⁸

Lack of Constitutional Protections & Judicial Accountability

Rule of law cannot be established unless the Constitution can be enforced. Constitutional safeguards to protect the Constitution, as well as judicial independence and impartiality, are not effectively in place; their absence gives free reign to unconstitutional laws and practices (such as the legislated impunity formerly enjoyed by State agents, cited above), as well as corruption and undue influence within the judiciary.

The Constitution (Art. 117) requires the establishment of a Constitutional Council to interpret the Constitution and examine laws passed by the National Assembly to ensure their constitutionality. The Constitutional Council, whose formation and membership was beset by political wrangling until 1998, has yet to begin properly fulfilling these functions.

Similarly neglected are the Constitution's provisions to ensure judicial independence and professionalism, meaning that there is virtually no way to punish errant prosecutors and judges. The Constitution (Arts. 113-115) requires that the sole body to hire or discipline judges and prosecutors be the Supreme Council of Magistracy (SCM), chaired by the King. As with the Constitutional Council, political tensions delayed the formation of the SCM for years; it held its first meeting in December 1997, and still barely functions. There are no regulations for determining what qualifications and experience prosecutors and judges need to be appointed, or to discipline them for improprieties. In such circumstances, in which prosecutors and judges are virtually free to act however they want with little fear of sanction²⁸⁹, it is not surprising that the judiciary allows itself to be tainted by corruption, favoritism, intimidation and so on.

²⁸⁶ Adhoc, Licadho & Human Rights Watch, “Impunity in Cambodia: How Human Rights Offenders Escape Justice”, June 1999. The total number of killing by state agents, which average 12 a month in the period covered, represents only those cases investigated by human rights organizations and where details could be confirmed about the alleged perpetrators. The majority of the killings were not politically-motivated but represent the type of everyday homicides committed by state agents.

²⁸⁷ Law on Common Statutes for Civil Servants (Art. 51); the article required that no civil servant could be prosecuted (unless caught in the act of a crime) without prior approval of the Council of Ministers or the alleged offender's supervising ministry.

²⁸⁸ Adhoc, Licadho & Human Rights Watch, “Impunity in Cambodia”, June 1999 (pp. 29-30).

²⁸⁹ The Ministry of Justice has, at times, suspended prosecutors or judges for alleged misdeeds. This is unlawful, given that the SCM is the only body authorized by the Constitution to discipline members of the judiciary.

Nguyen Thi Poeung, aged 24, died after being severely beaten by Meach Bunrith, one of the most powerful brothel owners in the human trafficking hub of Poipet in Banteay Meanchey, in June 1998. Poeung had refused to sleep with customers because she had recently had an abortion. Bunrith beat her on her stomach with the flat side of a cleaver, kicked her thigh, and stomped on her abdomen. After the assault, he grabbed Poeung, who was bleeding heavily, and dumped her next to a filthy latrine area where rats and cockroaches ran over her. Deprived of medical treatment for three days, she was eventually taken to a clinic on the fourth day. She died there the next day. Bunrith was arrested and initially charged with involuntary manslaughter, and his brothel closed. More than a dozen women who witnessed the fatal beating gave testimonies to the authorities. Three months later, a Banteay Meanchey judge released Bunrith for "lack of evidence". The provincial governor publicly alleged that the court had taken a \$4,000 bribe to release the culprit. Ministry of Justice internal investigations concluded that both the judge and prosecutor involved in the case had made errors in their investigations and judgments. The prosecutor-general of the Court of Appeal recommended that the case be sent to the SCM's Disciplinary Council (which has yet to be established) for review of the court's actions. A year later, no further investigation or action had been taken against the court officials involved.²⁹⁰ In December 1999, however, after a concerted pressure by the Ministry of Women's Affairs and non-governmental organizations, Meach Bunrith was rearrested. In March 2000, Bunrith was finally tried and convicted on charges of pimping and voluntary manslaughter; he received a 12-year prison sentence.

Inadequate Laws

As well as a functioning and independent Constitutional Council and Supreme Council of Magistracy, there is an urgent need for reform and expansion of Cambodia's criminal laws and police and judicial procedures. The country lacks a comprehensive criminal code to adequately define and punish offences, and a criminal procedure law to clearly outline arrest, detention, investigation and trial procedures.

Cambodia's current criminal provisions are provided by two laws, the 1992 Transitional Criminal Law, and the 1993 Law on Criminal Procedure. Both have been criticized for being inadequate, and in places ambiguous. In some respects, the two laws are contradictory – for instance, over the admissibility of confessions and other evidence in trials (see *Chapter 22, Confessions & Police Torture, below*). The 1992 Transitional Criminal Law was written and implemented during the UN peace-keeping mission to Cambodia, and intended for use as an interim law (hence the "transitional" in its name²⁹¹). Eight years later, it remains the only criminal code used in Cambodia, although it has been criticized for not punishing enough offences (it punishes 35). In the space of 20 pages, the law attempts to condense matters including the independence of the judiciary; the administration of the courts; arrest, detention and search procedures; treatment of detainees, legal assistance and other human rights protections; the rules of evidence in trials; and an entire criminal code of offences and penalties. To some critics, the law was amateurish and had the appearance of a "first year law student's notes".²⁹² The 1993 Law on Criminal Procedure, meanwhile, is also controversial. Its legality is dubious, given that it was passed by the former one-party State of Cambodia in apparent violation of the UN mission's mandate in Cambodia at the time (see *Chapter 22, below*).

The government is currently drafting a new criminal code and a criminal procedure law, and has been doing so at least since 1997. Other much-needed legislation or regulations include provisions governing the appointment of prosecutors and judges by the Supreme Council of Magistracy, and clear procedures for the same body to receive, investigate and rule upon complaints against judicial officers. Laws and practical measures against corruption, conflicts of interest and membership in political parties of judges and other court officials are also yet to be established.

Acceptance of the Status Quo

There is evidence that the dysfunctional law enforcement system has become the 'norm', accepted as a fact of life by many officials and ordinary people alike. Such an attitude actively hinders attempts to

²⁹⁰ For a full account of the case, see Adhoc, Licadho & Human Rights Watch, "Impunity in Cambodia" (pp. 24-28).

²⁹¹ The law's full title is "Provisions Relating to the Judiciary and Criminal Law and Procedure Applicable in Cambodia During the Transitional Period"; in this report, the title is abbreviated to "the Transitional Criminal Law".

²⁹² Basil Fernando, *Problems Facing the Cambodian Legal System*, Asian Human Rights Commission, July 1998 (p. 63).

establish a rule of law on a case-by-case basis. The fact that Cambodia does not have a rule of law is, in a self-perpetuating cycle, used as an excuse why there should be no attempt to follow the law on an individual basis. As one Cambodian human rights worker remarks: "When I go to see an official, they always say: 'This is Cambodia'. When I talk to them about the law, explain about how something should be done correctly according to the law, they say 'I know, I know, I know, but this is Cambodia'. Some of them say it in different ways, but they still mean the same. 'This is Cambodia, it's too difficult.'"

Box 20.2

POLICING THE JUDICIARY – UNLAWFULLY

The government has rarely attempted to tackle the woes of the justice system, although it has been prepared to break the law in the name of upholding it.

A case in point was a government crackdown on alleged corruption within the judiciary in late 1999 and early 2000. Acting on the arbitrary order of Prime Minister Hun Sen, Phnom Penh police launched a campaign to re-arrest former suspected criminals who had been released from prison by court order. Hun Sen's order followed a complaint from Phnom Penh's governor, Chea Sophara, about the release of prisoners due to alleged corruption at the Phnom Penh Municipal Court.

Hun Sen's order was unlawful – the executive branch of government has no lawful power to order arrests. But within days, the Phnom Penh police and military police had rearrested dozens of former prisoners, and the Phnom Penh court was compelled to issue new detention warrants for them; in the absence of lawful charges against the people, some court officials simply wrote "Hun Sen's statement" as the legal grounds for the new detention.

Among those rearrested were people whose prior release from prison had been in accordance with the law, such as at least 12 people (including two minors) who had been released after spending unlawfully excessive periods in pre-trial detention.²⁹³ The re-arrested list also included people who had earlier been put on trial and acquitted, a violation of the basic legal principle that a person cannot be re-tried or punished for an alleged crime for which they have been acquitted.

Hun Sen's order also led to the suspension of the Phnom Penh court's chief judge and chief prosecutor by the Minister of Justice, who holds no lawful power to suspend court officials. The judge and prosecutor were later transferred from their posts by the Supreme Council of Magistracy (SCM), which holds sole Constitutional responsibility for disciplining judicial officers, in its first such ruling.

While the SCM's action was an important precedent for the punishment of errant judges and prosecutors, the government crackdown which preceded it was unlawful and unconstitutional. Hun Sen's order was widely considered to be more political than a serious attempt at judicial reform, given that the Prime Minister and his government colleagues had for years failed to respond to calls for judicial reform including a functioning SCM with clear procedures to investigate and fight judicial corruption. Hun Sen's move was popular with Cambodians fed up with an unfair justice system, but it merely served to illustrate the executive branch of government's willingness to simply overturn court rulings whenever it suits. Furthermore, it did nothing to tackle the rampant corruption within the police, instead only strengthening the power of the police against a supposedly independent judiciary.

With regard to torture, the government crackdown has likely served only to promote a climate of fear among judges and prosecutors, encouraging the judiciary to be a rubber-stamp institution rather than a neutral and independent arbitrator of the law. In such circumstances, a docile and obedient judiciary is in little position to fulfil its lawful responsibilities to challenge the use of torture and other unlawful practices by the police.²⁹⁴

²⁹³ According to Cambodian law, adult criminal suspects can be held no longer than six months in pre-trial detention, and minors no longer than two months.

²⁹⁴ For more on the re-arrest campaign, see Amnesty International, "Kingdom of Cambodia: Law and Order – Without the Law", March 2000.

CHAPTER 21. TORTURE VICTIMS & THE LAW

The majority of torture survivors choose not to file criminal complaints against their torturers. They do not trust the system to provide justice to them, nor protection against reprisals from the perpetrators. Many victims have been threatened with death if they speak of their torture. The most common word heard by human rights workers who talk to victims about filing complaints is “*klarch*” (frightened). This is particularly so for those who were tortured at the hands of the police, but also for other victims.

Paying off the Victims

In the relatively few cases where victims file complaints (and where there is clearly a solid case against the perpetrators), the standard response of their torturers is to attempt to buy them off. This is identical to the out-of-court settlements cited in the previous chapter. In torture cases – particularly if the perpetrators are, or are protected by, police, military or other armed officials – the offer of “reconciliation” may well be one they cannot refuse.

The torturers, if they wear uniforms, have an obvious ability and interest in making the victims drop complaints. They may threaten complainants, or their families. Often, however, there may be no need for overt intimidation; victims’ inherent fear of reprisals, and lack of confidence in the justice system, does the job for them.

The judiciary are often willing accomplices to this perversion of the law. In most cases in which victims, with Licadho assistance, file complaints to the courts about torture (or other misconduct) by the police, prosecutors refer the matter to the police for “resolution” or “reconciliation”. By doing so, the prosecutor is unlawfully violating his statutory duties,²⁹⁵ as well as the Constitution.

The Law:

“Coercion, physical ill-treatment or any other mistreatment that imposes an additional punishment on a detainee or a prisoner shall be prohibited. Persons who commit, participate or conspire in such acts shall be punished according to the law.”

Constitution, 1993; Art. 38

“Khmer citizens shall have the right to denounce, make complaints or file claims against any breach of the law by State and social organs or by members of such organs committed during the course of their duties. The settlement of complaints and claims shall reside under the competence of the courts.”

Constitution, 1993; Art. 39

In February 1998, a Kompong Som farmer was arrested and severely beaten by four police officers. The police later admitted that they had the wrong man, and released him without charge. A few months later, elsewhere in Kompong Som, a 17-year-old boy was similarly falsely accused and beaten. In both cases, the victims, with Licadho’s assistance, filed complaints against the police to the municipal court. In both cases, the prosecutor referred the complaints to the chief of the police stations involved, asking that the matter be ‘resolved’. In neither case is there any evidence that the prosecutor, or a judge, conducted their own investigation into the complaints. In both cases, the prosecutor’s request to the police led to negotiations over the payment of money to the victims or their family. In one case, that of the 17-year-old boy, no money was paid; the negotiations apparently foundered over the amount of money to be paid. In the other case, a total of 500,000 riels (\$130) was paid, on the condition that the man drop his complaint against the police. He agreed, reluctantly. “Actually, I wanted the police to be sent to prison, but...I was afraid that when the police got out of prison, they would come to punish me.”

Such acquiescence is not unusual. Another man – who accepted \$250 after being severely beaten by two drunk policemen – told Licadho that whatever amount of compensation was offered, he had to accept it.

²⁹⁵ The 1993 Law on Criminal Procedure explicitly requires a prosecutor, after having received a complaint of a crime or misdemeanor from any person, to open a preparatory investigation, prepare an introductory indictment and forward the case to an investigating judge (Arts. 56 & 60-61). Prosecutors can only close a file, without any action, if they conclude that the complaint refers to an act which “does not constitute a criminal offense” (Art. 59). By referring a complaint of police misconduct to the police for “resolution”, prosecutors are implicitly acknowledging that there is – or may well be – a legitimate complaint to be ‘resolved’. If prosecutors believe that a complaint is legitimate, they are bound by law to open a judicial investigation.

“The police paid me. If I did not accept the reconciliation, maybe the police would be dismissed and maybe sent to jail. I did not want that to happen. I think it’s better to resolve the matter. It’s easy for the police to find me. I need safety for myself and my family. They have guns, they have grenades, they can do whatever they want. Under the law, I can protect myself according to my rights. But these people operate in the dark area, not the law. When people go to prison...if they have money, they can buy their way out. When the boat leaves, the port remains the same.”

The last sentence is a Khmer proverb, commonly used by human rights victims, which implies that whatever events may occur, the environment – in this case the local police – remains the same. In the human rights context, the saying also alludes to the fact that although rights workers may be able to provide some temporary assistance and protection, victims, in the long-term, have to continue to live with the local “port”.

Sexual Trafficking & Forced Prostitution

The lucrative nature of the sex trade, along with the complicity of police and other officials in it, provides particular obstacles to the prosecution of perpetrators. Victims fear reprisals if they file complaints, while offenders can bribe or otherwise influence the police or courts.

The mere suggestion of expecting the police to protect victims from torture and exploitation is, for some in the sex trade, pure lunacy. As Chan Dina, of the Sex Workers Union of Tuol Kork, has said in comments directed toward women’s and human rights groups:

The Law:

“The commerce of human beings, exploitation by prostitution... shall be prohibited.”

Constitution, 1993; Art. 46

“The kidnapping of human persons for trafficking/sale or for prostitution and the exploitation of human persons, inside or outside the Kingdom of Cambodia, shall be strictly prohibited.”

Law on Suppression of the Kidnapping, Trafficking & Exploitation of Humans. 1996: Art. 2

“The police come to Tuol Kork almost every day [...] because we are an easy target to extract money from. [...] If we cannot pay, then they detain us for a day or two; they give us no water. When they are convinced we simply have no money to pay, they take us to another brothel and sell us to a new maeboon [...] In one day we pay almost 15,000 riels in bribes to the district police, to the municipal authorities and the local authorities. Then another group of police come and arrests us. If we do not run away and hide we are resold to slavery. Your solution is to ask these people to protect us – think again, they live off our blood.”²⁹⁶

Before the 1996 law on human trafficking, the police frequently claimed that they could not arrest or prosecute traffickers because there was no law to do so²⁹⁷ (despite the crimes of illegal confinement, rape, battery, etc which existed in previous laws). While the 1996 law removed that excuse – and imposed severe penalties of up to 20 years’ imprisonment – it has not led to a sustained legal attack on sexual trafficking. One NGO estimates that of the thousands of cases of women being trafficked for prostitution, less than 100 prosecutions have been taken.²⁹⁸

Brothel owners and sexual traffickers can afford to bribe the police or courts to avoid arrest. If prosecutions are made, they may be less than vigorous.

Sen and his wife Lyna filed a complaint against the maeboon who severely tortured them after they were sold to a brothel. The perpetrator was arrested and charged with human trafficking. A week before the trial, two courts officials visited Sen and Lyna in a bid to coerce them into dropping the complaint. The officials promised them a total of 30,000 riels (\$8) each if they withdrew their complaints; Lyna agreed and took the money because, she said, she felt

²⁹⁶ Speech to the First National Conference on Gender and Development in Cambodia, Phnom Penh, September 7-9, 1999. There is a growing debate about the merits of legalizing prostitution in Cambodia, so that, in theory, voluntary sex workers can be protected from extortion and other exploitation (while sexual traffickers and others responsible for forced prostitution can still be prosecuted).

²⁹⁷ See summaries of interviews with police in six provinces in Cambodian Center for the Protection of Children’s Rights, “Report on child prostitution and child trafficking in Cambodia”, 1995.

²⁹⁸ Oung Chanthol, “Current Situation of Women in Cambodia”, Cambodian Women’s Crisis Center, paper presented to Conference on Gender and Development, September 1999.

pressured to do so. Her husband refused, thereby forcing the case to go to court. The officials then told the couple not to attend the court hearing. The reasons for the court officials' actions are unproven, but it was clear that they had a keen interest – presumably financial – in seeing the perpetrator escape without trial. Because of Sen's insistence, the case proceeded to trial. The perpetrator, who should have faced a possible sentence of 10-20 years imprisonment²⁹⁹, received a five-year sentence, of which four years were suspended; in effect, he was sentenced to one year in prison.

For other victims, social attitudes – and the fear and embarrassment of having to describe the details of rape and other sexual abuse to the police or courts – may make them reluctant to file complaints. The police and judiciary are heavily dominated by men, who may be less than sympathetic to a female victim. A court prosecutor who, for example, has himself been implicated in sexual and physical abuse is not the best person to interview a sexual trafficking complainant.

Keo Sim, a prosecutor in Koh Kong province – one of Cambodia's capitals of human trafficking – allegedly bought and repeatedly beat a woman in a local brothel. He also allegedly assaulted the brothel owner. According to the owner, Thoeng Sokun, the prosecutor bought a woman from Kompong Som province for \$400 and kept her at the brothel in Koh Kong, near the courthouse. Keo Sim regularly visited the brothel, called the Delightful Guesthouse, to visit the woman, and allegedly beat her. "She often showed me her bruises. Sometimes she got bruised on her thighs, sometimes on her back," Sokun later said. In early July 1999, the woman ran away and went into hiding, reportedly to escape Sim's violence. Sim arrived at the brothel on the night of July 7 to find her missing; in his anger, he allegedly assaulted Sokun, the brothel owner. Sokun, who said that the prosecutor was notorious in Koh Kong for hitting "uncooperative" brothel owners and prostitutes, later filed a complaint to the court against him. The chief of the provincial court, Sun Soung, did not dispute the allegations against Sim, but stated that the prosecutor's actions were "personal" rather than "professional", and constituted "petty crime".³⁰⁰ (Under the 1996 Law on Suppression of Kidnapping, Trafficking and Exploitation of Humans, anyone who buys or sells a human being for the purpose of prostitution can be sentenced to 15-20 years' imprisonment (Art. 3); under the 1992 Transitional Criminal Law, the sentence for battery with injury is between two months and 10 years' in prison, depending on the severity of the injury and whether a weapon was used.) At time of writing, the case was unresolved.

Domestic Violence

At the heart of the lack of legal protection for victims of domestic violence is the widespread belief that assault, rape and other crimes committed within the home is a family, not a criminal, affair. As a policeman told the authors of the first study on domestic violence (1994), "a man will never go to jail for assaulting his wife, only if he kills his wife".³⁰¹

These social biases against women extend deep into the legal system, including into the issue of divorce – one of the few escape routes available for battered women. Divorce in Cambodia is a protracted and daunting process – including repeated 'reconciliation' attempts, advocated by Cambodian custom and family law, in which village, commune and court officials attempt to get the wife to agree to return to her husband. To secure a divorce, with persistent follow-up by the complainant, can take well over a year.³⁰²

The Law:

"All forms of discrimination against women shall be prohibited...Men and women are equal in all fields especially in marriages and matters of the family."

Constitution, 1993; Art. 45

²⁹⁹ Under the 1996 law on human trafficking, anyone who buys humans for the purposes of prostitution should be sentenced to 10-15 years' imprisonment; anyone who "confines men or women in his/her house or any place, for a purpose of forcing them to commit prostitution", and who does so "by coercion and violence or by threat or weapon", can be sentenced to 10-20 years.

³⁰⁰ Chea Sotheacheat, "Brothel anger at prosecutor's out-of-court behavior", *Phnom Penh Post*, September 3-16, 1999.

³⁰¹ Zimmerman, "Plates in a Basket will Rattle...", 1994 (Appendix B).

³⁰² *Ibid.* (see pp. 162-173 & Appendix B).

By forcing a battered woman to submit to repeated reconciliation attempts, which only provide more time and opportunity for her abuser to continue his violence, the local authorities become accomplices to domestic violence. The police and courts' common failure to prosecute wife-beaters for criminal offences, meanwhile, also ensures their continued impunity and ability to commit violence.

As was the case with sexual trafficking, some officials say an explicit law against domestic violence is necessary before prosecutions can be taken. Again, this ignores the current law, which does not provide exceptions (such as if the perpetrator is a husband or other relative of the victim) to the crimes of assault, rape, and so on. The Ministry of Women's Affairs has drafted a law against domestic violence, which at time of this report's writing had yet to go before the National Assembly. While the law will be a necessary step toward sending the message the domestic violence is a crime, persuading the male-dominated police and judiciary to enforce it will likely require concerted efforts.

CHAPTER 22. CONFESSIONS & POLICE TORTURE

The most institutionalised torture in Cambodia is that committed by the police, ostensibly in the name of the law. The biggest reason why the police torture people is to extract confessions from them, because those forced confessions are in turn accepted as evidence of guilt by the judiciary. As one legal observer has noted, police officers, prosecutors and judges act as "collaborators with a common design to convict suspects on the basis of confessions extracted from the suspects".³⁰³

This must be seen in historical context; confessions have been an integral part of 'justice' in Cambodia for decades, if not longer. Asked if the justice system has relied upon confessions from suspects for many years, Sok Sam Oeun of the Cambodian Defenders Project replies: "For many centuries".³⁰⁴

In more recent decades, at least, securing confessions was the primary aim of the torture conducted at the Tuol Sleng secret prison during the Khmer Rouge regime, although the veneer of putting the 'traitors' on trial was dispensed with. Subsequently, under the Vietnamese-backed socialist regime of the 1980s, confessions remained a central part of the criminal justice system. "In reality, the concept of investigation does not exist within a socialist system. In such a system, the emphasis is on the confession... The investigators, the prosecutor and the judge collaborate in gaining and perfecting a confession in a manner that the conviction of the accused becomes socially convincing."³⁰⁵

The presumption of innocence and other human rights protections introduced by the 1993 Constitution have failed to break the historical role of confessions as a key part of the justice system. The explicit Constitutional provision that "confessions obtained by physical or mental duress shall not be considered proof of guilt" is routinely ignored. "That principle is not fully observed, since physical or mental coercion of accused people is still quite frequent," notes a 1997 government report.³⁰⁶ Similarly, the presumption of innocence is jeopardised by the fact that "during interrogations, some police officers have put pressure on accused persons in order to obtain confessions".³⁰⁷ The report adds that: "Beatings during interrogation are attributable to the fact that some police officers lack the proper techniques for questioning accused persons."³⁰⁸

The extent of forced confessions in Cambodia today is unproven. Nearly 90% of (pre-trial and convicted) prison inmates interviewed by Licadho stated that they gave a confession to the police after arrest;³⁰⁹ how many of the inmates confessed voluntarily, and how many were forced, is unclear.

³⁰³ See "Statement and Recommendations of the Participants", Seminar on Cambodian Judiciary, Hong Kong, March 14-20, 1998, in Basil Fernando, *Problems Facing the Cambodian Legal System*, Asian Human Rights Commission, July 1998 (p. 15).

³⁰⁴ Author's interview with Sok Sam Oeun, Phnom Penh, January 12, 2000.

³⁰⁵ Ibid.

³⁰⁶ Kingdom of Cambodia, "Report on Civil and Political Rights..." (para. 244).

³⁰⁷ Ibid. (para. 222).

³⁰⁸ Ibid. (para. 223).

³⁰⁹ See Chapter 6, Section A.

The government, in a draft report on Cambodia's compliance with the UN Convention Against Torture, refers to a total of 130 allegations of forced confessions in 14 provinces in the years 1995-97; the figure – based on data provided by Legal Aid of Cambodia and the Cambodian Bar Association, according to the Ministry of Justice – refers to cases in which defence lawyers petitioned the courts to reject the confessions of their clients. Of the 130 petitions, the courts considered only 74 (or 57%) of them; there is no information on how many of these petitions were upheld or rejected. However, out of the total of 130 cases, 95 of the defendants (73%) were convicted by the courts, implying that the judges did not consider the allegation of forced confession substantiated or serious enough to justify the dismissal of charges or acquittal of the defendants.³¹⁰

The government report notes that, in some allegations of forced confession, the only evidence is the words of the complainants, who the “judges do not completely believe”. In other cases, where there is clear evidence of torture to extract a confession, judges will take action. The government report gives only one example of a forced confession which was rejected by a court – the 1994 case of Kim Phal, a 29-year-old pregnant woman who confessed to theft after severe torture by Phnom Penh police. “The court recognized that the confession was the result of torture,” notes the report. It does not offer any explanation of why the judge, who rejected Kim Phal's confession and found her not guilty of theft, did not take any action against the torturers.³¹¹

The reality, as commentators have noted, is that despite receiving human rights and legal training on the Constitution and other laws, police officers, prosecutors and judges have been unwilling to “depart from the old practices to which they were accustomed and psychologically oriented”.³¹² Law enforcement officials – and perhaps even their victims – have, over the years, become accustomed to torture and forced confession as a ‘normal’ practice. In the rare cases when the courts do reject forced confessions, this is not accompanied by judicial action against the perpetrators.

The evident failure of the justice system to adapt to the 1993 Constitution, and other legislation that requires a fair police investigation and a fair trial, may be partially attributable to confusion (deliberate or otherwise) within Cambodia's criminal laws over the admissibility of confessions and other evidence.

Contradictory Laws

In 1992-93, within a few months of each other, two criminal laws were passed which contained apparently contradictory provisions relating to the admissibility of confessions in court trials.

The Transitional Criminal Law of 1992 prohibited the use of confessions obtained under duress as evidence at trials; it thereby implicitly permitted the use of confessions if they were not obtained forcibly, but also included the proviso that confessions could not be used to convict defendants unless there was also other corroborating evidence. However, the subsequent Law on Criminal Procedure, passed in 1993, expressly permitted judges to take into account confessions – without any reference to whether they were forced or voluntary, or to whether there was other corroborating evidence.

It is important to note the context of the two apparently opposing laws. The 1992 law was drafted by UNTAC, the UN peace-keeping mission to Cambodia; the law was approved in September 1992 by the Supreme National Council (SNC), the UN-established body, comprising of officials from the various formerly warring factions, which was mandated by international agreement to be the unique ruling body in the country during the UN mission. In late January 1993, while the SNC's mandate was still in force, the former one-party State of Cambodia (SOC) regime – which had ruled the country for years prior to the UN mission – passed its own Law on Criminal Procedure. The legality of the passing of the law, at a time when SOC was not the country's ruling body, has long been questioned.

³¹⁰ Royal Government of Cambodia, “The Final Draft Report on the Implementation of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment...”, 1999 (para. 162); author's interview with Ith Rady, Ministry of Justice deputy director of personnel and training, and one of the report's drafters, January 12, 2000. The draft report has yet to be submitted to the United Nations.

³¹¹ See Chapter 7, Box 7.2 for more on Kim Phal's case.

³¹² “Statement and Recommendations of the Participants”, Seminar on Cambodian Judiciary, March 1998, in *Problems Facing the Cambodian Legal System* (p. 15).

Some observers have argued that the 1993 SOC law's provision for judges to unconditionally accept confessions (Art. 125) was "intended in no uncertain terms to negate" the 1992 UN law's restrictions on the use of confessions.³¹³

The two laws are also contradictory on the issue of the admissibility in court of police reports (which often include references to confessions by suspects). The 1992 UN-drafted law states that "all evidence, including police reports, is rebuttable and may be challenged during the trial" (Art. 24.2). It also requires that "witnesses mentioned in the police file, including police officers, must be heard in court". (Art. 24.1). The 1993 SOC law is ambiguous: on one hand, it says that police reports are "only information" and "judges are not obliged to believe" them (Art. 41); on the other hand, it states that "the reports of the judiciary police shall be considered authentic evidence... judges shall consider the essence of the report truthful and accurate as long as contradictory evidence is not brought up" at the trial (Art. 42). Significantly, the SOC law is also ambiguous on whether witnesses such as police officers have to testify in court for their evidence to be admissible.

At the time the two laws were introduced, during the UN mission, prosecutors and judges (all of whom had been appointed under the SOC or its predecessor regime) were almost certainly inclined to place more weight on the 1993 SOC law than the 1992 UN-drafted law. In practice, confessions continued to be accepted by the judiciary as evidence of guilt, regardless of whether they had been extracted by force.

The confusion over the admissibility of confessions should have been unequivocally settled by the new Constitution, passed in September 1993 following the UN-sponsored elections and formation of a new parliament and coalition government. The Constitution stated that forced confessions "shall not be admissible as evidence of guilt". Other Constitutional safeguards for criminal suspects included that "the accused shall be considered innocent until the court has judged finally on the case" and that "any case of doubt shall be resolved in favour of the accused" (Art. 38).

The Law:

"Confessions by accused persons are never grounds for conviction unless corroborated by other evidence. A confession obtained under duress, of whatever form, shall be considered null and void."

Transitional Criminal Law, passed by the Supreme National Council, 1992; Art. 24.3

"Evidence of a criminal offence may be produced [in court] by any means in order to convince the judge, for example by confessions, by witnesses' appropriate and convincing testimony, by examination...etc."

Law on Criminal Procedure, passed by the State of Cambodia regime, 1993; Art. 125

"Confessions obtained by physical or mental force shall not be admissible as evidence of guilt."

Constitution, 1993; Art. 38

In reality, the contradictions between the two criminal laws, both of which remain in force today, have never been resolved. The Constitution is frequently violated. The police continue to extract confessions from suspects through violence or the threat of it, and judges continue to accept them. The police officers responsible for taking confessions from suspects, or providing other written reports to the courts, frequently do not appear in court.

In practice, the onus is on defense lawyers to challenge an alleged confession or information contained in a police report, often without the ability to cross-examine the police officers involved. Faced with an allegation of forced confession, judges will usually demand that the defense provide some irrefutable proof of such, rather than insist that the prosecution prove that the confession was given voluntarily. Given the long-standing historical practice, many judges "are psychologically trained and morally inclined to accept the voluntariness and truthfulness of a confession".³¹⁴

The government is currently drafting a new Criminal Code and a Criminal Procedure Code, and is on record as stating that these laws will guarantee the presumption of innocence, require all witnesses to be present at trials and prohibit the admissibility of forced confessions.³¹⁵

³¹³ Terrence Wicremasinghe, "Confessions as a Technique of Proof in Criminal Proceedings", Chapter 6.2, *Problems Facing the Cambodian Legal System* (p. 72).

³¹⁴ Terrence Wicremasinghe, "Confession as a Technique of Proof in Criminal Proceedings", in *Problems Facing the Cambodian Legal System* (p. 76).

³¹⁵ Kingdom of Cambodia, "Report on Civil and Political Rights...", 1997 (paras. 224, 241 & 128).

CHAPTER 23. POLICE TORTURE – THE GOVERNMENT RESPONSE

A government delegation testifying before a UN human rights committee in July 1999 stated that police or other officials who maltreat people in their custody are liable under the law for their actions. According to a UN summary of their testimony, the Cambodian delegates noted that: “In Prey Veng province, for instance, a police officer who slapped a suspect had been dismissed from his post and imprisoned for his act; and a district police inspector in the province of Kompong Cham had been charged for detaining an individual for more than 48 hours, which was the legal limit of time to keep a suspect in a police custody before being presented to a judge.”³¹⁶

What the Cambodian delegates neglected to say was that both prosecutions involved the death of suspects (one of them a child) during or after torture, and that the sole imprisoned police officer spent a total of four months in jail.

The Prey Veng and Kompong Cham cases are worthy of special mention, particularly as the government has used them to defend Cambodia’s record at punishing State torturers:

- The Prey Veng case (in which a policeman “slapped a suspect”, the UN committee was told) involved the 1995 death of a 13-year-old boy during interrogation by a military policeman. About a year before his death, the boy, Ry Sarith, had bought a bicycle on credit from a neighbour; he gradually paid back most of the debt but still owed 10,000 riels (then worth about \$4). On February 17, 1995, the neighbour saw Sarith coming off a ferry at the Neak Loeung river crossing point, and reported him to the military police for “stealing” the bicycle. Sarith was arrested and detained at a military police station. Some time later, military police captain Sam Sin To kicked the boy, who collapsed and died. (There are differing versions of the kicking. According to human rights investigators, Sam Sin To kicked Sarith at least six times in the chest with his military boots. According to Ministry of Justice official Ith Rady, the military policeman kicked the boy once out of anger because the boy did not respond to questions put to him. Ith Rady suggested that the boy’s death could have been partially attributable to his weakened state, because the military police had denied him food after his arrest and detention.) Four days later, Sin To was arrested. He paid one million riels in compensation (then worth about \$430) to Sarith’s father, who did not push for a prosecution in the case. Despite that, the court decided to prosecute Sin To. However, he was not charged with manslaughter, but with battery with injury. After four months in pre-trial detention, the military policeman was convicted on June 12, 1995 of battery with injury, which carries a penalty of up to five years in prison. Sin To was given a two-year prison sentence, 20 months of which was suspended by the judge; in effect, he was sentenced to the same amount of time he had already spent in pre-trial detention – four months – and was released. A judge, questioned about the weak sentence, stated that the dead boy was a thief and there was no clear cause of his death. Another court official said the fact that a senior policeman was taken to court and convicted was in itself a “success”, and would never have happened under previous government regimes.³¹⁷
- The Kompong Cham case involved the death in police custody after torture of Liv Peng Harn, aged 42, in January 1996. Liv Peng Harn hanged himself, according to the police account. Subsequent exhumation of his body revealed six broken ribs. More than a year after the death, one policeman was convicted on a charge of infringement of individual rights³¹⁸, a misdemeanour, for the unlawful arrest and detention of Liv Peng Harn. The policeman received a two-year suspended sentence. Another year later – after unprecedented pressure by human rights groups and the Ministers of Justice and Interior – the same policeman and four others were put on trial for murder and manslaughter. They were acquitted. (See Box 23.2, below, for a fuller account.)

³¹⁶ UN press release, “Cambodia should not be accused of practising ‘Culture of Impunity’, delegation tells Human Rights Committee”, July 14, 1999. The delegation testified before the UN Human Rights Committee about Cambodia’s compliance with the International Covenant on Civil and Political Rights. The delegation was led by Om Yentieng, an advisor to Prime Minister Hun Sen and chairman of the Cambodian government’s Human Rights Committee.

³¹⁷ Khou Akara, “Torture and inhumane treatment in places of detention and inquiry”, a Licadho report presented to a March 1996 Ministry of Justice seminar; Moeun Chhean Nariddh, “One life: four months jail”, *Phnom Penh Post*, July 28-August 10, 1995; and author’s interview with Ith Rady, deputy director, department of personnel and training, Ministry of Justice, Phnom Penh, January 12, 2000.

³¹⁸ Transitional Criminal Law, 1992 (Art. 57); see Chapter 5, Section B for a description of this article.

These two cases represent the furthest that the law has been pushed to punish police torturers.³¹⁹ In only one case, that of the death of 13-year-old Ry Sarith, did an officer go to prison. Asked whether the four-month imprisonment handed down in that case was an adequate sentence, Ith Rady of the Ministry of Justice replies: "Only the court can decide the sentence, but in my opinion, I agree that the sentence does not fit the crime. It does not comply with justice. But I still admire the judge in Prey Veng for not being scared to prosecute the case. The perpetrator was the nephew of the military commander in Prey Veng, so the perpetrator seems to be related to a strong person. Even though the sentence does seem to be light, it's a model to show [other] armed personnel that they can be prosecuted in the future."

The Ry Sarith and Liv Peng Harn cases are the only prosecutions of police or military police officers that are cited in a draft government report on Cambodia's compliance with the UN Convention Against Torture.³²⁰ The only other torture prosecution cited in the government report is the November 1993 conviction of a Battambang prison guard for torturing inmates. This is a reference to Ten Seng, the former deputy director of Battambang prison arrested by UN police for the torture of prisoners, and tried by the Phnom Penh municipal court after the end of the UN mission in Cambodia.³²¹ Ten Seng's sadistic torture allegedly included tying prisoners to a tree in the center of the prison yard and, in full view of other inmates, burning their bodies with hot pokers.³²² He got a one-year prison sentence.

The draft government report refers to the fact that some torture victims do not file court complaints against their torturers, meaning that the judiciary cannot take action. When complaints are made, the report alludes to the practice of out-of-court settlements being struck between the perpetrator and victim to avoid the case going to court. "For example," the report notes, "a prison guard in Prey Veng beat a guilty person detained in prison. At the end of the reconciliation for damages and compensation, the victim decided to no longer make a complaint."³²³

Ministry of Justice official Ith Rady, one of the report's authors, notes two major problems in prosecuting torturers: "Most torture cases are complicated. The courts cannot prosecute without concrete evidence [and] witnesses... The [defence] lawyers complain but they do not have medical reports or other evidence [to show] that this person was tortured by this or that person."

The second problem, he adds, is that taking action against perpetrators is "very difficult" for the courts. "The majority of perpetrators are connected to the police, the military police, [or the] military. They are people with weapons, and with strong power. The courts, and court officials at different levels, feel afraid for their safety. They dare not accuse or prosecute these people to stand trial."

Official policy

Given the weak legal system and rampant abuses of power, Cambodia's poor record at prosecuting police and other State torturers is unlikely to improve without significant government willpower and effort. While several government edicts do exist which in theory should encourage such prosecutions, there is no evidence that government policy has been strong enough to have any real impact.

In March 1995, the government reportedly issued an order which "authorized judicial proceedings to be instituted against officials of all ranks for abuses of power and breaches of the law".³²⁴ More specifically with regard to torture, a subsequent November 1995 Ministry of Interior *prakas* (declaration) outlined the applicable punishments for police officers who torture detainees.

³¹⁹ There has reportedly been one other such prosecution: in Battambang province in 1998, several police officers were convicted of battery with injury and infringement of individual rights in regard to the torture of a suspect, according to statements made by the provincial court to human rights workers. The perpetrators received suspended sentences.

³²⁰ Royal Government of Cambodia, "The Final Draft Report on the Implementation of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment...", 1999.

³²¹ See reference to the Ten Seng case in *Problems Facing the Cambodian Legal System* (p. 65).

³²² The hot poker account is taken from Physicians for Human Rights, "Health Conditions in Cambodia's Prisons", April 1995 (p. 9); Ministry of Justice official Ith Rady, in an interview with the author January 12, 2000, had a slightly different recollection: he believed that the deputy prison chief had tied up prisoners and lit campfires around them, so that the heat slowly burned them.

³²³ Royal Government of Cambodia, "The Final Draft Report on the Implementation of the Convention Against Torture...", (para. 54), translated from the French language version.

³²⁴ Royal Government of Cambodia letter # 351, dated March 6, 1995, issued at the proposal of the Ministry of Justice; the letter is cited in Kingdom of Cambodia, "Report on Civil and Political Rights...", 1997 (para. 158).

The Ministry of Interior *prakas* states that a police officer who tortures a detainee during interrogation in order to force an involuntary statement should be demoted, removed from their position or their unit, or expelled from the police. Police officers should face judicial prosecution, according to the *prakas*, if death results from the torture.³²⁵

The *prakas* is clearly inadequate, given that it suggests police torturers should only be prosecuted if their actions cause death; the message is sent to the police that they will face only lesser sanctions if death does not occur. In any event, there is little evidence that even the sanctions that are specified in the *prakas* are routinely applied to police torturers. Licadho is aware of cases in which police officers have received promotions, rather than demotions, following allegations of torture against them.

Box 23.1

“BEATINGS AND HARSH WORDS”

Cambodia's northern province of Battambang is notorious for systematic torture by law enforcement officers, and for the impunity enjoyed by the perpetrators. A concerted effort by human rights workers to document and report torture cases to the government has so far brought about little discernable change – torture has continued unabated.

In February 1997, a 14-year-old youth was arrested on suspicion of involvement in a fatal robbery. During arrest, he was beaten repeatedly with a bamboo stick by a policeman. Taken to the Battambang provincial police headquarters, three policemen forced the youth to give a confession. The youth was beaten and kicked repeatedly, and given electric shocks with an electric baton.

In June 1997 – in response to a high level of reported torture in the province – the United Nations' Special Representative for human rights in Cambodia presented to the government a confidential report documenting 31 cases of torture of detainees in police custody in Battambang and one case of extrajudicial killing by a police officer outside a police station. The UN's aim was to provide the government with documented cases, and seek full and proper official investigations into them.

The torture cited in the UN report involved the provincial civil police, the provincial military police and, in particular, district civil police officers at the Battambang municipal police station, also known as the Svay Por district police station.

“The practice at Svay Por police station...is that interrogation is organized by teams of six policemen. Methods include beatings with fists, feet or bamboo or wooden sticks on various parts of the body, including the head, back, chest, sides and legs; slapping in the face or simultaneously on both ears; near strangulation with a krama [a Cambodian scarf]; and hits to the head or face with a handgun or on the sides, chest or back with a rifle butt,” according to a subsequent UN report. The torture at Svay Por usually occurred within the first 48 hours of arrest, and was designed to extract confessions from criminal suspects.

In June 1997, a 25-year-old man accused of murder was detained at Svay Por police station and tortured by two policemen. Punched and kicked in the face, the man was also struck on the chest with a hammer about 15 times. A confession was extracted from him during the torture.

The UN's confidential report was given to the government at the invitation of National Police chief Hok Lundy, after initial reports on torture in Battambang had been provided to him. By December 1997, six months after the UN report had been received, no official investigation into the UN's allegations had been made. At the same time, the UN's Cambodia human rights office continued to receive “credible information showing that detainees continue to be tortured in Svay Por and other police stations in the province”.

A 49-year-old woman accused of fraud – a charge which related to her giving advice on lottery numbers to a family – was tortured at Svay Por police station in September 1997. Policemen struck her on the temple, and repeatedly kicked in her in the chest and leg. She was threatened

³²⁵ Ministry of Interior *prakas* # 006, “Discipline of the National Police Forces”, November 26, 1995.

that she would be imprisoned for 20 years if she told anyone about the torture. She was subsequently convicted of fraud and sentenced to four months' imprisonment.

By late 1998, human rights workers were continuing to receive reports of torture at Svay Por, as well as at the Battambang provincial police headquarters and the military police headquarters.

In October 1998, two young men suspected of robbery were taken to the Battambang military police headquarters. They were both kicked and struck with wooden batons repeatedly on the head, back and body. When one of the victims looked up at his torturers, he was beaten more severely and accused of trying to memorise their faces. At their subsequent court trial, one of the pair was found not guilty.

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A month later, in November 1998, four young men accused of robbery were detained at the Battambang provincial (civil) police headquarters. They were all beaten repeatedly with sticks and guns, to secure confessions from them.

In January 1999, the Battambang court prosecutor and the provincial police commissioner responded to the UN's initial report on 31 alleged torture cases and one case of extrajudicial killing by a police officer. A police report concluded that in 30 of the 31 alleged torture cases, no torture had occurred. In the other case, the police acknowledged that excessive force had been used; as punishment, the policeman involved had been sent to the frontlines.³²⁶ The police report also acknowledged unlawful force in the case of extrajudicial killing; as punishment for that, the policeman responsible had been sent to neighboring Banteay Meanchey province to "look for money to compensate the victim".

The prosecutor, meanwhile, told human rights workers that, in the case of the extrajudicial killing, the perpetrator had been tried and convicted of murder. The perpetrator (who had been sent to Banteay Meanchey province by his superiors) had escaped, however, so his trial was held *in absentia*. Of the 31 torture cases raised by the UN, a prosecution had been made in only one of them: in that case, several policemen were convicted of battery and infringement of individual rights but were given suspended sentences (so they did not serve any prison time).

In June 1999 – two years after the UN first raised the issue of torture in Battambang – the National Police headquarters in Phnom Penh dispatched a team of officials to Battambang to investigate the allegations. The team met with the accused police officers and, separately, with some of their alleged victims. The interviews with the victims were conducted in the presence of UN human rights staff.

Finally, in September 1999, a report on the results of the National Police investigation was presented to the UN. The report concluded that there was no evidence of torture having occurred in any one of the 31 alleged torture cases, although "beatings and harsh words" may have been used to extract confessions in a few cases. The report recommended against any disciplinary or legal action against police interrogators in Battambang province.

In November 1999, four young men were "invited" to the Battambang military police headquarters and questioned about an alleged robbery. Two of them were struck on the ankle several times with a hammer, and then blindfolded and told that they were going to be executed. The other two stated that they were struck repeatedly with a plastic or rubber baton. Detained for three days at the police station, their feet were cuffed or shackled at night. Two of them spent one night shackled to a tree in the grounds of the police station, stripped of their clothes and deprived of blankets, mosquito nets or sleeping mats; the military police poured water on the ground to make it more uncomfortable for them to lie on.

Human rights workers continue to receive regular reports of torture in police custody in Battambang.³²⁷

³²⁶ Police in Cambodia are sometimes used for military duties, particularly in those areas where (until the recent demise of the Khmer Rouge) there is a guerrilla threat.

³²⁷ The case examples cited in this box are taken from Licadho files. Other information is taken from UN human rights reports; see successive reports "Situation of human rights in Cambodia...", to the UN General Assembly or the UN Commission on Human Rights, dated October 17, 1997, February 20, 1998, September 17, 1998, February 26, 1999, September 20, 1999 & January 13, 2000.

Police procedures

Given the general absence of punishment for police perpetrators, efforts to prevent torture – in the form of practical safeguards for detainees in police custody – are vital. The *incommunicado* nature of police detention, in which detainees have no ability to communicate with lawyers or other outsiders, provides the unfettered opportunity for police to commit torture or other abuses.

New operating procedures for judicial police, produced jointly by the National Police and the Australian-funded Cambodian Criminal Justice Assistance Project (CCJAP), were approved in December 1999.³²⁸

The procedures clearly prohibit torture and other crimes and human rights violations, and go some way toward trying to prevent *incommunicado* detention by the police.

However, the procedures in some respects permit the police to bypass some of the rights and protections that should be available to detainees. For example, the procedures oblige the police to inform detainees of their rights to communicate with a friend or relative, and/or lawyer. The procedures add that: “The police must provide the person with reasonable time and facilities to make any communication to exercise their rights where possible and reasonable”, depending on “the circumstances of each matter”.

There is no clarification of what “possible or reasonable” and “circumstances of each matter” means, nor of how precisely the police are expected to facilitate the right to communication. The procedures do, however, specifically authorize the police to withhold a suspect’s right to communicate with a friend, relative and lawyer if the police believe that the communication would result in the escape of an accomplice, the fabrication or destruction of evidence or danger to other people if questioning of the suspect was delayed.³²⁹ Elsewhere in the procedures, the police are permitted to prevent a lawyer from visiting a suspect if the “visit poses a security risk”, which is similarly undefined.³³⁰

In apparent reference to human rights organizations, the procedures also specifically instruct police officers that: “Requests made by individuals or deputations on behalf of organizations to examine Police Cells to ascertain the conditions under which prisoners are detained and/or the facilities provided for prisoners are to be refused. The request is to be referred through the usual channels to the Judicial Police Deputy Commissioner for consideration.”

In a country where unlawful police practices do occur – including unlawful arrest, detention, torture, extortion, forced confession, lack of food and water and other inhumane conditions – such a blanket order enshrined in police procedures encourages the police to hinder any outside attempts to identify or deter such abuses. Similarly, the loopholes in the procedures regarding suspects’ rights to communicate with a friend, relative and lawyer permits the police, when they consider it in their interests, to arbitrarily prevent such communication.

³²⁸ National Police of Cambodia, Judicial Police Procedures Manual, approved by the co-Ministers of Interior in December 1999. CCJAP is a project of AusAid, the Australian government’s foreign aid body.

³²⁹ *Ibid.* (section 3-17).

³³⁰ *Ibid.* (section 3-50).

Box 23.2**AS FAR AS THE LAW HAS GONE: THE LIV PENG HARN CASE**

No other police torture case has been subjected to as much publicity and pressure for action – from both outside and inside the government – as the 1996 death in police custody of Liv Peng Harn.

The story began in April 1995 when a woman named Tun Sok Heng, 37, a relative-in-law of the Kompong Cham provincial governor, was murdered. More than six months later, in January 1996, Sun Lai Huort, 23, was arrested by police for the murder. It is unclear how the police fingered him; they later stated that he was carrying a grenade at the time of arrest and had allegedly been involved in several murders. Interrogated at the Kroch Chmar district police station January 9-10, 1996, Lai Huort was allegedly severely beaten. He confessed, naming two alleged accomplices in Tun Sok Heng's murder. One of them, Liv Peng Harn, 42, was arrested without warrant on January 11, 1996, by police officers led by Kroch Chmar district police inspector Rong Vu.

Liv Peng Harn was detained unlawfully and tortured in police custody. According to the police, he confessed to involvement in Tun Sok Heng's death (his confession did not, however, match that given by Sun Lai Huort). Peng Harn allegedly gave his confession in the late afternoon of January 12, after more than 24 hours in police custody. By the morning of the next day, January 13, he had still not been taken to court, in violation of the maximum lawful detention period of 48 hours.

Soon after his arrest on January 11, Liv Peng's wife had gone to the district police station and was briefly allowed to see her husband. Over the next two days, she several times returned to the station but was refused access to him. She claimed that, while keeping vigil outside the station, she heard the sounds of beating and her husband screaming.

On January 13, his wife – while again trying to get permission to see her husband – was told that Peng Harn had hanged himself and was dead. She entered the police cell and saw her husband's body: his hands were cuffed, his feet shackled, he was sitting down and had allegedly hanged himself with a pair of jeans.

An official committee, including two doctors, examined the body: their report stated that there was a mark around his neck, but no other marks or bruises or broken bones, and concluded that the death was a hanging. Relatives who took Peng Harn's body away for burial saw differently: the body was swollen and bruised, his ribs appeared to be broken, there were lacerations on his right temple and jaw (which they believed was broken), and blood in his mouth.

No action was taken against the police officers involved. Alerted to the case by human rights organizations, the then-Minister of Justice, in an unprecedented move, pushed for an investigation into Liv Peng Harn's death. Eventually, in August 1996, the co-Ministers of Interior – who hold authority over police officers – agreed to an exhumation of the body. In late August, Liv Peng Harn's body was exhumed – in the first such exhumation of a police torture victim – and examined by an official committee, including representatives of the ministries of Interior and Justice, the Kompong Cham court and provincial and district officials.

The exhumation revealed that the body had six broken ribs on the left side. The right ribs were not broken, and the jaw and skull were not fractured. A full autopsy was not done; the exhumation committee did not examine any other parts of the body – they stated that their mandate was merely to check the claims of injuries made by Liv Peng Harn's family.

Regardless, the six broken ribs revealed by the partial autopsy provided solid physical evidence of abuse in police custody. Still, the police who arrested and interrogated Liv Peng Harn were not charged with murder, manslaughter or battery with injury (or complicity in those crimes). On February 24, 1997 – more than a year after the death – a sole policeman, Kroch Chmar inspector Rong Vu, was convicted of "infringement of individual rights" (for the unlawful arrest and detention of Liv Peng Harn). Despite hearing evidence of physical abuse of Peng Harn – a local embalmer told the court that: "While washing the body, I saw it was bruised and swollen so much... we could hardly get the shirt off" – Rong Vu was not charged with a more serious crime. Rong Vu received the maximum sentence of two years' imprisonment but the sentence was suspended, so he did not have to spend a day in jail. He was ordered to pay two million riels (\$720) in compensation to Peng Harn's widow.

The court verdict did nothing to satisfy human rights workers or Peng Harn's relatives. It also did not impress the General-Prosecutor of the Court of Appeal, who still believes the court acted improperly. "The prosecutor did not charge the police with manslaughter, and did not charge them with battery. I think the prosecutor and the judge did not act properly... I wanted [the police] to be charged with manslaughter," says Henrot Raken.³³¹

In December 1997, after continued pressure, the Ministries of Interior and Justice specifically ordered the Kompong Cham police commissioner to instruct five suspected Kroch Chmar policemen to present themselves to the court for questioning. In February 1998, the Ministers authorized the filing of murder charges against five policemen – the first such prosecution in a police torture case.

On the eve of the trial, the judge reportedly begged a lawyer involved in the case to make a complaint of judicial bias or incompetence, thereby providing the opportunity for the judge to remove himself and give the case to one of his colleagues. No such complaint was made, and the trial proceeded.

On April 10, 1998, the defendants were found not guilty of murder or manslaughter. The judge ruled that there was no evidence that Peng Harn died as a result of torture. Regarding the broken ribs, the judge ruled that there was no evidence that they were caused by torture; he did not offer an explanation of how they might have been caused.

Rong Vu was transferred to another district of Kompong Cham and continues to work as a policeman.

³³¹ Author's interview with Henrot Raken, prosecutor-general, Court of Appeal, September 9, 1999.

PART VII: CONCLUSIONS & RECOMMENDATIONS

CHAPTER 24. CONCLUSIONS

The use of torture in today's Cambodia is as undeniable as the torture of Cambodia's tragic past few decades. New victims are claimed every day. Torture continues to exist because the authorities condone it, if not encourage it. Committed by both State and civilian perpetrators, torture is a glaring example of Cambodia's lack of rule of law. Without serious efforts to treat torture not only as a crime, but an inhuman one warranting special precautions and punishments, Cambodian lives will continue to be devastated by it in the foreseeable future.

Causes of torture

Decades of war, and the brutal 1975-79 Khmer Rouge regime, have left a deeply-scarred society fraught with violence. Great psychological trauma has been inflicted on countless Cambodians, and social structures and values have been shattered. Poverty, crime, human rights violations and social problems – domestic violence, community conflicts, alcoholism, etc – are common today.

Enduring notions of power, hierarchy and patronage reinforce the continuing use of torture. The powerful and strong have long abused and exploited the poor and the weak; torture is just one element of this exploitation.

Social attitudes clearly have their part to play in certain types of torture in Cambodia, and are reinforced by low education levels. Sexism and traditional beliefs about women play a part in sexual trafficking and domestic violence, for example. Hatred of suspected criminals, and a belief that they deserve severe violence, is a contributing factor in so-called mob justice, and in torture by police and other law enforcement officials.

Low salaries and lack of training and skills among police officers, and a long-standing reliance by the law enforcement system on securing confessions from criminal suspects, are other primary contributing factors to the ongoing use of torture, extortion and other crimes in police stations.

The causes and factors in torture and other violence in Cambodia are complex and intertwined. There is an urgent need for greater research and debate, most importantly by and among Cambodians across all levels of society, to define and understand the nature of the cycle of violence. Greater understanding is required of the psychosocial consequences of violence (and how to alleviate them) on Cambodians and Cambodia as a whole. Attempts to combat violence, including torture, will likely be inadequate unless they are grounded in a thorough appreciation of the context in which it occurs.

The consequences of torture

Torture affects individuals, families, communities and society as a whole. It often causes severe psychological damage to victims, and consequent social and economic problems for them and their families. People are left scared, worried and angry. Torture reduces their ability to fend for themselves, and their families. Torture contributes to the cycle of violence and trauma in Cambodia, afflicting the country's human resources and development.

Torture impedes the development of the rule of law, and contributes to a climate of impunity and exploitation. Law enforcement officials who are permitted, if not encouraged, to commit torture become the criminals whom they are supposed to combat. They invariably commit other crimes. Prosecutors and judges who turn a blind eye to torture similarly ignore other police abuses, and cannot be depended upon to uphold the rule of law.

Torture, particularly when used for political motives, impedes the development of democracy, freedom of expression and political and social debate. A country in which opposition political party members are tortured for political reasons is not a democracy.

The perpetuation of torture

Torture continues to exist in Cambodia because it is allowed to. Torturers know that they are unlikely to be punished. Laws are poorly enforced; opportunities to avoid them are rampant. Police officers, sexual traffickers, domestic abusers and other torturers may believe they have some kind of right to inflict the torture they do, that they 'own' the victim or that they are otherwise entitled to abuse them. Until the law enforcement system does exactly that – enforces the law – they will continue to think and act like that.

The government and judiciary are prime accomplices to torture in Cambodia. By failing to adequately investigate and prosecute torture cases, they condone the use of torture. There appear to be no independent institutions willing or capable of holding powerful groups of torturers, such as police, soldiers and other government agents, accountable to the law. A lack of political willpower, to strengthen the independence and professionalism of the judiciary, among other necessary reforms, is the biggest barrier to changing this situation.

Torture is also perpetuated by an attitude of acceptance of the status quo: the belief that torture – and other violence and exploitation, and related crimes such as corruption and extortion – are 'normal' and to be expected.

Solutions

Torture is a crime, and should be treated as such. To dismiss torture, particularly State torture, as something normal, cultural or otherwise acceptable is to promote the dehumanisation of Cambodians, and continue the cycle of violence, trauma and impunity which hinders the country's social and economic development. Torture was not acceptable under the Khmer Rouge, and it is not acceptable today.

Torturers should be punished, and their victims provided justice and relief, according to the law. Cambodia has provisions in existing criminal law under which torturers can be punished, but they are usually ignored. Stronger legislation defining, prohibiting and sanctioning all acts of torture (whether they be committed by State perpetrators or civilians) is likely to be necessary, in order to send a stronger message to perpetrators and law enforcers that torture is a serious crime.

New laws will not themselves solve the problem. Changing attitudes and behaviours is a long-term process, much of it dependent on increased education of the population in general, as well as potential torturers, on the law, human rights, and violence and its destructive consequences. In particular, specific training must be targeted at police officers, soldiers, court officials, lawyers, staff of non-government organizations, doctors and other medical personnel, and other civil servants.

Human trafficking and domestic violence – two forums in which torture occurs – are unique problems and should be treated as such. Each requires special education, legal, health and social services initiatives.

Similarly, torture by State agents – most commonly by law enforcement forces – is a particular problem requiring a different approach. In the short-term, practical safeguards to prevent torture are critical. In particular, there is an urgent need for clear and strict provisions to be laid down in law related to: admissibility of confessions as evidence in trials; access to detainees in police stations by family, friends, lawyers or other nominated outsiders; enforcement of lawful arrest and detention procedures; mandatory investigations by government and judicial officers of all torture allegations, and immediate suspensions of alleged perpetrators while investigations are conducted.

Torture in any form, like all human rights violations, flourishes in secrecy and denial. Breaking that silence, exposing its practice and its consequences, and giving victims a voice is a vital step toward preventing scores of new torture victims from joining those of the past.

CHAPTER 25. RECOMMENDATIONS

Preventing torture, punishing perpetrators and providing meaningful relief to victims are issues that span the legal, education, health, social and other fields. What follows are just some of the actions that need to be taken; these recommendations are not comprehensive. They focus primarily on building a necessary legal framework which not only prohibits acts of torture, but provides practical safeguards to prevent it and the judicial teeth to punish it. This focus is not intended to negate the importance of other initiatives, particularly education and training across all sectors, necessary to address the complex causes of torture.

In particular, the recommendations take into account the fact the Cambodia's criminal laws are currently being rewritten: the government is drafting a new criminal code and a new criminal procedure law. As such, the government and the legislature have the best opportunity in years to establish a sound legal framework against torture and related crimes. It is vital that the new legislation addresses the undeniable use of torture in Cambodia today, particularly within the law enforcement system but also in other forums, and contains concrete measures to combat it. Any failure to do so will amount to the perpetuation of official complicity in torture.

With regard to torture by the police, there is a vital need for the new criminal laws to address, in particular, the issue of forced confessions by criminal suspects. The police primarily torture people in order to extract confessions. The current safeguards in the Constitution and existing criminal law, prohibiting the admissibility of confessions obtained under physical or mental duress, are routinely violated by the judiciary.

In the recommendations that follow, Licadho advocates a complete ban on the admissibility in criminal trials of confessions allegedly given to police. Such a measure is not unprecedented (Sri Lanka and India have such bans), and is necessary to affect any real change in a criminal justice system which condones the routine use of torture by the police to secure 'evidence', rather than promotes proper criminal investigations.

However, until such time as the State begins to operate from the premise of innocent until proven guilty – and not the other way round – Licadho recognizes that such a proposed ban is unlikely to be implemented. Therefore, the recommendations also include a set of *minimum* criteria necessary to be laid down in law if confessions are to continue to be permitted to be put forward in criminal trials.

A. TORTURE IN STATE CUSTODY

LAW, REGULATIONS & GOVERNMENT POLICY

FACT:

Prohibitions against torture in the Constitution and existing criminal law are violated with impunity by State officials. Law enforcement and judicial officers frequently fail to properly investigate allegations of torture and charge perpetrators with applicable criminal offences.

RECOMMENDATIONS:

The **Ministry of Justice** should ensure that the new draft criminal code and the criminal procedure law explicitly contain provisions that fulfil all of Cambodia's obligations as a State Party to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In particular:

- Torture, as defined by the UN Convention, and other cruel, inhuman or degrading treatment or punishment shall be prohibited
- Any public official or other person acting in an official capacity who commits, participates in or is complicit in any way in any torture or other cruel, inhuman or degrading acts shall be punished according to the law

- An order from a superior official or any public authority, or any exceptional circumstances whatsoever, including political or military instability, may not be invoked as a justification for torture or other cruel, inhuman or degrading treatment or punishment

Furthermore, the **Ministry of Justice** should ensure that the new draft criminal code and/or the criminal procedure law explicitly requires that:

- Any detainee who when sent to prison or brought before any court official bears or complains of injuries shall be immediately referred for medical examination and treatment, including the provision of a medical certificate to the court on the nature of the injuries
- Judicial officers shall undertake a prompt and impartial investigation into any allegation of torture or other cruel, inhuman and degrading acts made by an alleged victim, his or her legal representative or any other party
- Judicial officers shall file criminal charges against alleged perpetrators wherever there is evidence that an act of torture has been committed
- In any case in which there is reasonable evidence of an accused person having been subjected to torture, judges shall immediately release and drop all criminal charges, on the grounds of serious procedural error, against the accused person
- In any case in which a judicial investigation into an alleged act of torture results in a decision not to initiate a prosecution of the alleged perpetrator/s, judicial officers shall provide a complete report on their investigation and the reason for their decision to the alleged victim and his or her legal representative.
- Victims of torture shall be awarded, through the legal system, fair and adequate compensation, including for physical and psychological injuries and suffering, medical costs and economic losses resulting from the torture
- Any act of intimidation or ill-treatment of a torture victim or his or her family, or the offering of any inducement or reward, in order to prevent the filing of a judicial complaint of torture, or to effect the withdrawal of such a complaint, shall be criminalized and punishable by law.

Members of the **National Assembly** and the **Senate** should ensure the inclusion of all of the above provisions in the final versions of the new criminal procedure law and criminal code that are passed by the two legislatures.

The **Ministry of Interior** should amend Prakas # 006, "Discipline of the National Police Forces", 1995 to explicitly state that:

- Any police officer who tortures a detainee to force an involuntary statement or for any other reason shall be dismissed and face judicial prosecution
- Any police officer who participates in or has any knowledge of an act of torture against a detainee, and who fails to immediately report this incident to his or her superior officer shall be dismissed and liable to face judicial prosecution
- Any superior officer who fails to take adequate action to prevent or stop an act of torture against a detainee by a police officer under his or her control shall be dismissed and liable to face judicial prosecution
- Any superior officer who, having received any information about an alleged act of torture committed by a subordinate officer, fails to immediately investigate the information and report the result of the investigation to the Ministry of Interior shall be dismissed
- Police officers accused of torture shall be temporarily suspended from all duties until such time as full investigations have been held by the Ministry of Interior and by the judiciary; police officers who are prosecuted for torture-related incidents shall remain suspended until a trial is held and verdict delivered

The **Ministry of Interior** should amend Prakas # 217, "Proclamation on the Administration of prisons", 1998, to include all of the above provisions and state that they are applicable to all prison staff and directors.

FACT:

The existing (1992) Transitional Criminal Law is inadequate in its applicable crimes and punishments regarding acts of torture. For example, it criminalizes physical assault but makes no distinction for graver acts of violence such as torture.

RECOMMENDATIONS:

The **Ministry of Justice** should ensure that the new draft criminal code:

- Contains a criminal offence of torture, as defined by the UN Convention Against Torture and applicable to police officers (including prison staff), military police, soldiers and all other public officials or others acting in an official capacity, with penalties appropriate to its grave nature.
- Explicitly states that alleged perpetrators of torture can and should be prosecuted for all available applicable criminal offences.

Members of the **National Assembly** and the **Senate** should ensure the inclusion of all of the above provisions in the final version of the new criminal code approved by the two legislatures.

FACTS:

Police officers torture detainees primarily to extract confessions to crimes. The courts often accept forced confessions as evidence of guilt, contrary to the Constitution and existing criminal law. Confessions are an integral part of Cambodia's criminal justice system, inviting abuses such as torture in order to extract them from criminal suspects.

RECOMMENDATIONS:

The **Ministry of Justice**, and members of the **National Assembly** and the **Senate**, should ensure that the new criminal procedure law:

- Explicitly prohibits confessions of any sort allegedly given by detainees in police custody from being admissible as evidence of guilt in criminal trials

If, for any reason, the above recommendation is not implemented, the **Ministry of Justice**, the **National Assembly** and the **Senate** should ensure, as a *minimum* measure, that the new criminal procedure law:

- States that anyone placed under arrest shall be informed of his or her right to decline to answer questions by the police, other than to provide his or her name and personal details, and to have a legal representative present during any attempted questioning by police
- Explicitly states that confessions by accused persons are never grounds for conviction unless corroborated by other evidence, and that confessions obtained by the infliction of physical or mental force shall not be admissible as evidence of guilt
- Requires that in any case in which there is reasonable evidence that a confession was obtained by the infliction of physical or mental force, judges shall immediately release and drop all criminal charges, on the grounds of serious procedural error, against the accused person
- Automatically prohibits the admissibility in criminal trials of confessions allegedly given by an accused person during police interrogation unless the confession was provided in presence of a lawyer or other third party, such as a family member, friend or any other person, nominated by the suspect while in custody
- Requires that in any case in which the prosecution intends to put forward a confession allegedly given by an accused while in police custody as evidence at a criminal trial, a judge shall hold a preliminary hearing prior to the trial to establish whether the confession was voluntary or otherwise
- Requires that the accused person, all police officers and all witnesses present during the alleged confession be present at the above-mentioned preliminary hearing for examination by the judge

and cross-examination by the prosecution and defense; stipulates that the accused, witnesses and police officers shall be questioned separately

- Explicitly states that the burden of proof as to whether a confession was given voluntarily be placed on the prosecution, and require that judges mandatorily rule a confession to be inadmissible in any case in which there is reasonable doubt that it was given voluntarily

The **Ministry of Interior** should amend Prakas (Declaration) # 006, "Discipline of the National Police Forces", 1995, or alternatively approve a new Prakas, to:

- Strictly prohibit the presence of firearms, batons (including electric), electrical wire, rope, sticks, pipes and knives during police interrogations of detainees, and explicitly prohibit the use of all and any other instruments and objects to intimidate or inflict violence on detainees during interrogation; provide for the dismissal of police officers who violate these provisions

FACTS:

Arrested people are frequently detained at police stations incommunicado, without ability to contact a family member, friend, lawyer or other nominated person. Furthermore, the process for lawyers to obtain court permission to visit pre-trial detainees in prisons can be subjected to unnecessary delays.

RECOMMENDATIONS:

The **Ministry of Justice**, the **National Assembly** and the **Senate** should ensure that the new criminal code and/or criminal procedure law:

- Stipulates that anyone placed under arrest shall be informed of his or her right to communicate with a friend, relative or other person while in police custody, and of his or her right to communicate with a legal representative and have that representative present during any questioning by the police
- Requires that police officers must notify a relative or other person nominated by the suspect of that suspect's arrest, or provide the means for the suspect to contact the nominated person
- Stipulates that the police must permit at least one visit by a family member, friend, or other nominated person to the suspect during the police detention
- Requires that the police provide immediate access to detainees by lawyers and representatives of legal organizations, and stipulates that lawyers and legal representatives are unequivocally permitted to be present during any police questioning of the detainee
- Explicitly states that lawyers and representatives of legal organizations do not require a prior signed request from a detainee or a prior written authorization from a court to be permitted access to detainees in police stations
- Requires that lawyers and representatives of legal organizations be permitted immediate access upon request to enter prisons to meet with pre-trial detainees to provide legal advice and discuss legal representation

FACT:

The rights of accused persons and convicted prisoners are frequently violated, not only by torture, forced confession and lack of access to lawyers, family or friends. Other common violations include: unlawful arrest and detention, unlawful excessive detention in police custody, attempted extortion, unlawful excessive pre-trial detention in prison, inadequate food and medical care.

RECOMMENDATIONS:

The **Ministry of Justice**, the **National Assembly** and the **Senate** should ensure that the new criminal code and criminal procedure law:

- Contain full and explicit provisions on the rights of detainees and convicted prisoners, that meet the standards of international human rights conventions regarding the arrest, detention, trial and incarceration of detainees and convicts.

- Contain a criminal offence, similar to Article 57 of the 1992 Transitional Criminal Law (Infringement of Individual Rights), under which public officials who violate the rights of detainees and convicted prisoners can be prosecuted
- Stipulate that judicial officers shall undertake a prompt and impartial investigation into any allegation of a breach of the rights of detainees and convicted prisoners made by an alleged victim, his or her legal representative or any other party
- Provide for the immediate release of and dismissal of charges against accused persons whose rights have been violated, on the grounds of serious procedural error
- Stipulate that prosecutors, judges, members of the National Assembly and Senate human rights commissions, and representatives of legal, human rights and medical non-government organizations be permitted access to police stations and prisons to inspect conditions, provide medical treatment to and conduct private interviews with detainees and convicts.

FACTS:

There are 224 lawyers admitted to the Bar in Cambodia³³², which is inadequate to ensure reasonable access to legal advice and representation for criminal suspects and defendants. New lawyers are being trained but, upon graduation, face delays in being admitted to the Bar.

RECOMMENDATION:

The **Ministry of Justice** and the **Cambodian Bar Association** should establish, as a matter of urgency, a streamlined process for newly graduated lawyers to sit the Bar examination and meet other requirements necessary for their admission to the Bar.

FACTS:

Torture is committed in prisons, both by prison guards and by inmates enlisted by guards, primarily to punish alleged breaches of discipline such as attempts to escape. It is not a crime under the existing (1992) criminal law to escape from prison.

RECOMMENDATIONS:

The **Ministry of Justice**, the **National Assembly** and the **Senate** should ensure that the new criminal code:

- Provides for prison inmates who escape or attempt to escape from lawful custody and are then recaptured to be charged and tried for a criminal offence
- Criminalizes the use of unlawful punishments against detainees and convicts in prisons, and use of prisoners to enforce discipline against other prisoners

EDUCATION, TRAINING & AWARENESS RAISING

FACT:

Many law enforcement and judicial officers, and the population at large, have inadequate training and understanding of the law and human rights principles.

RECOMMENDATIONS:

The **Ministry of Justice**, assisted by concerned **international and Cambodian non-government organizations (NGOs)**, should develop a coordinated education campaign on the new criminal procedure law and criminal code for police, prison and judicial officers nationwide.

The **Ministries of Justice, Interior and Defense**, assisted by **international and Cambodian NGOs**, should intensify training programs on principles of human rights and domestic and international law – particularly those relating to arrest, detention and interrogation – for police, prison, military and judicial officers nationwide.

³³² According to the Bar Association of the Kingdom of Cambodia, at time of writing.

B. TORTURE IN CIVILIAN CUSTODY

LAW, REGULATIONS & GOVERNMENT POLICY

FACTS:

Victims of sexual trafficking are routinely subjected to torturous forms of physical, sexual and psychological violence. The existing 1996 law against human trafficking contains significant penalties but is poorly enforced. Police, military and other public officials are deeply involved in the sex trade. Without significant political willpower and leadership and a coordinated law enforcement policy, measures against sexual trafficking will remain ineffective.

RECOMMENDATIONS:

The **Ministries of Interior, Justice and Women's Affairs**, assisted by other relevant ministries, should urgently develop a coordinated policy for law enforcement measures against human trafficking and forced prostitution. This policy must include:

- Drafting of new legislation, sub-decrees or other regulations as necessary to strengthen the legal framework against trafficking
- Dismissal and judicial prosecution of public officials who participate or are complicit in any way in trafficking or forced prostitution, including the taking of bribes
- Dismissal of law enforcement officers who fail to promptly and properly investigate complaints of trafficking
- Mandatory police reporting to the courts and to relevant ministries of all suspected trafficking and forced prostitution cases, and of the police action taken
- The establishment of a central register, to be publicly available and distributed to law enforcement personnel nationwide, of alleged perpetrators and accomplices of sexual trafficking who are subject to arrest warrants but who escaped from authorities
- The assigning and training of selected police officers, especially females, at all police stations to receive and investigate complaints of sexual trafficking and forced prostitution and interview victims
- Adequate protection for complainants of sexual trafficking from reprisals by perpetrators
- The provision for higher criminal penalties against repeat offenders of trafficking, forced prostitution and physical violence against sex workers
- Special administrative measures, including the regular changing of police and other local officials, in high-intensity prostitution areas

FACTS:

Domestic violence in Cambodia is widespread. It can involve severe forms of physical, psychological and sexual violence. Law enforcement and judicial officers commonly fail to arrest and prosecute perpetrators and protect victims under the existing 1992 criminal law. A new law against domestic violence has been drafted but, at time of this report's writing, has yet to be sent to the National Assembly for debate.

RECOMMENDATIONS:

The **Ministry of Women's Affairs, Ministry of Justice**, and members of the **National Assembly** and the **Senate**, should consider the passage of a new law against domestic violence a matter of priority, and ensure that the law contains:

- Mandatory police reporting to the courts of all domestic violence cases
- Prison sentences and fines for perpetrators, and higher penalties for those who use weapons or cause injury

- The enforceable right of victims to obtain court restraining orders against their abusers
- The right to fair and adequate compensation to victims, including for medical costs and economic rehabilitation

The **Ministry of Interior** should initiate a policy of active arrest of perpetrators in domestic violence cases.

The **Ministry of Interior**, with the assistance of other Ministries, should assign and train selected police officers, especially females, at all police stations to receive and investigate domestic violence complaints and interview victims.

The **Ministry of Justice** and the **Ministry of Women's Affairs** should draft legislation to reform Cambodia's civil law on divorce, ensuring that domestic violence is valid grounds for immediate divorce.

EDUCATION, TRAINING & AWARENESS RAISING

FACT:

Poverty, trickery and ignorance of the law contribute to victims falling prey to sexual trafficking.

RECOMMENDATION:

Government Ministries, assisted by relevant **international and Cambodian NGOs**, should develop a coordinated nationwide education campaign to disseminate information on trafficking practices. Such a campaign should focus on highlighting the common methods used by traffickers to recruit their victims, such as promises of well-paying jobs, and on the legal sanctions applicable to anyone (including victims' family members and friends) who are complicit in trafficking.

FACT:

Government officials, police, prosecutors, judges and others who come into contact with domestic violence victims commonly believe that domestic violence is a family matter, not a criminal one. They may implicitly or explicitly blame the victim for the violence.

RECOMMENDATIONS:

The **Ministries of Justice, Interior and Women's Affairs**, assisted by **international and Cambodian NGOs**, should develop or extend awareness-raising programs regarding domestic violence, its destructive consequences, and the law, targeted at public officials who commonly come into contact with domestic violence victims. Similar programs should be developed for the grassroots population, to raise awareness about the rights of battered women and children.

C. TORTURE IN STATE & CIVILIAN CUSTODY

LAW, REGULATIONS & GOVERNMENT POLICY

FACTS:

Torture and other violence are part of a pervasive climate of impunity in which there is insufficient deterrent to people with official power or influence who commit crimes. The circumstances of such crimes are not the same as those committed by ordinary citizens, but also involve an abuse of official power and responsibility. Impunity of public officials is the biggest threat to the development of the rule of law in Cambodia.

RECOMMENDATIONS:

The **Ministry of Justice**, and members of the **National Assembly** and the **Senate**, should ensure that the new criminal code:

- Stipulates that all criminal offences shall attract mandatory higher penalties, on the grounds of aggravating circumstances, when committed by a police, military or other public official or civil servant or any other person holding or purporting to hold official power, except for those offences which specifically apply only to public officials

Furthermore, the **Ministry of Justice** should prepare a sub-decree, applicable to all government ministries and agencies, requiring:

- The immediate temporary suspension from all duties of any and all police, military and other public officials and civil servants against whom criminal complaints have been made, until such time as judicial investigations are completed

FACTS:

Victims of torture in State custody, sexual trafficking, domestic violence and many other crimes are often not aware of their legal rights and/or are too frightened to make judicial complaints. Those who do are often subjected to intimidation or other attempts to coerce them to withdraw their complaints. Police and other officials negotiate unlawful out-of-court settlements between alleged victims and perpetrators in criminal cases.

RECOMMENDATIONS:

The **Ministry of Justice**, and the **National Assembly** and the **Senate**, should ensure that the new criminal procedure law:

- Criminalizes the intimidation or ill-treatment of, or the offering of any inducement or reward to, criminal complainants or their families by any person in order to coerce them to withdraw their complaints
- Explicitly prohibits and criminalizes a police officer or any other public official whatsoever from mediating, attempting to mediate, or being complicit in any way in the mediation of any out-of-court settlement between a victim and perpetrator in an alleged crime
- Stipulates that police and military police officers must forward all cases of alleged criminal acts which come to their attention to the courts, regardless of the police action taken or not taken in the case

The **Bar Association of Cambodia** and **Cambodian legal NGOs** should consider as a matter of priority how they can develop or expand programs to provide legal aid services to torture victims, including specific services targeted at victims tortured in State custody, in the sex trade and in domestic violence.

FACT:

Laws are virtually irrelevant unless they can be effectively implemented and enforced by law enforcement officers, other civil servants and the judiciary in a fair, honest, professional and accountable manner.

RECOMMENDATIONS:

The **government**, and the **National Assembly** and **Senate**, should authorize as a matter of urgency the raising of salaries of police officers, other civil servants, and prosecutors and judges. The raising of salaries should coincide with the implementation of strict regulations and penalties against corruption and extortion by police, military, civil servants and the judiciary.

The **National Assembly** and the **Senate** should ensure the passage of anti-corruption legislation relating to public officials which is strong enough to be effectively enforced, including against prosecutors and judges.

The **Supreme Council of Magistracy** should develop the necessary regulations and procedures for the enforceable right of Cambodian citizens, and public and private organizations, to make complaints

against judges and prosecutors; the Supreme Council of Magistracy should promptly and impartially investigate such complaints and, where there is evidence of wrongdoing, take disciplinary action against judges and prosecutors.

The **Supreme Council of Magistracy** should develop the appropriate regulations and procedures ensuring that new prosecutors and judges have the necessary legal qualifications and skills and are appointed through a non-political process.

The **National Assembly** and the **Senate**, and particularly their committees on human rights, should vigorously monitor the implementation of all relevant laws and government policies relating to torture in State custody, and sexual trafficking and domestic violence.

The **International Community** should place the highest priority on the establishment of rule of law in Cambodia, by insisting that the above-recommended reforms be promptly and properly implemented.

Foreign donors and **International and Cambodian NGOs and donors** should actively promote and support initiatives to increase the training, professional capacity and respect for the law and human rights of the judiciary, civil service, police and military.

In particular, **foreign donors** and **International and Cambodian NGOs and donors** should actively promote and support long-overdue reforms within the police structure in Cambodia, including:

- A functioning police training school, to provide training to new recruits and existing police officers in criminal investigation techniques, the law, human rights and related issues
- Specialized targeted training for police officers in the investigation of particular crimes such as domestic violence and sexual trafficking
- A system of recruitment of police officers based upon prior education, knowledge and skills, with safeguards against corruption and nepotism
- A system of promotion within the police structure based on merit
- Necessary amendments to police procedures and government regulations to ensure prompt and proper investigation and disciplining of police officers who commit offences or fail to fulfill their duties properly

HEALTH & SOCIAL SERVICES

FACTS:

Torture causes physical injury, illness, psychological disorders, family or social problems and economic losses. Victims of torture are frequently further victimized by lack of access to health and social services.

RECOMMENDATIONS:

Government Ministries and **international and Cambodian NGOs** should incorporate training and services specific to torture victims into health and social programs. These should include medical, counselling, education, vocational training and reintegration services targeted at the different needs of specific groups of victims, including: incarcerated and released prisoners, sexual trafficking victims, and battered women and children.

In particular, the **foreign donors** and **international and Cambodian NGOs** should seek to promote and support efforts to:

- Improve health and social services to victims of torture and other violence by the Ministries of Social Affairs, Women's Affairs and Health
- Provide mental health services to victims of torture and other severe violence suffering from psychological or psychiatric symptoms

The **government**, and the **National Assembly** and **Senate**, should consider the raising of the budgets of social services' ministries – including the Ministries of Social Affairs, Women's Affairs, Health and Education – a matter of priority.

EDUCATION, TRAINING & RESEARCH

FACT:

Torture, in its varying forms, is part of a broader picture of violence and trauma in Cambodia.

RECOMMENDATIONS:

The **government** and **international and national NGOs** should actively develop and support education, training and research initiatives toward understanding and addressing the causes, factors and consequences of torture and violence in general in Cambodia. In particular, greater efforts are necessary to:

- Promote the rule of law and respect for human rights among public officials and the population at large
- Research the psychological impacts of the Khmer Rouge period and war years on Cambodian society
- Foster research and debate about the causes, contributing factors, practices and scope of specific types of torture in State and civilian custody in Cambodia
- Research and raise awareness about the psychological consequences of torture and other forms of severe violence on individuals and their families
- Promote initiatives to integrate effective mental health services to victims of violence and the population at large within existing community health structures
- Encourage and support conflict resolution and anti-violence educational initiatives at the grassroots level

APPENDIX 1.

CASE STUDIES

What follows are survivors' stories of torture. These events all occurred in the past two-and-a-half years. The victims were not selected scientifically, and are by no means representative of all of the torture experiences in Cambodia. The names of victims, and in some cases other identifying details, have been changed or excluded. These accounts are based on the author's interviews with the victims, and information from Licadho investigation files or other sources. All but one of the cases were originally investigated by Licadho; the exception (the last Case Study, "I could not whip my wife fifty times, so I only whipped her four times") was investigated by the Cambodian Women's Crisis Center (CWCC). The author is grateful for the assistance of CWCC staff.

“I would have done anything I could to avoid being beaten”

After arresting Keo and taking her to a police station, the police knew exactly what to do with her. “To begin with, I was taken to a small room, an office that the police worked in. They closed the doors and windows and started to beat me,” recalls Keo, a thin, short woman aged in her late 30s. “They beat me and interrogated me for about one hour. There were a lot of police, about six or seven. Some kicked me. Some hit me with a wooden stick. They beat me on my thigh and kicked me in the middle of my back. I felt weak and later I fell unconscious.”

It was in the early hours of the evening, and Keo had just been arrested at her home and taken to a district police station in Phnom Penh. There, she was interrogated about an alleged robber named Chantha. “They asked me ‘Do you know Chantha?’. I said that I don’t know him, but they tried to force me to say yes. They said that I must know this man.” After being repeatedly slapped, kicked and hit with a stick, Keo eventually succumbed to unconsciousness.

“When I woke up, I was in a cell. It was a very dark place, with no electric light. The only light was from one candle. There was no window, only one candle,” recalls Keo of the cell, which was about 3 x 4 meters large. There were other prisoners there – one woman and 10 or 11 boys. The boys were accused of theft. When Keo woke up, the other woman prisoner came to help her and gave her a massage to try to ease her pain.

The next morning, about 4am, Keo was taken out of the cell and put into a car with about five policemen. For several hours, they drove around Phnom Penh city, demanding that she point out where the man named Chantha lived. Keo continued to deny that she knew the man, saying “I cannot show you where he lives if I don’t know him”. The police were not satisfied.

“They took me back to the police station. They beat me again, in another room, a bigger room. There were many police officers, about 10 or 11. I was terrified. They beat me with wire on my thigh, on both my thighs. Many police beat me. One man whipped me with the wire and then put the wire on the table. Then another one picked up the wire and started again. They did this for about 10 minutes. At the same time, they kicked me on my back, with their boots. They said ‘Where is Chantha and where is the gold that you took?’ I just said ‘I don’t know, I don’t know’.

“After that, they used the plastic bag. The interrogator was very angry. He got a plastic bag to cover my head. My hands were cuffed when they used the plastic bag. At that time, they stopped beating me. They put the bag on my head for five or six minutes and I fell unconscious.”

Keo woke up to find herself back in the same cell. She could not walk. Again, other detainees massaged her and tried to help her move to a more comfortable position. Someone gave her some medicine to drink, and she felt a little better.

The next day, the third day of Keo’s detention, “they beat me again and told me to fingerprint a piece of paper. On the paper, they wrote whatever they wanted and told me to fingerprint it. They wrote that I was an accomplice to robbery, that I had directed many men to commit robberies.”

Keo was given the choice of fingerprinting the confession and being sent to court, or buying her freedom from the police with money.

“They asked me for \$2,000 and then they would release me. I said that I didn’t do anything, so I did not want to pay. They said that (...) I must have a lot of money. I said no, I didn’t,” she says. “At that time, if my relatives had been at the police station, I would have told them to give money to the police. I would have done anything I could to avoid being beaten.” Eventually, Keo fingerprinted the confession because “I was afraid”.

Keo’s signing of a confession allowed her to avoid further beatings, but she remained at the police station for a further week. “The police did not want to send me to prison because they thought the prison would not accept me – my health was so bad.” Instead, the police kept Keo at the station, apparently to allow time for her wounds to begin to heal. Eventually, 10 days after her initial arrest and detention, she was taken to a Phnom Penh prison.

Keo was later treated by Licadho medical staff in prison. She walked with a limp and in obvious pain. She complained of severe chest pain, and bore a palm-sized bruise on her chest. Large bruises, and some obvious whip marks, were on her legs, back and buttocks. She complained of blurred vision, headaches and insomnia.

Keo did not want to complain about the torture by the police, as she was too frightened.

She was subsequently convicted of complicity in robbery and sentenced to 12 months in prison, which she served.

Near the end of her sentence, Keo still complained of health problems: chest pains, palpitations, headaches and weakness. She was also convinced that she had a heart problem. She also suffered insomnia and, when she could fall asleep, had nightmares. "At night, I am terrified. When I sleep, I get bad dreams. Or if I am awake, and another prisoner touches me, I am terrified."

**“He said the next time he caught a robber, he would
beat him more than he had beaten me”**

Teng and his wife were planting vegetables on their farm on a peninsula on the coastline of Kompong Som province late one afternoon, when a boatload of police and militia soldiers arrived. They said they wanted to buy a plot of Teng's land near his house on the mainland, across the bay, and invited him to go with them to look at it. There were about 10 police and militia, all armed, but Teng did not immediately realize that he was in trouble; he saw no reason why he should be. Leaving his wife and children behind on the farm, he joined his visitors on the half-an-hour boat ride back to the mainland.

Aged in his early 40s, Teng is a small, thin man with a friendly face and scraggly hair. He and his wife own a small house on the mainland but more often than not they are to be found on their peninsula farm. With dirty hands and ragged old clothes, they carve out plots of farmland from the forest, grow rice and vegetables, and make charcoal. They work hard to forge a living for themselves and their two children.

“No one had ever asked to buy my land before, so I agreed to go with them,” Teng says of the day the police and militia arrived at his farm. “On the boat, they didn't talk to me. I didn't suspect anything, but I began to wonder what they wanted.”

Reaching the mainland, Teng was taken to the local district police station and put into handcuffs. “When I was handcuffed, I didn't know what I had done wrong. The policemen didn't say anything to me except that if any other police came to ask me questions, I should answer them with the truth. I waited for about an hour at the police station and then four other policemen arrived. They were all in uniform. Three of them had pistols and one had an AK47 rifle.

“They asked me ‘Are you a robber? Where did you hide your gun?’ And they started to beat me. I said I didn't know anything. One of the policemen said ‘Why do you say you don't know? If you do not confess, I will beat you more.’ They accused me of robbing someone the night before. They asked me ‘Last night, did you rob the place where the victim was?’ I didn't know what they were talking about. They never told me who they thought I had robbed.”

Teng, hands cuffed together, was sitting on a chair underneath the police station, which is built on stilts. He continued to deny that he was a robber, telling the police: “If I am a robber, you can get my wife and children and kill us all.” The police grew angrier.

“One of the policeman [who appeared to be the chief of the group] hit me with a metal chair two or three times, on the head and on my elbow. Another one kicked me on my back. I fell down from the chair. I was unconscious.”

When Teng awoke and staggered back into the chair, blood streaming from his head, the chief of the police stooped down and picked up a stone, throwing it at him. Teng ducked and the stone hit a wall. A third policeman punched him in the face, and a fourth struck him in the ribs with the butt of the AK47.

Eventually, the police moved Teng to a room inside the police station, in order to show him the evidence against him. Before they did, the chief struck him with a metal chair several more times. “I raised my hands to protect myself. The chair hit my hands and the handcuffs, and the handcuffs came unlocked, and my arms flew apart,” Teng recounts, gesturing with his hands.

The police re-handcuffed him, and then brought out the evidence against him – a pair of sand-colored slippers.

“They showed me the slippers. I don't know why they thought they were mine, but the police said the slippers must be mine. One policeman said that if I denied being a robber, they would check to see whether the slippers fit me. If they fit me, then I am guilty and I must be beaten to death.”

Teng did not know what the police were talking about, but later found out the reason for his arrest: The previous night, a house near his own on the mainland had been robbed. Two

men, at least one masked and armed with a rifle, robbed a woman at the house of many pieces of gold jewelry. The police had some clues: they had found a pair of slippers, which they believed had been lost by one of the robbers as he ran away; also, the house owner had got a reasonable look at the robbers and, although she didn't see their faces, thought she could recognize their build, height and hair styles.

Inside the police station, Teng was presented with the sand-colored slippers recovered from the robbery scene. "First [the police chief] put on the shoes himself. They seemed to fit him. Then he told me that I had to put my feet in the shoes. When I put one of them on, he said 'The shoe fits you'. I said 'No, the shoes are not mine'. He said he would beat me to death if I continued to deny it."

The police also compared the slippers with a pair of cheap plastic sandals that Teng was wearing at time of arrest. They found that the heel of the left shoe of both pairs were worn away, and pointed out the similarity to Teng. The police thought they had their man. They told Teng that they would wait for the robbery victim to come and identify him, and then he had better confess or he would be shot dead.

"They had beaten me for about an hour. But I did not think about confessing and saying what they wanted me to say, because I had not done anything wrong. I told the police that I was on my farm, planting potatoes, on the night of the robbery. They asked me whether I had left my farm to go to look for crabs that night."

Around 10pm, the robbery victim arrived at the police station and looked at Teng through the window of the room. Surprised, she told the police that she knew Teng, calling him by the respectful term 'Uncle'. "A policeman asked me to have a look at someone, and say whether he is the robber or not," the robbery victim later told a Licadho investigator. "I looked and saw the uncle...whose name is Teng. I said that he is not the robber. I asked the police whether they had beaten him or not. A policeman said that he had beaten him three times."

The mood of the police changed after the robbery victim cleared Teng of suspicion. "[The chief] came back into the room," says Teng. "I looked at him. He was not angry at that time. I said that I was hungry and he asked someone to buy me a pack of noodles."

Before agreeing to release Teng, the chief made him thumbprint a statement that apparently pledged that he would help the police to find the real robbers. "He asked me to help find the robbers. I said that I could not, because I was busy with my work on the farm and I did not know how to find the robbers. But he wrote a statement and asked me to thumbprint it. I'm don't know exactly what it said. He didn't tell me how I was supposed to find the robbers."

The chief also told Teng that he had got off lightly. "He said the next time he caught a robber, he would beat him more than he had beaten me."

Teng was free to leave the station, with a few apologies from the police and a ride home from one of them. At the police station, one of the other policemen apologized. "He said he was sorry for hitting me with the AK47 butt. He said that he had been drunk. Then [another policeman] took me home on his moto. He also said that he was sorry. He said that he had got angry because a robber had [previously] taken his motorbike and broken it. That's why he was angry."

The next morning, the police apparently still suspected Teng: they went around the village, asking his children and neighbors what size shoes he wore. They were told that he wore a size 9, while the slippers found at the robbery scene were a size 10. No charges were laid against Teng and the real robbers were never found. (The robbery victim told Licadho that one of the robbers was "big" and the other was "tall"; Teng is neither.)

Teng's head, mouth and left elbow were swollen and bleeding when he left the police station, and he received medical treatment. Ten days later, he still had bruises on his forehead and elbow, and complained of painful breathing and a weakened left arm. His physical injuries are now healed.

A complaint against the four police responsible for the beating was forwarded to the Kompong Som Court prosecutor, in which Teng asked for 10 million riel (more than \$2,000) compensation from the police. The prosecutor contacted the chief of the district police station at which Teng had been tortured, and asked them to resolve the complaint. Eventually, Teng was given 500,000 riel (about \$130) on the condition that he dropped the complaint. He agreed. "Actually, I wanted the police to be sent to prison, but because I own the [isolated] farm, I was afraid that when the police got out of prison, they would come here to punish me. That's why I agreed to reconciliation."

These days, Teng spends most of his time on his farm, keeping a low profile in the village on the mainland and trying to avoid the police who beat him. Once, he passed one of the policemen on the street. "I just walked past. He didn't say anything to me, and I didn't say anything to him. I was afraid to talk to him."

“When people speak loudly, I feel frightened.”

A bruised, scarred and frightened young woman was brought to Licadho's Phnom Penh office one day. Theary, aged 19, was dazed and confused. A medical examination revealed wounds to her head, and at least one small mark that could have been from a syringe. Her chest and back bore several small scars consistent with electric shock burns. She said that she had received electric shocks but was unable to remember whether it happened more than once. Her left leg bore wide bruises, which she said were from being struck with a wooden stick. She was also suffering from a vaginal discharge.

Gradually, she told her story to a Licadho investigator: one of six children in a poor provincial family, she said she came to Phnom Penh to study tailoring, to help her get a job. She initially stayed with an aunt who lived in the capital, while she searched for a tailoring school. Later, an arrangement was made for her to stay with another woman, who offered to teach her to sew in return for doing some housework.

Theary joined three other young women staying at the woman's house. She began to learn how to sew, and cleaned and ironed for the house owner in her spare time. She struck up a friendship with one of the other women, named Kunthea, a 21-year-old from remote Ratanakiri province. On Theary's fifth day at the house, the homeowner left to go to a wedding, leaving the four girls studying alone and giving them some money to buy food. At about 5pm, Kunthea went to buy some food, and Theary went outside with her to call a cyclo taxi. As they got outside, two men rode up on Viva motorcycles. Theary thought she had seen the motorbikes parked near the house before, but had not paid any attention to them. Two men got off the bikes and approached the women. One of the men wore a camouflage uniform and cap, and the other wore civilian clothes; both of them wore masks over their faces.

“They pointed pistols at the two of us, and placed their hands on my shoulders. I felt a small pain as something was pushed into my shoulder,” Theary told a Licadho investigator the day after her arrival at the human rights group. “[They forced us] to get on to the motorcycles...”

(The veracity of this part of Theary's account remains uncertain. Licadho staff suspected that Theary's aunt and/or the female sewing ‘tutor’ may have knowingly sold her to human traffickers, but this is unproven.)

Theary and Kunthea were taken to a concrete house near a factory a few kilometres outside of Phnom Penh. “There were about 25 women there, with two of them locked in each room. The women were accompanied every time they went to the toilet. I saw some of them had been beaten,” recalled Theary.

“[That night] they forced me to serve male clients. I refused, so I was beaten with an electric wire, made of three wires wound together, by a man I did not know. He hit my hands, legs and body. He also beat my head with a pistol many times. Then he took a stick which was as big as my wrist to beat my back.” Before she fell unconscious, Theary looked around and saw that her friend Kunthea was also being beaten. When Theary awoke, she was told she had been unconscious for a day.

“When I woke up, the man pointed a gun at my head and threatened to shoot me to death if I refused to sleep with the clients. I was so frightened that I agreed. After agreeing, the man who had beaten me tied my hands with hammock strings and forced me to lie face down. Then another man injected me in the head two times. After that, they untied the knot and made me take ten tablets.

“After the injections and tablets, I felt very happy and I loved men when I saw them.”

Theary lost her virginity to the younger brother of one of the men who had brought her to the house. The younger sibling paid \$120 to sleep with her for three nights, she learned when she overheard a conversation between the two brothers. The same brother also raped Kunthea, her friend.

“After I slept with [the] brother, I do not remember the number of men who slept with me later, because it seemed that I did not know about myself,” Theary said in an interview with a Licadho investigator, implying that she was fed more drugs though she did not recall that.

After about five days at the house, Theary and Kunthea were sold to a brothel in the Phnom Penh redlight area of Tuol Kork, where she served customers for about a fortnight. In a subsequent Licadho interview, she said that she was given more drugs while working at Tuol Kork. At one stage, she begged the wife of the brothel owner to let her go, telling her ‘You are a woman, you should not do this’. In response, the wife beat her. The other prostitutes at the brothel told Theary stories about two girls who had been shot dead when they refused to sleep with clients. She thought about trying to escape, but was frightened.

One Monday morning, a relative of Theary’s, a moto-dop driver, who had been looking for her, found her at the brothel. He told her that he would come back to help her escape. A pimp at the brothel apparently heard of the plan, and beat her as punishment. After that, all of the prostitutes at the brothel, more than 10, were put on a vehicle, hidden under piles of old clothes, and driven off. They were taken to the area, a few kilometres out of Phnom Penh, where Theary and Kunthea had first been detained. Here, all the girls were separated into two houses, and kept for another five or so days.

Theary discussed escape with her fellow captives, including her friend Kunthea, but was warned that the pimps had previously killed people who tried to escape. Regardless, around 9am one morning, when they saw the house owner asleep in a hammock, Theary, Kunthea and another girl decided to run for it.

Theary ran down the street about 300 meters and hid near a police station. She watched while the pimps, alerted to the escape, chased and captured Kunthea and the other girl, dragging them back to the house. Theary was saved when a young neighborhood girl saw her, invited her into her house and hid her in a room. Theary stayed in the house all day, until nightfall when she was taken to a pagoda to sleep. The next morning, a man she did not know took her to a police station, where she told her story. The police took her back to the pagoda and, later, put her on a bus to Phnom Penh.

Theary ended her first Licadho interview by asking the organization’s help to free her friend Kunthea, who had failed to escape from the pimps.

Licadho filed a complaint to the Kandal Court prosecutor and the local police. A search warrant was issued for the two houses where the prostitutes had last been held, and five police officers were provided to execute it. The houses were empty when the police searched it.

According to neighbors, the house where Theary was kept was owned by a military policeman or his family. Neighbors and local village officials stated that they were aware the house was used by traffickers who kept prostitutes there before selling them to brothels. One local official told Licadho that he had rescued a girl who had escaped from the house in 1997. He also claimed that two other women beaten in the house, in the past, had died of their injuries.

No trace of Kunthea or the other women detained with Theary were ever found.

Theary returned to her family’s rural village in one of Cambodia’s provinces, where she suffered symptoms of post-traumatic stress. When Licadho staff visited her at home 18 months after her escape from the brothel, she required 10 minutes of gentle coaxing before she would sit down to talk to them. Gradually, she and her mother explained her ongoing health problems: continuing pain her chest and in one cheek (where she was struck, she said); headaches and problems from ‘thinking a lot’ (kit ch’ran); she felt weak and fatigued and occasionally fell down while working in the family ricefields. For her physical symptoms, her mother took her daughter to a local doctor, to whom the family still owed 60,000 riels (\$16). Theary also suffered fear and distrust of people; her parents own a small drink shop but she was unable to stay there because of customers who come and go. “When people speak loudly, I feel frightened,” Theary said. At night, she suffered insomnia and, when she could sleep, frequently had nightmares about ghosts.

“If you kill me, that’s okay”

Socheat was at a local sugar cane stall one morning when several plainclothes policemen arrived. “I thought they were coming to drink sugar cane, but immediately they pointed their guns at me and handcuffed me.”

Socheat, a soldier affiliated to the Funcinpec political party, was not wearing his uniform and not carrying any guns. The arrest was unlawful – the police did not produce an arrest warrant and Socheat was not committing any crime at the time of arrest.

Socheat was taken away. Within hours, bearing head wounds from beatings by the police, he was handed over to a group of government bodyguards. He was driven to a private house and detained *incommunicado* for more than a week. During his detention, he says his captors subjected him to repeated severe torture, including:

- Slapping, punching, elbowing, kneeling him and hitting with pistols;
- Crushing his feet with a piece of wood;
- Whipping him with electrical wire;
- Holding him in shackles day and night.

The purpose of the torture was to force Socheat to confess to conspiracy to commit murder. Statements made to him by his torturers made it clear that he had been targeted because of his political affiliation. His interrogators presented no evidence against him, but told him that other sources had identified him as a conspirator. Socheat, who believed he would never leave his captors alive, refused to confess.

“I was very afraid... I just kept saying ‘I don’t know. I don’t know. If you kill me, that’s okay.’ I knew myself that they were going to kill me. Sometimes, when I was really suffering, I thought of saying something that was not true [confessing]. But I thought, even if I confess, I will still die. If I keep my mouth shut, I will still die. So I just said ‘I don’t know, I don’t know’.”

The severity of the torture increased as Socheat continued to refuse to confess. Rudimentary medical treatment was at times given to him before his captors began to torture him again, he says.

Socheat was eventually released. He was not prosecuted for any crime.

Socheat’s physical appearance, and a medical examination, after his release corroborated his account of the torture inflicted on him. His shirt was heavily bloodstained. He bore severe bruises to his back and chest. His wrists bore deep gashes consistent with having been shackled for long periods of time; the top of his feet were badly bruised and swollen; much of his body bore severe wounds consistent with having been flayed with a whip.

After his release, “people thought I had some dangerous disease because of my wounds,” Socheat says.

Today, his body still bears the scars of torture, including shackle marks on his wrists and scars on his feet and head. Regularly, he suffers from headaches, chest pains and aching bones. “It is mostly if I become sick. I am not strong enough, so if I feel tired or I get a fever, then my whole body hurts. Everything hurts at the same time: my bones, my knees, my chest.” He gets fever three or four times a month. He has problems controlling his anger, and suffers from anxiety. His headaches and physical sickness usually occur when he has been worrying a lot and gets angry, he says. He suffers from chronic insomnia, averaging two or three hours sleep a night.

He separated from his wife after his detention and torture. “My wife used to ask me ‘Why are you sick so often? Always sick, always in pain.’ Now, I don’t go to see her.” Socheat’s family

relations were complicated by the fact that, while he was detained, his wife and mother-in-law bribed some local officials to try to secure his release. After he was freed, they expected him to repay the money they had spent. Broke, he was unable to pay them. "My mother-in-law said to me 'Don't step inside this house again'. They [his wife and mother-in-law] would say to me: 'Other police and soldiers have money to pay their families, so why not you? This is a violation of us, as your family.'"

Socheat is today without a permanent home. He is unable to find or hold a job. He lives solely day-by-day; he displays chronic symptoms of being unable to make decisions, and plan for the future.

He has given up his life as a soldier. He no longer has a gun, but sometimes thinks of getting one and stopping people on the roads, "to extort money from them or something". But, he says, "if I do that, I become a thief, a bad person".

For security reasons, no formal complaint was ever laid about the torture inflicted on Socheat. Today, the background and reasons for his arrest and torture remain uncertain, except that he was targeted because of his affiliation to the Funcinpec military.

Socheat has no illusions about achieving justice for what happened to him. He likens the impunity enjoyed by government officials, police and soldiers in today's Cambodia with that enjoyed by Khmer Rouge cadre during the 1975-79 Pol Pot regime. "It is like with Pol Pot. We know the people who ordered the killing of all those people then, but nothing happens to them. They are free today. I compare nowadays to then. The people who have power can give orders. Good orders or bad orders, their orders will be carried out."

“They treated us like wild animals”

The military policemen appeared suddenly and opened fire at the crowd of villagers, shooting two in the legs. Moving closer, the MPs began swinging bamboo sticks and rifle butts on the backs and heads of the villagers. “I was shaking, I could hardly stand up. I staggered when a policeman beat me with a bamboo pole. I put up my arm to protect my head, and the bamboo hit my elbow. Then he hit me again on my back, and kicked me from behind,” recounts Vy, a 61-year-old farmer. “They treated us like wild animals. The man who beat me was young; I could have been his father.” Adds Bophal, a 40-year-old woman: “I didn’t know how to protect myself. I was so frightened I urinated in my pants.”

One of the shot villagers lay on the ground. A military policeman went up to him and kicked him in the teeth. A boy from the local school, hearing that his father had been shot, ran up to help. The MPs beat him. Some villagers escaped but most were captured. Within minutes, the MPs had rounded up a total of 53 men, women and children, and tied their hands behind their backs with cow string and kramas.

It was the morning of March 5, 1999, in the usually sleepy commune of Russei Srok, deep in the rural heartland of Prey Veng province near the Cambodia-Vietnam border, when a simmering land dispute erupted into violence.

The dispute had begun in 1995, when the Russei Srok villagers discovered a tractor ploughing some land that they considered was theirs. The tractor belonged to a private company, the Cambodian Farmers Association for Agricultural Development. At stake was some 60 hectares of the land that had been farmed by 69 families since the end of the Khmer Rouge regime in 1979, although some of the land had been left vacant in recent years because it was not fertile.

After negotiations, the villagers struck a written deal with the company: the company would plough the land, using fertilizer and modern equipment, for the villagers, who in return would pay half a chi of gold (about \$18) for each hectare farmed. The deal fell apart when the company later demanded 10 times that amount of gold as payment, according to the villagers. In mid-1997, when the two-year contract expired, the company refused to give the land back and the case went to court.

The Prey Veng provincial court awarded the land to the company. The villagers rejected the verdict, claiming that the court was bribed, and the dispute began in earnest. In early 1999, some villagers allegedly destroyed a hut and equipment belonging to the company on the disputed land. The association obtained an arrest warrant for nine villagers for wrongful damage of property.

In the dead of night of March 4-5, 1999, one of the company’s owners, So Sambo, and three or four military policemen from Prey Veng provincial town (more than 50km away) raided the disputed land. They found a group of villagers who were sleeping in the ricefields to try to protect the land. Most of the villagers escaped but the military police caught two, who were allegedly kicked or hit as they were arrested and taken away.

A few hours later, at dawn, Sambo and two military policemen entered Ith village, where most of the villagers lived, apparently intending to execute the other arrest warrants. The villagers, furious at the arrests and reported beating of two of their friends, grabbed sticks and knives and quickly converged on the trio. The two MPs escaped, but the crowd seized Sambo and took him to the Russei Srok commune police station. “It’s true that they had no right to arrest him, but they didn’t beat him. They just wanted to trade him for the two villagers who’d been arrested earlier,” commune police chief Yim Buny later explained.³³³

³³³ Bou Saroeun & Phelim Kyne, “Land dispute ends in shoot-out in Prey Veng”, *Phnom Penh Post*, April 2-12, 1999.

Buny was trying to mediate between Sambo and the angry villagers when about a dozen military police arrived, including the two who had fled from Ith village earlier and others who had apparently been waiting nearby. "I told [the villagers] to be quiet and I'd negotiate with the military police, but the military police began immediately firing at the legs of the people," Buny said later³³⁴, corroborating the villagers' accounts of events.

The military police violently took control, shooting and beating the villagers into submission. Buny, the commune police chief, was relieved of his gun and radio by the military police. Another commune official ran off, scared.

At the end of the MPs' spree, 53 villagers were tied up and forced to stand in lines. The MPs decided to arrest everyone, and take them from the remote commune to Prey Veng provincial town, more than 50 km away. This was to turn into a 13-hour forced journey at gunpoint for the villagers, by foot, boat and truck.

To begin with, the MPs forced the villagers, hands behind their backs, some of them in bare feet, to march for three hours from about 9am to midday. "They forced us to walk in single file. They said we would be shot to death if we stepped out of line," recounts one elderly villager. "They threatened and taunted us along the way. They asked us 'Why is it difficult for you to walk? We will walk for many days.'"

Eventually, the captives made it to a river, where they were boarded on to a boat. Later, the boat got stuck in shallow water and they were transferred to a smaller boat. "We were crowded in the boat and sweating in the heat. Our hands were still tied. We got no food or water. We couldn't even smoke," complains one villager. Another adds: "We were dizzy and very weak, because we had not eaten."

After a total of about 3-4 hours on the two boats, the group staggered up a riverbank and were loaded onto a truck. There was standing room only on the truck, and they tried to cling on, with their hands still tied, as the vehicle bounced over poor roads. The 53 men, women and children arrived in Prey Veng provincial town about 10pm – some 13 hours after their journey began – frightened, hungry and exhausted. They were detained at the provincial military police base, where they were finally given food and water about midnight.

While the 53 villagers were on their forced journey, two MPs had been left back near the disputed land in Russei Srok commune to arrest any other 'trespassers'. In the early evening, the MPs, along with two villagers who are believed to have a stake in So Sambo's company, went to check the ricefields on the disputed land. They came across Ty, a man aged in his mid-20s, who was sitting in a hut guarding his father's water pump. Ty, who comes from a village far away, had come to help his father with the upcoming rice harvest. He knew nothing about the land dispute.

The MPs and two villagers seized Ty, accusing him of using the water pump on 'stolen' land, and handcuffed him. The MPs stood by while the two villagers beat Ty with bamboo poles. "They hit me on the back, shoulders and head. I couldn't count the number of times. I fell unconscious," remembers Ty.

When he awoke, he saw that he had been dragged to another hut about 500m away. "I woke up and started to try to get up. My hands were still handcuffed. I saw the MPs there. As I got up, I saw [one of the villagers] come up to me. He said 'You stole our land' and hit me on the head with a long knife." Struck a deep blow to his head with a scythe or machete, Ty fell unconscious again.

He remained unconscious all night, waking up the next morning about 7am to find himself tied to the back of a Vietnamese-made rice carrying truck. "When I woke up, I saw that I was bleeding from my head. Blood was all over my clothes. I was tied to the truck, one hand handcuffed to it. They had used cow string to tie my other hand." His arms spread wide, Ty was tied up in a crouching position, neither sitting nor standing. He had no idea how long he had been tied there.

³³⁴ Ibid.

The MPs and two villagers saw that he was conscious and came over. The villagers angrily taunted him, asking why he brought a water pump to use on their land. At the urging of the villagers, the MPs untied Ty from the rear of the truck and then re-tied him up near the front of the truck, between the driver's cab and the deck. "The two villagers told the military police not to feed me."

Ty remained tied up there, in the direct sunlight, until about midday, when he was again moved to another part of the truck. This time, he was handcuffed by one hand to one of the vehicle's wheels, which allowed him to slide under the truck and shelter from the sun. He still had not been given any food or water.

Ty was to remain there, cuffed to the truck, for three more full days and nights. The MPs and two villagers stayed at a nearby hut, largely ignoring him and never offering him any food, water or medical help. His life was probably saved by several Khmer-speaking Vietnamese farmers who worked nearby.

"The Vietnamese would creep up to the truck and give me food. They gave me food, water, even cigarettes," he remembers with a smile. "They gave me some medicine, but I don't know what it was. They asked me about the land dispute, and I said that I didn't know anything. They told me a little about it; that's how I knew why I had been arrested.

"Every day, the Vietnamese came to give me food. I thought maybe the military police knew [that they were giving me food] and permitted it. But the Vietnamese were afraid of the military police, and did not want them to see. If they were afraid, they would just give me food once a day. Other times, they fed me several times a day. I was very grateful and said that I was sorry that I had nothing to give back in return."

During his detention, the MPs never questioned Ty. They ignored him. It may have been that they were waiting for orders from their superiors by radio, or simply didn't know what to do with him.

Meanwhile, in Prey Veng provincial town, the 53 arrested villagers were interrogated one by one. "They asked my age, and where I lived," recalls Vy, aged 61. "I was not beaten but some others were slapped. With me, they just cursed me. They said 'At your age, why do you struggle for land? If you are good, go and get land from the Vietnamese.'"

Human rights advocates, meanwhile, complained about the treatment of the villagers and sought their release. On March 9, four days after their arrests, most of the villagers were released without charge. Seven others were charged and sent to prison, including the two whose arrests had sparked the mob arrest of So Sambo, the company owner.

Back in Russei Srok, Ty was released on the same day, his fourth day of detention. About 7am, he was untied, taken to a hut and given breakfast. The two MPs told him that they would release him, but that he had to come back to them by 3pm and give them 600,000 riels (about \$150) for his release. If he failed to appear, they would go searching for him and shoot him.

Ty, scared to go to his father's home in Phum Ith, ran to the commune police office, where he hid for two days.

The Prey Veng court prosecutor subsequently defended the actions of the military police, and described the shooting of two villagers as accidental. No military police were charged in relation to the shootings, beatings or forced journey.

Human rights medical staff went to Russei Srok to provide medical treatment to the two shot men, who lay injured at their homes, unable to afford the trip to hospital in Prey Veng town.

A week after the incident, Phum Ith villagers traveled to Phnom Penh to complain to the Prime Minister and the National Assembly. The government promised to investigate, and provided one ton of rice to the villagers, on the condition that they return to Prey Veng.

The seven villagers who not released along with the others were charged with wrongful damage of property (relating to the alleged destruction of a company hut on the disputed land), illegal confinement (the arrest of So Sambo) or incitement to discrimination (reason unclear). The charges against them were eventually dropped; one of them was released after spending six weeks in prison, and the others after more than three months.

The two villagers who allegedly beat Ty were arrested (but not the two military police who were with them) and initially sent to prison. Ty was summonsed to the Prey Veng court to give testimony. According to Ty, he was asked, during the interview with a court official, to pay 30,000 riels (\$8) for 'food expenses' to keep the two men in prison. He paid the money. The two men were released from prison about five days later, and have not been taken to trial. Ty filed a claim for compensation of 6 million riels (about \$1,500), but has not heard anything from the court. "I haven't received compensation, I just lost 30,000 riels," he says.

Six months after his torture, Ty still suffered severe headaches and blurred vision – coming and going in cycles of about 10 days – and felt weak and lethargic. He complained of difficulty working his ricefields, because "I am not strong like I was before".

The villagers still defend their actions in trying to hold on to the land they had used for 20 years. "I am all right, but I worry about my children and grandchildren," said one villager. "If I don't have any ricefields to give to them, then maybe they will become robbers [to survive]."

The villagers took the land dispute case to the Court of Appeal in Phnom Penh, which overthrew the previous ruling of the Prey Veng Court and awarded them the land.

“They said I should confess or they would take me to Klang Leu. I understood what they meant: that I would be killed.”

Today, Saroeun is 19-years-old but looks younger. Thinly built, with shy eyes and an awkward smile, he doesn't talk much. Two years ago, when four policemen stripped him, chained him to a table and smashed pieces of wood over his head, he was aged 17.

It happened down the road from his house, at the local police station a few hundred meters away, in a rural district of Kompong Som province.

Kompong Som, Cambodia's southern seaside region, is renowned for its beaches and seafood, attracting Khmer and foreign tourists alike. Saroeun and his family, like thousands of others, depend on the sea for their living. They own a small wooden stall, on the main road through their district, selling crabs to locals and passersby.

One night, Saroeun's mother sent him to sleep at the crab stall, about a kilometer from the family home, to guard against thieves. Alone, Saroeun awoke in the night feeling sick, with stomachache and a fever. He decided to go home to ask his mother to give him a 'coining', a traditional Khmer remedy. It was about 2am as Saroeun set out on the short journey home, stopping to vomit several times along the way. Passing the local district police station, and almost home, he again stopped to throw up. He heard voices and suddenly two policemen emerged from the guardhouse outside the police station.

“They grabbed me and brought me into the compound of the police station, and woke up another two policemen. They told the other two that they had caught a thief. They made me take off my clothes, except for my underwear, and chained one of my feet to the leg of the table. Then they started beating me, accusing me of coming there to steal motorcycles and guns,” Saroeun quietly recounts in an emotionless voice.

“I told them that I was not a thief. I said that I was just sleeping at the stall to guard the crabs, but I vomited and wanted to go home. But they said that I was a thief, and came to steal from the police station. Two of the police [the two who had grabbed him from the road outside] seemed drunk.”

The police took a flat wooden stick, 1-2cm wide, like those used to hold up mosquito nets, and took turns beating Saroeun. “I was sitting in a chair, chained to the table. Three of them used the mosquito net stick. They hit me on the side of my leg, once on each leg, and then on my back, head and body. They hit me with the stick until it broke, and I fell off the chair. Then one of them kicked me twice, once in the chin and once in the face. They asked me for one domlung of gold [worth about \$320], and said they would release me if I gave it to them.

“After the kicking, they hit me with the bigger stick, about as big as that,” Saroeun says, pointing to the leg of a chair about 3cm wide. “They beat me on the shoulder with the big stick, and then on my head and behind my knee. They were very angry because I would not confess. They said that I should confess that I was a thief or they would take me to Klang Leu [a reputed killing place on a Kompong Som hillside]. I understood what they meant: that I would be killed.

“They also threatened to make me drink salty fish sauce. They asked me if I had drunk fish sauce before? I said no, I had just eaten it with rice.”

After about an hour, the police apparently grew bored of beating and taunting Saroeun. Talking among themselves, they said they would go to sleep and decide what to do with him in the morning. They left him, stripped to his underwear, chained to the table where they had beaten him, in the open air underneath the police station, which is built on stilts. “My body hurt everywhere, and I had many bruises. Before they went to sleep, I asked one of the policemen to release me. He said that if you confess you are a thief, we will release you tomorrow.”

When daylight broke a few hours later, Saroeun called out to a friend who was driving past the police station on a motorcycle. He asked the friend to go and tell his parents, who came to the police station.

“When we went there, we saw him with the chain on his leg. He had bruises on his body. He said that he had been dizzy and vomiting, so he had tried to go home the night before, but the police caught him and beat him,” says Saroeun’s mother. “I asked the police why they beat my son. They said that he came to the police station to steal a gun. They said that he went inside the police station, but my son told me that he was outside the police station.”

After some negotiation, Saroeun was released to his parents. No charges were filed against him.

Saroeun was taken to a local doctor and, two days later, to hospital in Kompong Som town where he was given pain relievers. On the advice of a relative, who is a military policeman, a complaint was made to human rights organizations. Licadho staff saw fresh cuts and bruises on Saroeun’s head and body when they interviewed him.

A Licadho investigator obtained from other sources the names of the four policemen at the district police station on the night in question. A complaint against them was laid with the Kompong Som Court prosecutor, who sent a message to the district police chief asking that the matter be resolved. Saroeun’s parents were twice invited to the police station for discussions on ‘reconciliation’. At the first meeting, the boy’s parents asked for compensation of 500,000 Cambodian riels (about US\$130). The parents were sent home with the promise that the police chief would discuss the matter with the perpetrators. When the parents responded to the second invitation to visit the police station for discussions, the police chief did not turn up. After waiting some time, the parents left. The police did not contact the family again.

At time of writing, 18 months after the beating of Saroeun, no compensation has been given to the family and no criminal charges have been laid against the policemen allegedly responsible. Saroeun’s physical wounds have healed. He usually remains close to home, afraid to go too far. His mother no longer sends him to guard the crab stall at night.

“I could not whip my wife fifty times, so I only whipped her four times”

Sen and Lyna, a rural couple aged in their 20s, were desperate. They were poor and jobless, and one of their fathers was seriously ill. One day in October 1998, they left Prey Veng province and went to Phnom Penh in search of work, as thousands of other rural Cambodians do at times of hardship. It was their first trip to the capital and after one night – spent at a local pagoda because they had nowhere else to sleep – they decided that they had had enough of the big city. The next morning, deciding to return home, they set out penniless on the long trek back to Prey Veng. They walked all day, covering the more than 50km from Phnom Penh to the major ferry crossing of Neak Loeung, roughly half way to Prey Veng.

It was getting dark, the ferries had finished for the day, and they were exhausted. Sen and Lyna lay down on the riverbank, to spend the night there before getting the ferry the next day. Sen approached two women talking nearby. “I went to ask the two women whether they had any jobs for us. I thought they were local residents of Neak Loeung. They said there were no jobs in Neak Loeung, and that we should go back to Phnom Penh,” he recounts.

The two women were joined by a friend of theirs, a man dressed in camouflage uniform and wearing a pistol and an ICOM radio. The trio befriended Sen and his wife and discussed their plight. “They asked us to go back to Phnom Penh because they had relatives who could get us jobs,” says Sen. “The man said that I could work as a shoe repairer and my wife could work as a tailor at a garment factory. He said the salary would be more than \$100 a month for each of us. He told us we should go back to Phnom Penh with him that night. I said ‘Why can’t we go back tomorrow morning?’ The two women said ‘No problem, we have relatives with a house in Phnom Penh. You can sleep there tonight’.”

The uniformed man bought some food for Sen and Lyna, and kept up the conversation. The man was persuasive, and supported by the two women. One of the women was aged in her 30s, and the other looked 18 or 19. Both were beautiful, and seemed like nice, gentle people. Sen and his wife were torn: they desperately wanted jobs, but they were reluctant to make the trip back to Phnom Penh that night.

“The man tried to persuade me not to be worried,” recalls Sen. “I said ‘Uncle, please, let’s go back in the morning’, but he still wanted to go back tonight. I thought in my mind that if we did not go with the man that night, we would lose the opportunity to find a job.

“We had only been to Phnom Penh once before, the night before, so we did not think about being cheated. Later, I thought that I was very naïve,” says Sen of he and his wife’s eventual agreement to go back to the capital.

The man, along with the two women, led Sen and his wife to a car and they all set off for Phnom Penh. There was an AK47 rifle in the car. On the trip, the man stopped the car twice to get out and use his ICOM radio. “I could not hear much, but I heard him say that he ‘had two people’. I heard the person he was talking to ask ‘So you are a taxi driver now? How much do you earn?’ I began to suspect that they would cheat us. I started to cry. They did not say anything to me,” says Sen.

Arriving in Phnom Penh, the couple’s fears were confirmed. They were driven to an area that had many brothels. (They did not know but it was Tuol Kork, one of the capital’s biggest red-light areas.) The car stopped down a dark alley, just past one of the brothels, and the two women asked Sen and Lyna to get out of the car. “The women asked us to follow them. The man stayed in the car. They took us to the brothel, and asked us to sit outside, while they went inside with the pimp,” says Sen.

“We saw the pimp giving some money to the two women,” remembers Lyna, Sen’s wife. “I don’t know clearly about the money; whether it was \$10 or \$100, I don’t know. When the two women came out, they were talking about money. I asked them ‘What is the money for? You

cannot sell us. There will be a big problem if you sell us.' They said that they had not sold us, and the pimp said that he had just given them money for petrol."

The two women left the brothel to go back to the car. "When they said they had not sold us, I asked to go with them in the car. They refused. One of them said 'No, I brought you here and I lost 20,000 or 30,000 riels. She didn't explain what she meant. But they still said that tomorrow we would get jobs."

The women left and the pimp invited Lyna and Sen into the brothel, and asked them to take a wash. The pimp, dressed in camouflage uniform and soldiers' boots, sat at table, nursing a bottle of wine and a pistol. There was another person, a guard carrying an AK47, outside the brothel door. After washing, Sen was told that he should sleep outside the building, in the compound, and his wife could sleep inside.

"There were about four or five other girls at the brothel. On the first night, they stood outside the brothel [touting for customers], where I was," says Sen. "I told the girls that I was promised a job, and they said that I had been cheated. One of the girls had been beaten. She could not see from one eye. She said they used a metal car [steering wheel] lock to beat her. She said that we were lucky, because we could see, and that she herself was beaten and made blind in one eye."

Lyna, meanwhile, spent the first night alone in a room inside. In the morning, she also met the other girls. "I asked them 'What is this place here? They said that it was a brothel, and asked me why I was here. I explained my story to them. They told me to escape but the doors were locked."

At lunchtime, the Prey Veng couple were given some food and the rest of the day passed within incident. About 6pm, however, a customer arrived at the brothel and was shown to a room where Lyna was alone. "I talked to the man and explained what had happened to me. I tried to persuade the man not to sleep with me." The man agreed, though Lyna attributes this more to his drunkenness than any kindness. "He was so drunk that he fell asleep in the room for a while. He was just drunk."

The man woke up and left, apparently telling the pimp that Lyna had not wanted to sleep with him. The pimp prepared his punishment. The other prostitutes were locked in separate rooms, and the main door to the brothel was locked, as was the gate outside. The pimp, along with his wife and the AK47-carrying brothel guard, called Lyna and begun to beat her without a word. "He beat me, while his wife just sat in the chair and watched. He did not talk to me, just beat me. He kicked me and I fell to the floor. Then I grabbed his feet and begged him. He kicked me more."

Hearing Lyna's screams, her husband Sen, still in the compound of the brothel, came to her aid. "The door was locked, so I broke it down. I came in and knelt down in front of the pimp and begged him not to beat my wife. He kicked me to the floor. Then he handed me some electrical wire and told me to whip my wife fifty times with it, and then she would whip me fifty times. I could not whip my wife fifty times, so I only whipped her four times and then I stopped.

"The pimp got more angry and took the wire from me. It was two pieces of electrical wire twisted together. Then the pimp whipped us both, many times, fifty or sixty times. My wife was crying and asking to be released. During the whipping, the pimp did not say anything. Afterward, he told us to be quiet, not to cry or shout. He asked me to leave the room, but I refused. The pimp punched me in the head with a gun."

Sen – bleeding from his head and from deep cuts to his neck, stomach and chest, and coughing up blood– was dragged outside by the brothel guard, who tied him to a concrete pillar.

Lyna, inside, remained at the mercy of the pimp and his wife. "After they took my husband away, they slapped and kicked me some more. The pimp's wife kicked and slapped me on the head. Then they stopped beating me and locked me in a room." Twice that night, customers arrived at the brothel and were taken to Lyna's room. "My shirt was bloodstained. I told the two customers what had happened to me but they did not listen..."

Sen, meanwhile, was tied to the pillar outside, wracked by pain, anger and despair. "I was very angry, because I knew they made my wife serve the customers. I was crying. I was coughing up blood, from when the pimp kicked me. He used a soldier's boot. I thought I would not live, because of the blood."

Sen's only conversation with the brothel guard stationed outside was, at one point, to ask for some rice. In response, "the guard beat me three times over the head with firewood and slapped me once. He was about to hit me on the head with the AK47 but I begged him not to."

Sitting with his back against the pillar, his tied hands wrapped around it, Sen contemplated what to do. About 8 or 9pm, several hours after the whipping, he began to rub the rope around his hands against the pillar. He did so until daylight the next morning, when the rope finally broke. After brief hesitation – "On one hand I wanted to escape, but on the other I did not want to because my wife was still inside" – he decided to run. Outside the brothel, he found a moto-dop taxi driver and asked to be taken to the nearest police station.

Sen, still coughing up blood, arrived outside the Tuol Sangkei police station and briefly told his story to several officers. In response, one policeman called to the brothel pimp, whom the police clearly knew, by ICOM radio. "The policeman got on the radio and asked the pimp why he treated me so badly. The pimp said 'Let him go and make a complaint to the court, if he wants to.' The pimp sounded angry." Another policeman told Sen that he should pay the moto-dop driver who brought him to the police station.

Inside the police station, "there were many police there, about twenty. I told the police what had happened and asked them for help. I wanted to go back to the brothel to get my wife," recounts Sen. "The police said 'If you go back, the pimp will shoot you to death.' I asked the police to go with me, but they refused. The police talked among themselves and I heard them say 'It is Loeung Sarith' [the brothel owner's name]."

Back at the brothel, Lyna's day began with a beating. "About 8am, the pimp beat me in order to ask where was my husband? I said that I did not know. The pimp kicked and slapped me. He did not say anything else, he just continued to beat me. After the beating, he brought me to hide in a small shack behind the brothel."

At the police station, the police were explaining to Sen that they might be able to help his wife, for a price. But Sen was penniless. "The police told me that if I had no money, they could not help me. They asked whether my parents had any money. I said no, but explained that they had some buffalo and ricefields. I thought that maybe if my father could sell his buffalo or ricefields, I could get some money."

The police were not prepared to go down the road to the brothel, but they were happy to go Prey Veng to try to get money from Sen's family. One policeman went with Sen to Prey Veng, paying for the taxi. Once there, "My father said that he could not sell his ricefields. The policeman decided to go back to Phnom Penh. He asked me to stay in Prey Veng because I had no money." Sen, refusing to abandon his wife, begged a free ride back to Phnom Penh from a taxi driver and returned separately to the same police station. Distraught, he pleaded with an older policeman whom he had not seen before. "I said 'Uncle, please help me. I cannot do this by myself.'" The policeman was a senior officer. He wasn't prepared to send his police to the brothel, but he did know the telephone number of the Cambodian Women's Crisis Center, a Cambodian NGO which assists abused women. He rang them and told them about Sen's case.

Meanwhile, at the brothel that night, Lyna was beaten again. "I was sleeping in a room. I didn't know where the pimp was, but he came up and kicked me. He was still asking me where was my husband? I said I did not know. After he kicked me three times, I grabbed his legs and begged him: 'Please don't touch me, please don't treat me badly.' He took a pistol from his waist and hit me on the back of the head. I fell unconscious." Lyna woke up, several hours later, about 11pm she thinks, to find herself on a mattress soaked in her own blood. Some of other brothel girls had tried to help her, putting a piece of banana leaf on her head wound.

At 5am the next morning, Lyna was moved to the wooden shack behind the brothel. She remained in captivity for two more nights, spending the daytime out-of-sight in the shack and the nighttime at the brothel, waiting for customers.

The Cambodian Women's Crisis Center (CWCC), meanwhile, was working to obtain arrest and search warrants from Phnom Penh court and find some police willing to execute them. Eventually, some military police agreed and, with Sen showing them where to go, they raided the brothel.

"When the military police came, I was cleaning plates," remembers Lyna. "The pimp's wife took my hand and led behind the house. She said 'Oh, the police come now.' She forced me to get under a bed outside, which had dirty water beneath it. I lay in the water, and the pimp's wife sat on top of the bed and told me not to say anything. The military police checked everywhere. They came up to the bed and I shouted for help."

Lyna was freed and reunited with her husband, who had half-expected her to be dead. Three other prostitutes, including the one who had lost her sight in one eye because of a beating, aged about 18, were also rescued. Loeung Sarith, the brothel owner, was arrested.

Loeung Sarith, interviewed at a police station in the presence of CWCC staff, admitted using violence against Lyna and her husband. The police identified Loeung Sarith, also known as Huy Sophorn, as a member of a military unit under the control of the chief of Prime Minister Hun Sen's bodyguard teams, but the bodyguard chief later denied this. Sarith was charged under the 1996 law against human trafficking, which provides for prison sentences of up to 20 years. He was not charged with illegal confinement or physical assault.

Sen and Lyna had numerous injuries from their beatings, including deep cuts and bruises. Lyna was found to have a fractured bone in her chest. Loeung Sarith provided 1,100,000 riels (about \$290) in compensation, arranged by court officials, for his victims' medical costs.

The week before Loeung Sarith was due to go to trial in Phnom Penh Municipal Court in April 1999, two court officials, believed to be a court clerk and a messenger, visited one of the victim's fathers in Prey Veng. They were directed to Kandal province, where Sen and Lyna were staying at the time. The two court officials, at least one of them with a gun and handcuffs, attempted to get the couple to thumbprint a statement withdrawing their criminal complaint against Sarith. The officials told the couple that they had collected 170,000 riels in compensation for them, but had spent most of it on travel expenses to come and see them. They said that they could give them 30,000 riels (\$8) if they dropped the complaint. Lyna gave her thumbprint, reluctantly. "I did not want to put my thumbprint. They asked my husband to go away while they talked to me, and told me that they would give me 30,000 riels." The same offer was then separately made to Sen, who refused it, forcing the case to go to court. The court officials then allegedly told the couple not to attend the court hearing.

Loeung Sarith's trial was held April 26, 1999. He was not charged with illegal confinement or physical assault, despite documented evidence such as photos of the victims' injuries being presented to court. In court, Sarith alleged that his initial confession to using violence, given when he was interviewed at the police station after his arrest, had been extracted under pressure from the police. (A CWCC staff member present at his interrogation by police disputes this.) Regarding the crime of owning a brothel, Sarith told the court that neither he nor his wife were the brothel's owners or managers. The brothel was run by his mother-in-law, who had escaped, he said. Regarding possible firearms offences, the police informed the court that the guns found on the brothel's premises were legally registered. "Initially, after the arrest, the police had said that the guns were not authorized. But in court, they said that they were authorized," according to a CWCC investigator. On the human trafficking charge, Sarith received a five-year prison sentence, four years of which were suspended. The court's stated reason for the leniency was that Sarith had tested positive to the HIV virus.

After the hearing, the judge reportedly asked CWCC staff not to appeal the verdict. One of his stated reasons was that he was a friend of a relative of Loeung Sarith. In a meeting with Sen and Lyna, the judge blamed them for not attending the hearing. They explained that the court officials had instructed them not to.

“It should have been 20 or 30 years because he was so cruel to us,” says Sen of the sentence given to Sarith. “When he is released, maybe he will commit other cruel things against other people.”

The verdict has been appealed and, at time of writing, was still awaiting a verdict by the Court of Appeal.

Eleven months after their beatings, Sen still had a large, 2cm long scar on his neck from the whipping he received, and a similar one on his stomach. Lyna suffered pain during urination. Both complained of chest pains, particularly when getting up in the morning. Both felt weak and suffered headaches or chest pain if they did not rest enough. Lyna suffered insomnia. The couple frequently had nightmares: Lyna usually dreamed of fighting against ghosts; Sen dreamed of taking a gun and shooting pimps at brothels. Both said they felt sad and scared, even when they know they are at a safe place.

Both Lyna and her husband have tested positive for the HIV virus which causes AIDS.

APPENDIX 2.

POST TRAUMATIC STRESS DISORDER

Up to 90% of torture survivors develop chronic psychological symptoms, according to international studies of refugees in Europe and North America. The proportion of torture victims in Cambodia who suffer such symptoms is unknown, but many survivors complain of similar symptoms. The most common symptoms suffered by torture victims are those of post traumatic stress. The diagnostic term Post Traumatic Stress Disorder (PTSD) is commonly used internationally for those people who, having suffered a traumatic experience (torture, natural disaster, accidental injury, violence crime, war, etc), develop severe traumatic stress symptoms. An excerpt from the criteria for PTSD diagnosis is presented here, as an indication of the range and types of symptoms suffered by torture survivors. The excerpt is taken from the *Diagnostic and Statistical Manual of Mental Disorders*, 4th edition, published by the American Psychiatric Association in 1994.

To meet the PTSD criteria, the required symptoms must be suffered by the patient for at least one month. PTSD is classified as either acute (if the required symptoms last for less than three months) or chronic (if they last for three months or longer).

Victims of trauma may manifest psychological symptoms immediately or soon after the traumatic experience, or months or years later. The symptoms may last a relatively brief period, or for years. A number of factors (age and background of the victim, previous trauma history, personal and family situation, community and family support, etc) are widely believed likely to influence the onset, timing and severity of post traumatic symptoms.

PTSD comprises the following:

- A.** The person has been exposed to a traumatic event in which both of the following were present:
1. the person experienced, witnessed or was confronted with an event or events that involved actual or threatened death or serious injury, or a threat to the physical integrity of self or others;
 2. the person's response involved intense fear, helplessness, or horror.
- B.** The traumatic experience is persistently re-experienced in one (or more) of the following ways:
1. recurrent and intrusive distressing recollections of the event, including images, thoughts, or perceptions
 2. recurrent distressing dreams of the event;
 3. acting or feeling as if the traumatic event were recurring (includes a sense of reliving the experience, illusions, hallucinations, and dissociative flashback episodes, including those that occur on awakening or when intoxicated);
 4. intense psychological distress at exposure to internal or external cues that symbolize or resemble an aspect of the traumatic event;
 5. physiological reactivity on exposure to internal or external cues that symbolize or resemble an aspect of the traumatic event.
- C.** Persistent avoidance of stimuli associated with the trauma and numbing of general responsiveness (not present before the trauma), as indicated by three (or more) of the following:
1. efforts to avoid thoughts, feelings, or conversations associated with the trauma;
 2. efforts to avoid activities, places, or people that arouse recollections of the trauma;
 3. inability to recall an important aspect of the trauma;
 4. markedly diminished interest or participation in significant activities;
 5. feeling of detachment or estrangement from others;
 6. restricted range of affect (e.g. unable to have loving feelings);
 7. sense of a foreshortened future, (e.g. does not expect to have a career, marriage, children, or a normal life span).
- D.** Persistent symptoms of increased arousal (not present before the trauma), as indicated by two (or more) of the following:
1. difficulty falling or staying asleep;
 2. irritability or outbursts of anger;
 3. difficulty concentrating;
 4. hypervigilance;
 5. exaggerated startle response.

APPENDIX 3.

UN CONVENTION AGAINST TORTURE

The United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment was adopted by the UN General Assembly in 1984, and entered into force three years later. It was ratified by Cambodia in 1992. An excerpt from the Convention, outlining Cambodia's responsibilities under the Convention, is presented here.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

*Adopted and opened for signature, ratification and accession by
General Assembly resolution 39/46 of 10 December 1984.*

Entered into force 26 June 1987, in accordance with article 27 (1).

The States Parties to this Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that those rights derive from the inherent dignity of the human person,

Considering the obligation of States under the Charter, in particular Article 55, to promote universal respect for, and observance of, human rights and fundamental freedoms,

Having regard to article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights, both of which provide that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

Having regard also to the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly on 9 December 1975,

Desiring to make more effective the struggle against torture and other cruel, inhuman or degrading treatment or punishment throughout the world,

Have agreed as follows:

PART I

Article 1

1. For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is

suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

2. This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.

Article 2

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.

3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

Article 3

1. No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.

2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

Article 4

1. Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.

2. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.

Article 5

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 4 in the following cases:

(a) When the offences are committed in any territory under its jurisdiction or on board a ship or aircraft registered in that State;

(b) When the alleged offender is a national of that State;

(c) When the victim is a national of that State if that State considers it appropriate.

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over such offences in cases where the alleged offender is present in any territory under its jurisdiction and it does not extradite him pursuant to article 8 to any of the States mentioned in paragraph 1 of this article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with internal law.

Article 6

1. Upon being satisfied, after an examination of information available to it, that the circumstances so warrant, any State Party in whose territory a person alleged to have committed any offence referred to in article 4 is present shall take him into custody or take other legal measures to ensure his presence. The custody and other legal measures shall be as provided in the law of that State but may be continued only for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2. Such State shall immediately make a preliminary inquiry into the facts.

3. Any person in custody pursuant to paragraph 1 of this article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national, or, if he is a stateless person, with the representative of the State where he usually resides.

4. When a State, pursuant to this article, has taken a person into custody, it shall immediately notify the States referred to in article 5, paragraph 1, of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary inquiry contemplated in paragraph 2 of this article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

Article 7

1. The State Party in the territory under whose jurisdiction a person alleged to have committed any offence referred to in article 4 is found shall in the cases contemplated in article 5, if it does not extradite him, submit the case to its competent authorities for the purpose of prosecution.

2. These authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State. In the cases referred to in article 5, paragraph 2, the standards of evidence required for prosecution and conviction shall in no way be less stringent than those which apply in the cases referred to in article 5, paragraph 1.

3. Any person regarding whom proceedings are brought in connection with any of the offences referred to in article 4 shall be guaranteed fair treatment at all stages of the proceedings.

Article 8

1. The offences referred to in article 4 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include such

offences as extraditable offences in every extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention as the legal basis for extradition in respect of such offences. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

4. Such offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 5, paragraph 1.

Article 9

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of any of the offences referred to in article 4, including the supply of all evidence at their disposal necessary for the proceedings.

2. States Parties shall carry out their obligations under paragraph 1 of this article in conformity with any treaties on mutual judicial assistance that may exist between them.

Article 10

1. Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.

2. Each State Party shall include this prohibition in the rules or instructions

issued in regard to the duties and functions of any such person.

Article 11

Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.

Article 12

Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

Article 13

Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.

Article 14

1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation.

2. Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law.

Article 15

Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any

proceedings, except against a person accused of torture as evidence that the statement was made.

Article 16

1. Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article I, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment.

2. The provisions of this Convention are without prejudice to the provisions of any other international instrument or national law which prohibits cruel, inhuman or degrading treatment or punishment or which relates to extradition or expulsion.