



HUMAN RIGHTS AND CAMBODIA'S PRISONS: 2001 REPORT ON PRISON CONDITIONS

SPECIAL REPORT
July 2002



សម្ព័ន្ធក្រិច្ចលើសិទ្ធិមនុស្ស និងការការពារសិទ្ធិមនុស្ស សីកាដូ

LICADHO

CAMBODIAN LEAGUE FOR THE
PROMOTION AND DEFENSE OF HUMAN RIGHTS

TABLE OF CONTENTS

INTRODUCTION	2
EXECUTIVE SUMMARY	3
PRISON POPULATION AND OVERCROWDING.....	4
PRE-TRIAL DETENTION.....	7
DEATH IN PRISON.....	10
TORTURE	10
RECREATION AND FAMILY VISITS.....	14
CONCLUSION.....	16
RECOMMENDATIONS.....	17
RELEVANT SOURCES.....	18

Contact: Kek Galabru, President
Authors: Medical Office,
Monitoring Office
Tel: [855] (23) 360 965
Fax: [855] (23) 360 965 / 217 626
Email: licadho@camnet.com.kh

Human Rights and Cambodia's Prisons:

A 2001 LICADHO Report on Prison Conditions

Introduction

This report describes the condition of Cambodia's prisons in 2001. The findings are the result of joint efforts between LICADHO monitors and its medical team from January to December 2001. Based on a total of 2,324 interviews of prison inmates held at regular intervals throughout the year, this report represents an important survey of the current conditions in Cambodian prisons, although it does not purport to be exhaustive in its representation of data.

The two main goals of the investigation were the following:

- What are the conditions in Cambodian prisons in 2001?
- What are the main human rights concerns for the prison population?

Having visited 20 out of Cambodia's 25 prisons, monitors were able to cover the majority of prisons in the country. The civilian prisons visited were: Banteay Meanchey, Battambang, Kampong Speu, Kampong Thom, Police Judicial (PJ), Correctional Center 2 (CC 1- the Prey Sar prison for women and children), Correctional Center 1 (CC1 – formerly known as T3), Prey Veng, Pursat, Siem Reap, Sihanoukville, Svay Rieng, Correctional Center 1 (CC1, formerly known as T3), Takeo and Correctional Center 3 (CC3, also known as Trapaing Plong). These civilian prisons, together with Toul Sleng, the military prison in Phnom Penh (was visited at least three times per month), comprise the 20 prisons visited. The five prisons which were not visited, due to program constraints, are: Preah Vihear, Stung Treng, Kratie, Mondulkiri and Ratanakiri prison. Due to official delays in signing LICADHO's new permission to interview prisoners and the replacing of the director of the prison department, LICADHO monitors had problems getting access to the prisoners in the Phnom Penh prisons, CC3, Prey Veng, Siem Reap and Svay Rieng prisons during some parts of the year.

Medical team members regularly visited 12 prisons in Battambang, Koh Kong, Kompong Cham¹, Kompong Thom, PJ, Prey Veng, Pursat, Sihanoukville, Svay Rieng, Takeo, Takhmao and Toul Sleng.

The prison project in the Monitoring office at LICADHO began making prison visits throughout Cambodia in 1996. LICADHO's last prison report detailed human rights conditions in prisons during the year 1999². The prison project team works in conjunction with the medical team at LICADHO to assess human rights conditions

¹ The medical staff started to make monthly visits to Kompong Cham prison in the third quarter of 2001.

² 2000. LICADHO. "Cambodian Prisons 1999: Conditions and Human Rights Violations".

and overall welfare of prisoners. For further information on the health conditions in Cambodia's prisons, see the 2001 LICADHO Health Report.³

It is important to note that LICADHO obtains its information from interviewing prisoners inside the prisons. It is difficult to achieve confidentiality during an interview due to the presence of prison guards who stand nearby. This methodological obstacle must be considered as a possible factor which may affect the findings, although it remains beyond the control of LICADHO staff.

Executive Summary

Human rights conditions in Cambodian prisons have deteriorated on several fronts, due in large part to the increasing prison population. Since 1997, the population has grown at a steady rate. In one year alone, from 2000 to 2001, the prison population increased by 10%, that is 471 more inmates than the previous year. The majority of inmates are male, women and minors comprising a small percentage of the population (5.9% and 4.5% respectively). This report describes the prison conditions and the main human rights concerns in the 20 prisons which LICADHO monitors and medical team visit regularly. A total of 2,324 inmates were interviewed at intervals throughout the year.

Overcrowding remains a serious problem, in particular at Kompong Thom, Banteay Meanchey, and in Sihanoukville, where the prison population has grown considerably since the 1999 report. Attempts to alleviate overcrowding have been undertaken such as rebuilding existing facilities, but it remains a grave problem. For example, in Kompong Thom prison, each prisoner has approximately 0.93 m² living space, which marks a decrease from 1.70 m² in 1998. This prison was designed to accommodate 40 persons according to the director; in 2001 it is shared by 120 inmates, triple its capacity.

One recurring problem is excessive pre-trial detention, which contravenes both domestic Cambodian law as well as international law. In Banteay Meanchey, CC1 and CC2 prisons, on average 270 detainees were being held for longer than the six-month time limit established in Cambodian Prison #34, Point 4. LICADHO sent three letters on May 14, 2001, to the Minister of Justice, the Supreme Council of Magistracy and the General Prosecutor of the Appeals Court, to raise this serious problem. When LICADHO intervened on behalf of one young man (see Case Study #1) who had been detained for almost one year, both the trial and investigating judges cited lack of funds and heavy workloads as reasons for this continued practice. A further example of pre-trial detention can be seen in the case of the Cambodian Freedom Fighters (see Case Study #2) who, while in pre-trial detention, were held in virtual incommunicado detention, without access to human rights workers and, in many cases, their own defense lawyers and family members.

Torture is one of the most serious violations of the rights of prisoners documented by LICADHO. While torture of inmates by prison guards appears to have decreased in recent years, it still occurs to some extent – 1.2% of inmates interviewed in 2001

³ 2001. LICADHO. "Human Rights and Cambodia's Prisons: 2001 LICADHO Health Report".

reported having been tortured or otherwise mistreated in prison – particularly as a punishment for alleged misbehavior or in some cases as an initiation for new prisoners. A far larger proportion of prisoners, 11.7%, reported having been tortured while in police custody prior to being sent to prison.

Death in prison remains an alarming issue which raises questions about medical care and conditions of detention afforded to prisoners. The majority of the 53 deaths in prison in 2001 were attributed to disease, particularly to opportunistic infections related to HIV/AIDS. However, three prisoners committed suicide, and two other deaths involved prisoners who had received injuries prior to being sent to prison. At least 10 other deaths involved abdominal bleeding, the cause of which was never determined.

Overcrowding also contributed to the lack of recreational time had by prisoners. The Prison Procedures established a minimum standard of one hour of fresh air daily, yet prisoners were allowed out of their cells for one hour every three or four days (CC1), and some newly arrived prisoners were kept indoors for up to one month (Takhmao). As an explanation, prison directors cite a lack of staff to guard prisoners outside of their cells.

Family visits to prisoners were seriously impeded by corruption. Visitors to the CC1 prison, for example, reported to have paid several thousand Riels at various checkpoints on the entrance to the prison.

Prison conditions in 2001 continue to raise serious human rights conditions and require immediate action on the part of the Royal Government of Cambodia.

Prison Population and Overcrowding

The prison population in Cambodia continues to grow, maintaining a pattern of steady increases in prisoner numbers reported by LICADHO in the prisons it monitors since 1996.

In December 2001, there were 5,083 prisoners in the 20 prisons covered by this report, an increase of 471 (10%) over December 2000. Women (adults and minors) represented just over 5.9% of the prison population, or 302 individuals. Minors (female and male) between the ages of 13 and 18 represented 4.5% of the prison population, or 229 individuals (see figure 1).

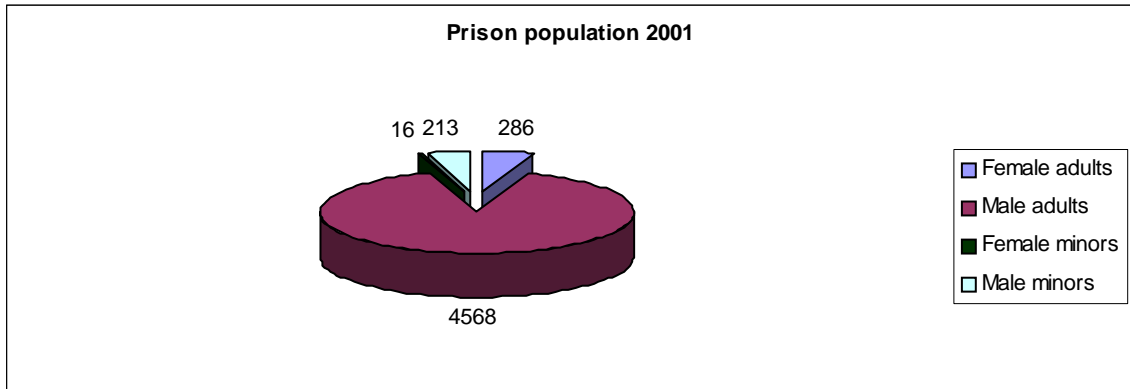


Figure 1

LICADHO has regularly visited and made interviews in 16 prisons since April 1996. In those prisons there has been an increase in the prison population of 2,354 prisoners, or 141%, in the five and a half years from April 1996 till December 2001.

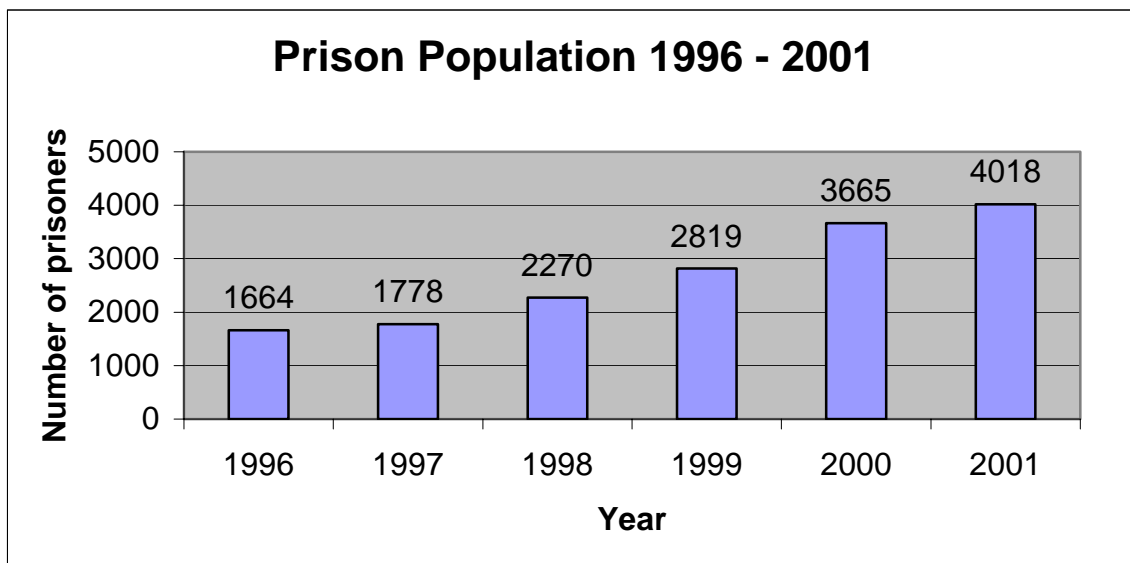


Figure 2

The above figure shows the increase of the prison population in the 16⁴ prisons that LICADHO has frequently visited since April 1996. The respective data is from April 1996, November 1997, December 1998, December 1999, December 2000 and December 2001.

In the last few years, there have been some efforts to accommodate the growing prison population in Cambodia. The Cambodian Criminal Justice Australia Project has refurbished prisons in Kompong Cham, Kompong Chhnang, Kompong Speu, Kampot and CC2 and has in these five prisons rebuilt cell walls, provided water systems and new accommodations for the administration office. Funding was secured

⁴ CC1 (T3), PJ, Toul Sleng, CC2 (Prey Sar), Kompong Thom, Kompong Cham, Siem Reap, Banteay Meanchey, Battambang, Pursat, Kompong Chhnang, Kampot, Sihanoukville, Kompong Speu, Prey Veng and Svay Rieng.

from an Australian donor for a new prison building in Kompong Thom, which was built by the government with input from LICADHO. CC1 (then known as T3) and Siem Reap prisons were demolished and rebuilt in different locations, both financed by the SOKIMEX petrol company (see figure 3).

Prison	Population when moved to new building (year)	Population by end of Dec 2001	Built to hold
Kompong Thom	36 (1997)	89*	40
CC1 (T3)	497 (2000)	1,375	1,200
Siem Reap	333 (2001)	490	500

Figure 3

* The prison population went down considerably in December 2001 but for the rest of the year it stayed steadily around 120 prisoners.

To solve the most acute problems of overcrowding, prisoners have for the last few years been moved from prisons like Battambang and Kompong Thom to CC1, CC3 and Siem Reap prisons. For example, in Kompong Thom prison, which is small, prisoners have on four occasions been sent to other prisons to ease overcrowding since 1999: once to CC1 and three times to CC3. However, overcrowding continues at the Kompong Thom prison. The prison building used to house male inmates, which measures approximately 7.5 m x 15 m (112.5 m²), was according to the prison director built to hold a maximum of 40. In 1998, when LICADHO's medical team reported an emergency communicable disease situation caused by poor sanitation, overcrowding and prolonged confinement to cells, there were 67 male prisoners; the living space for each prisoner was 1.70 m². For the most part of 2001 the male prison population was around 120, which means that each prisoner had about 0.93 m² living space. The actual living space was in fact a little bigger because the prison director, like in previous years, allowed some prisoners to live permanently outside the cell, in the prison courtyard, to ease the overcrowding. To try to create more space, prisoners tied their belongings from the ceiling and some prisoners slept in the walkway in 2001.



Prison overcrowding is by no means a new issue but is a continuing problem, as witnessed by previous LICADHO prison reports, for example in 1999 and 2000⁵. Of the prisons mentioned in the 1999 report, overcrowding remains a problem in Kompong Thom prison, and in Sihanoukville, where the prison population has grown considerably since the 1999 report. Further, Banteay Meanchey prison is now also significantly overcrowded, with 236 inmates in September 2001, more than its capacity at 150 inmates. Prison overcrowding remains an urgent problem for the Ministry of Interior's Prison Department to deal with; if not, the problem will continue to worsen and cause serious consequences for prisoners' health and for prison security and stability.

Pre-Trial Detention

Excessive pre-trial detention

According to Cambodian law, pre-trial detainees should not be detained for longer than four months or in special circumstances six months, before being brought to trial. Cambodian Prison # 34, Point 4 states:

*“No detainee over the age of 18 should be held in prison for more than six months without trial.”*⁶

This is further confirmed in the Cambodian Criminal Procedures at Article 21:

*“Any person, whether or not in detention, must be judged no later than six months after arrest.”*⁷

The time limit is more restrictive for minors, aged between 13 and 18, who according to the Prison Procedures can be held for a maximum of two months in pre-trial detention.⁸

In the past few years, excessive pre-trial detention continues to be a particular problem for detainees in Banteay Meanchey, CC1 and CC2 prisons (the latter two being the former T3 and Prey Sar prisons in Phnom Penh). In 2001 LICADHO three times sent letters to the Minister of Justice, the Supreme Council of Magistracy and the General Prosecutor of the Appeals Court, copied to the prosecutors of the Banteay Meanchey and Phnom Penh courts, to raise the problem of excessive pre-trial detention. Figure 5 shows how many prisoners were detained over the six-month time limit in the respective prisons at the time the letters were sent.

⁵ See “Cambodian Prisons – Some Human Rights Issues”, September 1999, and “Cambodian Prisons 1999: Conditions and Human Rights Violations”. July 2000.

⁶ Section 4 further states: “The Prison Chief must notify the court in writing one month prior to any detainee being held in prison without trial for six months. The notification must include the detainee's name, date of admission, offence the detainee has been charged with, and request advice on when the trial has been set.”

⁷ 1995. “Provisions Relating to the Judiciary and Criminal Law and Procedure Applicable in Cambodia During the Transitional Period”, Article 21.

⁸ See Cambodian Prison Procedure 34.2, Section 5.

Date	CC1	CC2	PJ	Banteay Meanchey	Total
29 Jan, 2001	127	84	50	36	297
14 May, 2001	182	67	NA	38	287
20 Sept, 2001	139	50	16	20	225

Figure 5

The following case study, based on victim testimony, illustrates some aspects of excessive pre-trial detention in Cambodia's prisons.

Case Study # 1

An example of excessive pre-trial is the case of a young man aged 17 when he was arrested on March 30, 2000 and charged with robbery. The investigating judge concluded his investigation and sent the case to be assigned to a trial judge on October 9, 2000, yet the man was not brought to trial by Phnom Penh Municipal court until September 24, 2001, nearly 18 months after his date of arrest. This is in strict violation of Cambodian Prison #34, Point 5, which states that minors 13-18 years of age should not be held in pre-trial detention for more than one month, or two months if the minor is charged with a crime.⁹

When the investigating judge and the trial judge were asked why the case took so long they both spoke in general terms and did not specifically talk about this case. They both mentioned a very heavy workload and lack of funds to bring prisoners to trial as the main reasons for excessive pre-trial detention; the prisons ask the court to pay \$20 per pre-trial detainee that is sent to court. This is particularly so in CC1, CC2 and PJ, when inmates were transferred to trial in Phnom Penh Appeal Court and Supreme Court.

The trial judge stressed that pre-trial detainees often required several trips to court – to be interviewed by a prosecutor, investigating judge and then to appear at trial – and that the courts can not pay for the transportation pre-trial detainees have to wait for someone to pay; which in many cases would be the family of the accused.

The trial judge further said that if no one can pay for the transportation pre-trial detainees are tried in absentia. The investigating judge said that because of the heavy workload at the court it is often the case where one of the parties [or both] comes to discuss their case with the judge that is prioritized and solved first.

The question of who has the duty of transporting prisoners to their Court hearings is at times disputed. Prison directors sometimes state that this is not the responsibility of

⁹ See Cambodian Prison Procedure 3.2, Article 5.

prison staff (who are under the Ministry of Interior), but of the courts (under the Ministry of Justice). However, at least one senior Ministry of Interior official has confirmed that it is the duty of his staff to transport prisoners to court. In reality, court officials do not transport prisoners, and the illegal practice of prison staff charging prisoners for their own transportation continues. If the prisoner does not have money to pay for his transportation, the Court will hear his/her case in absentia. This is in violation of rights enshrined in Cambodian and international law for accused persons to be present at court proceedings and to present a defense. Cambodian criminal procedure states at Article 10, Section 1:

“The right to assistance of an attorney or counsel is assured for any person accused of a misdemeanour or crime.”¹⁰

Accused persons whose rights have already been breached by unlawfully long pre-trial detention are therefore subjected to further violations if they are not allowed to attend their trials. When LICADHO staff interviewed judges about excessive pre-trial detention in CC1 and CC2, they offered three reasons: 1) lack of vehicle to transport prisoners; 2) scarcity of judges to hear cases; and 3) the particular nature of some cases – requiring complex criminal investigations. In Banteay Meanchey, judges cited scarcity of judges as the primary source of excessive detention.

An issue relating to pre-trial detention which raised particular concern in 2001 was the treatment of detainees accused of involvement with the Cambodian Freedom Fighters (CFF). The following case study details the particular conditions experienced by this group of people.

Case Study # 2: Cambodian Freedom Fighters

A violent attack on several government buildings in Phnom Penh by alleged CFF members on November 24, 2000 led to numerous arrests, both on the night of the attack and in subsequent weeks and months. Dozens of alleged CFF members were detained in successive waves of arrests, and charged with offences related to terrorism, illegal weapons possession or membership of an illegal armed group.

While in pre-trial detention, nearly all of the accused were held in virtual incommunicado detention, without access to human rights workers and, in many cases, their own defense lawyers and family members.

Some lawyers were never granted permission to meet their clients while others were on several occasions denied access to their clients and when finally, sometimes after waiting for months, permitted to see them they could only meet for a few minutes. Furthermore, fifty of the 122 CFF suspects were unlawfully detained for longer than six months before being brought to trial.

¹⁰ 1995. “Provisions Relating to the Judiciary and Criminal Law and Procedure Applicable in Cambodia During the Transitional Period”,

At their eventual trials, defense lawyers raised the issue of excessive pre-trial detention of their clients and requested their immediate release; this was not granted by the trial judge.

Death in Prison

According to LICADHO information 53 prisoners died in 2001, two women and 51 men. The majority, 30 inmates, died in CC1 (formerly T3) in Phnom Penh See figure 6 for details of prison deaths during the year.

Prison	Number of dead prisoners	Total Prison Population December, 2001	Percentage
Banteay Meanchey	2	215	0.90%
Battambang	2	401	0.50%
Kampot	1	141	0.70%
Kompong Cham	1	291	0.30%
Kompong Chhnang	1	113	0.90%
Kompong Speu	1	169	0.60%
CC2	3	283	1.00%
Prey Veng	1	103	1.00%
Siem Reap	3	490	0.60%
CC1	30	1375	2.00%
CC3	1	582	0.20%
Takhmau	7	285	2.40%

Figure 6

The vast majority of the deaths were caused by disease. However, three prisoners committed suicide and two other deaths involved prisoners who had received injuries prior to being sent to prison; it was unclear whether the latter deaths were caused by the injuries. An alarming high number of deceased prisoners in 2001, as many as 20, were either confirmed or suspected to have died from diseases related to HIV-AIDS. Ten deceased prisoners suffered serious abdominal pains or abdominal bleeding prior to death, but the cause was never determined. LICADHO medical team is notified by the prison director upon the death of an inmate. When possible, the medical team investigates the body of the deceased inmate to record information which may indicate cause of death.

Torture

Torture is one of the most serious human violations of the rights of prisoners documented by LICADHO. Torture may occur in police custody after the arrest of criminal suspects, or in prisons after the suspects have been transferred to prison custody.

In 2001, the number of prisoners who reported to LICADHO that they had been tortured in prison or in police custody dropped a little compared with previous years. A partial explanation for this may be in the fact that LICADHO monitors made fewer interviews in 2001 due to problems of gaining access to some prisons at certain times. It should be made clear that LICADHO is not able to conduct confidential interviews or do in depth investigations to determine if all reports of torture are legitimate. However, with regard to torture committed in prisons, there is also reason to believe that, with LICADHO and other organizations visiting prisons on a regular basis, the practice of torture may be decreasing. There is little reason to believe, however, that the use of torture in police stations is decreasing. LICADHO and other NGOs are in the process of further documenting information on torture in police custody.

Of 2,324 interviews conducted by LICADHO in 2001, 271 inmates (11.7%) reported being tortured in police custody and 28 prisoners (1.2%) said they had been tortured in prison. Figure 6 shows the percentage of prisoners who reported being tortured in police custody or in prison.

These statistics are almost certainly lower than the real amount of torture, for several reasons. Firstly, torture is most probably under-reported, given that prisoners may be afraid to talk about torture for fear of repercussions from prison guards, particularly as LICADHO interviews with inmates are often not able to be conducted confidentially. Secondly, not all prisoners interviewed were necessarily asked about torture (a small number may not have been asked, because of time or other constraints).

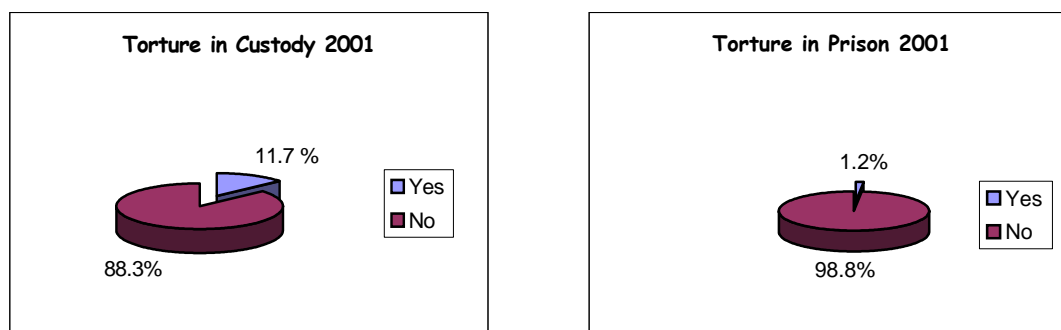


Figure 6

Torture in police custody

LICADHO's interviews indicate that a significant proportion of detainees arrive in prison having been tortured at the hands of the police after their arrests. While this torture cannot be blamed upon prison staff, the treatment of these torture victims in prison raises critical human rights issues. The effects of the torture can be further compounded by lack of adequate medical and other care in prison, given that torture often carries long-term physical and psychological consequences. Furthermore, the right of these torture victims to judicial redress may be comprised by other violations of their rights in prison, for example by not being permitted to attend their trials to testify.

LICADHO remains deeply concerned that torture continues to be used by the police on a regular basis, particularly to elicit confessions from criminal suspects, but also to extort money from them or as a form of rough justice against perceived criminals.

The risk of torture of arrested persons is increased by the fact that they are often detained incommunicado in police stations, without access to family members, human rights workers or lawyers. Unlike prisons, police stations are generally closed to outsiders and there is little to no opportunity for independent scrutiny of conditions of detention. In 2001, at least one case of alleged torture to death by the police occurred, described in the following case study.

Case Study # 3: Death of Mr. Eath Oeurn

On July 26, 2001, Eath Oeurn, an alleged buffalo thief, was arrested in Ba Phnom district in Prey Veng province and died three days later from injuries allegedly caused by torture. Before his death, he named, in front of witnesses, three police officers who he accused of torturing him.

Statements from witnesses, as well as photographs of Eath Oeurn's body showing numerous wounds and bruises, were examined by LICADHO's medical team and LICADHO sent documents to Dr Raquel Rosario-Fortun, forensic pathologist at the University of Philippines in Manila, who concluded:

“The exact cause and manner of death of Mr. Eath Oeurn are difficult to determine based on the review conducted. Although the photographs do indicate probable blunt force injuries there are limitations to their evaluation. Unfortunately also an autopsy was not done and the remains are no longer available for exhumation and examination due to cremation. However, as discussed in the foregoing findings and upon their correlation with the observations made on Mr. Oeurn by witnesses during his incarceration, it is highly probable that he sustained blunt force injuries of the head, trunk and lower extremities. Based on the available information regarding the circumstances of his death craniocerebral injuries are strongly considered as direct cause and the manner of death is thus classified as homicide.”

On February 25, 2002, the Prey Veng prosecutor charged two policemen with voluntary manslaughter in connection to the death of Eath Oeurn, and sent the case to an investigating judge. The two policemen have not been arrested or placed in pre-trial detention. A third policeman who allegedly also tortured Eath Oeurn has not been charged, because of lack of evidence according to the prosecutor. At time of writing, the investigating judge is still investigating the case. Such prosecutions of alleged police torturers are extremely rare. The last known torture-related conviction of a police officer involving the death of a detainee in custody was in 1997; the officer was convicted of a misdemeanor, received a suspended sentence, and did not spend a day in prison.

Torture in prisons

The amount of reported torture committed by prison guards has remained relatively low for several years, although it has by no means been eradicated. Torture appears to be primarily used in prisons as a punishment for alleged breaches of discipline or security, particularly escape attempts, by inmates. But torture may also be used for other purposes, and new inmates may be particularly vulnerable.

The prolonged use of shackles – which are prohibited under Cambodian law – is the most common type of torture.¹¹ International law, through the *Standard Minimum Rules for the Treatment of Prisoners*, which was passed by the United Nations Congress in 1955, also renders illegal the use of these instruments of restraint. Article 33 states:

“Instruments of restraint, such as handcuffs, chains, irons and straitjackets, shall never be applied as a punishment. Furthermore, chains or irons shall not be used as restraints.”¹²

Shackles were used in Sihanoukville and Kompong Thom prisons during 2001. Almost one third of the prisoners who reported torture in prison were detained in Sihanoukville prison. A particular issue of concern in Sihanoukville prison, based on prisoner interviews conducted over several years, is the practice of new prisoners being beaten or kicked soon after their arrival at the prison – this introduction to the prison is apparently an attempt to ‘soften up’ new prisoners and make them submissive to prison guards. LICADHO raised this practice with the prison director, who promised to put an end to it.

Cambodian criminal law and prison regulations clearly prohibit torture for any reason, including as a punishment, but no prison official has been convicted of torture for a decade. A test case, involving the prosecution of five Kompong Cham prison guards for allegedly severely torturing five prisoners (including knocking them unconscious with metal hoes) in December 1999, had yet to go to trial by 2001.

To further reduce torture in Cambodian prisons, it is important that LICADHO and other human rights organizations are able to continue to monitor the situation closely. While doing so it is necessary that the organizations be allowed to do private, confidential interviews with prisoners, to ensure that inmates feel as safe and comfortable as possible in reporting violations, without fear of reprisals from prison staff. LICADHO monitors continue to face problems in securing confidential interviews with prisoners.

¹¹ Cambodian Prison Procedure 25.1, Section 3-5: “Handcuffs must never be used as punishment. Handcuffs are only to be used when authorized by the Prison Chief and must not be applied for any longer period of time than is strictly necessary. Handcuffs are only to be used to prevent a prisoner from injuring themselves, or others.”

¹² 1955. *Standard Minimum Rules for the Treatment of Prisoners*. Article 33, Section 1.

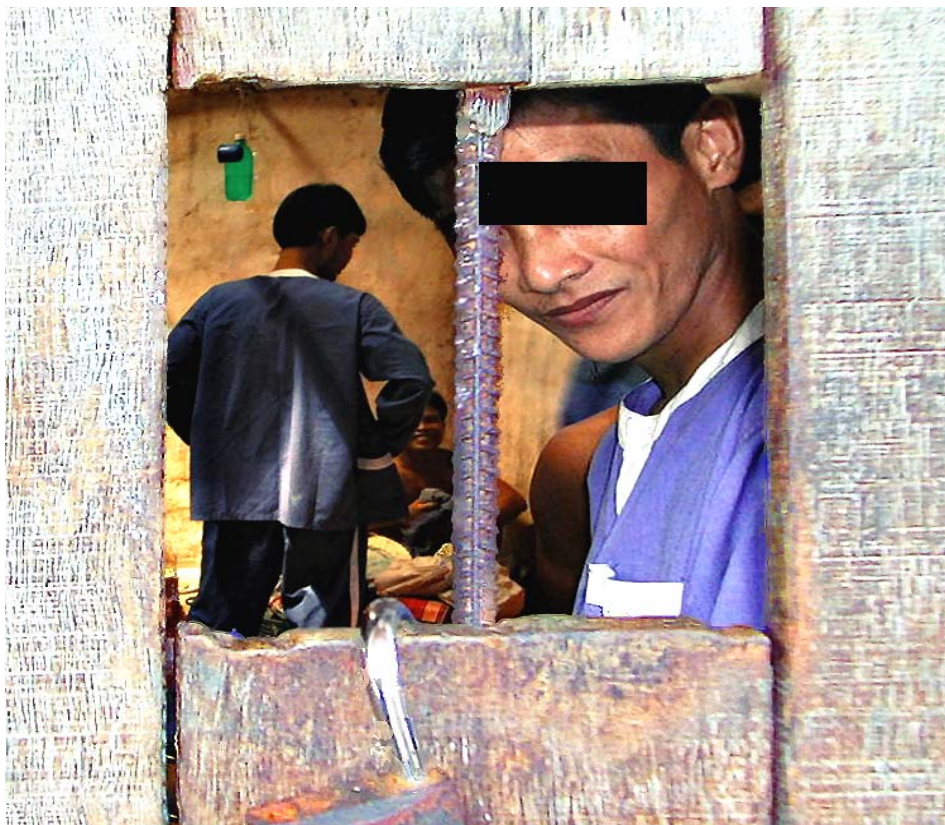
Recreation and Family Visits

Recreation

Failure to allow prisoners outside of their cells for at least one hour a day in the open air, as stipulated by prison regulations, continued to be a problem in 2001. The *Standard Minimum Rules for the Treatment of Prisoners* states at Article 21, Section 1:

“Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits.”¹³

As in previous years, CC1, PJ, Takhmau and Kompong Thom were the worst affected prisons. Prison directors continued to blame the problem on overcrowding and lack of prison officers to guard prisoners outside their cells. The prisons have therefore created rosters for when prisoners can go out to exercise or just be outside of their cells. In Takhmau prison, new prisoners were worst off, with some of them not allowed out of their cells for one month. In CC1, which held 1,375 prisoners in December 2001, around 400 prisoners were let out each weekday, either in the morning or afternoon, approximately one hour. In reality, most prisoners were allowed out of their cells for one hour every three or four days.



¹³ 1955. *Standard Minimum Rules for the Treatment of Prisoners*. Article 21, Section 1.

Lack of regular exercise and exposure to sunlight promotes skin diseases and other health problems for inmates, particularly if they suffer from overcrowding.¹⁴

Family visits

Family members reported that they had to pay prison staff to be able to visit prisoners, in violation of Cambodian prison regulations and international standards. In the Cambodian Prison Procedures, # 8, Point 4 states:

*“All prisoners have the right to receive visits from families or friends for at least one hour each week at times designated in a Prison Rule by the Prison Chief.”*¹⁵

Moreover, # 8, Point 18 clearly states that:

“Prison Chiefs, Prison Officers or Officials must not collect money or gifts from visitors for the privilege of visiting a prisoner.”

This problem has been previously reported by LICADHO and does not appear to have been reduced. Many families of prisoners are poor and cannot afford to pay these bribes, meaning they cannot visit as often as they would like. For example, at CC1 prison, visitors have to pay at least 23,000 riel per visit, according to LICADHO interviews with prisoners and family members. A list of bribes which have to be paid, and places where they have to be paid, by visitors to CC1 is as follows:

1.	First checkpoint to the prison	2000 Riels or approximately 0.50\$ USD ¹⁶
2.	Entrance to the prison building.	2000 Riels or 0.50\$ USD
3.	Administration office.	15,000 Riels or 4.00\$ USD
4.	Office of permanent staff.	2000 Riels or 0.50\$ USD
5.	Visiting room; There are two rooms here, one where visitors can speak directly to prisoners and the other where they talk via a telephone; a higher bribe has to be paid for the first room. In addition, visitors have to pay additional	2000 Riels or 0.50\$ USD

¹⁴ For additional details, see “Human Rights and Cambodia’s Prisons: 2001 LICADHO Health Report”, LICADHO, 2001.

¹⁵ 1998. “Prison Procedures”, Prison Department, Ministry of Interior, Kingdom of Cambodia, 5 of May, Article 8, “Prisoners Visits”.

¹⁶ At the time of writing, one US dollar was equivalent to 3900 Riels. Conversion rates are rounded up to the nearest tenth of a dollar.

	bribes if they want to spend extra time talking to the prisoner.	
6.	Gate to enter further into the prison; here visitors have to pay if handing over food to prisoners.	1500-2000 Riels or 0.40\$ - 0.50\$ USD
7.	Gate to further enter prison; here any food received by prisoners is inspected and a portion of it can be taken by the guard.	Portion of food.

In addition, interviews with family members revealed a further practice of prison corruption in CC1 which affects only those prisoners who have just arrived, that is, in their first month of imprisonment. According to prison staff, any visitor to a new prisoner might compromise the criminal investigation of the prosecution. In some cases however, if family members are willing to pay up to 50-100\$USD (195,000 - 390,000 Riel), they may visit the inmate within the first month.

It should be noted that the location of prisons such as CC1, CC2, CC3, T5, and Siem Reap (that is far from city or town) makes it very difficult for family members to provide essential supplementary food. The fact that those family members who can afford to travel to CC1 report having to pay bribes and part of the food portions they had brought for the inmate makes the situation that much more urgent.

Conclusion

The steady rise of incoming prisoners to Cambodia's prisons has contributed to a worsening problem of overcrowding. In one case, the prison population triples the capacity of the building, causing prisoners to resort to measures such as tying their belongings to the roof in an attempt to alleviate this lack of space. Although some efforts have been undertaken to improve the situation, such as moving prisoners from very crowded prisons to less crowded ones, and rebuilding cell walls, the overall condition of overcrowding remains grave.

Lack of funding in the prisons was one of the reasons cited by the judiciary for the excessive pre-trial detention periods, often exceeding the six-month time limit imposed by Cambodian law. This practice, despite being illegal, continues at the expense of the prisoners' right to legal defense. The extreme case of the Cambodian Freedom Fighters demonstrates the limits of exclusion and denial of fair trial, as some of these high-profile prisoners were even denied access to legal counsel.

Torture and death in prison remain two of the most serious issues facing Cambodian prisoners. Of all the inmates surveyed, 11.7% reported having been tortured by police prior to being sent to prison, and 1.2% reported some form of torture in prison. . Shackles were still illegally used in some prisons, particularly in Sihanoukville and Kompong Thom prisons, and newly-arrived inmates faced beatings in Sihanoukville

prison as a form of initiation. Deaths of inmates in prison (53) were for the most part attributable to disease, including AIDS, although there were 3 cases of suicide.

Prisoners' access to recreational facilities was seriously impeded during 2001, with prison staff failing to allocate prisoners with their daily hour in open air as stipulated in Prison Procedures. Overcrowding and lack of prison staff were cited by the prison directors as the cause for this problem. In one extreme case in Takhmau prison, some new prisoners were not allowed out of their cells for one month. Moreover, bribery remains a serious impediment to prisoners' enjoyment of family visits, particularly at CC1. Visitors must pay several thousands of Riels at various checkpoints when entering the prison which violates Cambodian Prison Procedures and international standards.

Recommendations

OVERCROWDING

1. The Royal Government of Cambodia must take immediate steps to alleviate the problem of overcrowding in Cambodia's prisons. This could include the construction of new prison facilities, or the refurbishment of existing facilities so as to provide more living space per inmate.
2. Given the steady increase of prison population over the past five years, the Royal Government of Cambodia must design a plan to accommodate incoming prisoners with adequate living conditions rather than continue to overpopulate existing facilities.

PRE-TRIAL DETENTION

3. In accordance with relevant legislation, the Royal Government of Cambodia must take all necessary steps to prevent excessive pre-trial detention, that is, any detention which surpasses the six-month time limit.
4. The Royal Cambodian government must clarify who has the duty of transportation of prisoners from the prison to the Court so as to avoid confusion between the Ministry of the Interior and the Justice Department.
5. The Royal Government of Cambodia must address any existing practices of bribery during the transportation of prisoners to Court and take immediate action to end this practice.
6. The Royal Government of Cambodia should ensure that no prisoner fails to attend his/her court hearing for any reason, including due to lack of money to pay the bribe for transportation. The Royal Government must recognize that each prisoner has the right to have his/her case heard, and to attend the proceeding.

7. The Royal Government of Cambodia must take steps to prevent a recurrence of the treatment that was received by high-profile cases such as the Cambodian Freedom Fighters. In the future, high-profile or politically-related prisoners should not be given differential treatment, and should always have access to human rights workers, defense lawyers and family members.

TORTURE

8. The Royal Government of Cambodia must take practical steps to eliminate the use of torture.
9. In particular, the judiciary must prosecute prison staff and police officers for all cases of alleged torture, and the Royal Government of Cambodia should take all necessary action to cooperate with all such prosecutions.

DEATH IN PRISON

10. In accordance with Cambodian law, adequate health care be provided to prisoners suffering from AIDS and other life-threatening diseases.¹⁷

RECREATION/ FAMILY VISITS

11. The Royal Government of Cambodia must ensure that prison directors allocate one hour of fresh air daily per inmate, as stipulated in Article 21 of the *Standard Minimum Rules for the Treatment of Prisoners*.
12. The Royal Government of Cambodia should earmark funds to increase prison staff, especially the appointment of female guards, so as to allow for all prisoners' access to regular exercise and sunlight which is essential for the prevention of disease among prisoners.
13. Immediate steps must be taken by the Royal Government of Cambodia to eliminate the practice of bribery during family visits to prisoners.

Relevant Sources

Relevant LICADHO Reports

1997. LICADHO. "Cambodian Prisons – Some Human Rights Issues", May.
1998. LICADHO. "Cambodian Prisons – Some Human Rights Issues", January.
1999. LICADHO. "Cambodian Prisons – Some Human Rights Issues", September.

¹⁷ See "Human Rights and Cambodia's Prisons: a 2001 LICADHO Health Report" for additional details and recommendations.

2000. LICADHO. “Cambodian Prisons 1999: Conditions and Human Rights Violations”, July.

2001. LICADHO. “Human Rights and Cambodia’s Prisons: 2001 LICADHO Health Report”.

Relevant Domestic Law Sources

1998. “Prison Procedures”, Prison Department, Ministry of Interior, Kingdom of Cambodia, 5 of May.

1995. “Provisions Relating to the Judiciary and Criminal Law and Procedure Applicable in Cambodia During the Transitional Period”, *The Cambodian Compendium of Laws*, First Edition, Royal Government of Cambodia: Phnom Pen.

Relevant International Human Rights Instruments

1. Standard Minimum Rules for the Treatment of Prisoners:

Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolution 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

Full text: http://www.unhchr.ch/html/menu3/b/h_comp35.htm

2. Basic Principles for the Treatment of Prisoners

Adopted and proclaimed by General Assembly resolution 45/111 of the 14th of December, 1990.

Full text: http://www.unhchr.ch/html/menu3/b/h_comp34.htm