



# SUBSTANCE ABUSES

THE HUMAN COST OF CAMBODIA'S ANTI-DRUG CAMPAIGN

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First published in 2020

by Amnesty International Ltd

Peter Benenson House, 1 Easton Street

London WC1X 0DW, UK

Index: ASA 23/2220/2020

Original language: English

[amnesty.org](http://amnesty.org)



**Cover photo:** This image shows the inside of a cell in Phnom Penh's CC1 men's facility at Prey Sar prison in April 2018. Prisoners are held in extremely cramped cells such as this, holding up to 530 people for up to 24 hours per day. Prisoners are not provided any bedding, and cells are typically hot, humid, and extremely uncomfortable. Diseases are rife. Photo supplied; photographer's identity withheld.

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# 1. EXECUTIVE SUMMARY

In January 2017, the Cambodian government initiated a six-month campaign against drugs, which has been repeatedly and indefinitely extended since that time. The campaign has seen at least 55,770 people arrested on suspicion of using or selling drugs between January 2017 and March 2020.<sup>1</sup>

To date, the campaign's overwhelming emphasis on detention and prosecution – rather than ensuring access to adequate healthcare for people who use drugs, including treatment, rehabilitation, and harm reduction – has led to an escalating public health and human rights crisis.

Over three years since its launch, the country's campaign against drugs has not only failed in its primary mission of reducing drug use and drug-related harms, it has led to serious and systematic human rights violations. Reflecting on her experience of the anti-drug campaign, Naran, a 41-year-old methadone service user, told Amnesty International: *"To be a drug user is to be treated like an animal."*<sup>2</sup>

This report, which is based on field research carried out by Amnesty International in November and December 2019, documents the extensive human rights violations associated with the Cambodian government's anti-drug campaign. The vast majority of people interviewed by Amnesty International — notably people who were arrested and detained as part of the campaign, as well as their family members — came from poor and marginalised communities.

People interviewed by Amnesty International were detained under one of two parallel systems of detention and punishment: the criminal justice system or drug-related administrative detention. The criminal prosecutions documented by Amnesty International were plagued by violations of fair trial rights. For individuals from poor and marginalised communities, simply being a bystander in the wrong place at the wrong time or testing positive to a forced drug test can lead to years in jail, sometimes even under trafficking charges.

In some cases, victims told Amnesty International that they were forced to "confess" under torture and other ill-treatment. Once accused of drug-related offences, poor and marginalised defendants face an effective presumption of guilt that is almost impossible to overcome. Sreyneang, a 30-year-old woman from Phnom Penh, recounted how she was tortured following her arbitrary arrest during a drugs raid in Phnom Penh:

***"They asked me how many times I sold drugs .... The police officer said if I didn't confess, he would use the taser on me again."***

*Sreyneang, who was convicted for trafficking and imprisoned in Phnom Penh's CC2 prison.*

<sup>1</sup> National Authority for Combatting Drugs, Full Year Annual Report 2017, 26 February 2018; National Authority for Combatting Drugs, Full Year Annual Report 2018, 3 April 2019; National Authority for Combatting Drugs, First Six Months Report 2019, November 2019; Khouth Sophak Chakrya, "Over 5,500 arrested for drugs," *Phnom Penh Post*, 6 April 2020, <https://www.phnompenhpost.com/national/over-5500-arrested-drugs> (last accessed 20 April 2020).

<sup>2</sup> Amnesty International interview with Naran (a pseudonym), Phnom Penh, 3 December 2019. Pseudonyms are used throughout this report in order to protect at-risk interviewees' security.

After spending six months in inhumane conditions in pre-trial detention along with her baby son, Sreyneang was convicted following an unfair trial and sentenced to 2.5 years' imprisonment for trafficking. She recalled the verdict: *"I was thinking of committing suicide at that moment, taking pills. But then I just thought of my children, what would happen to them without me."*

Sreyneang's experience is characteristic of Cambodia's anti-drug campaign. In every case documented by Amnesty International, the accused person was convicted, and each described trials that did not even have a semblance of justice, let alone meet international fair trial standards. According to people interviewed by the organization, in no instance was bail or any other non-custodial alternative to pre-trial detention utilised or explicitly considered. None of those interviewed were made aware of their rights, and only two defendants were provided with free legal aid.

Few impoverished defendants in Cambodia's anti-drug campaign have access to lawyers, with most failing to meet the high threshold for free legal aid. When they are convicted – as they almost inevitably are – they face years in squalid, overcrowded prisons in which disease is rife. As one former prisoner recalled:

***"If one person got a respiratory infection, within a few days everyone in the cell got it. It was a breeding ground for illness."***<sup>3</sup>

*Long, formerly detained in Phnom Penh's CC1 prison.*

The anti-drug campaign has a disproportionate and discriminatory impact on women, children, and people from marginalised groups, including people living with HIV. 73% of all women prisoners in Cambodia are now imprisoned on drug-related charges.

40-year-old Maly detailed the difficulties of raising her child in the overcrowded conditions of CC2 prison: *"It was so hard to raise my daughter inside. She wanted to move around, she wanted more space, she wanted to see the outside. She wanted freedom... She often got fever and flu. Because we had no space, my child normally slept on top of my body."*<sup>4</sup>

Instead of being criminally prosecuted, thousands of people each year are detained without charge in so-called drug "rehabilitation" centres and "social affairs" centres (hereafter referred to as drug detention centres). Former detainees of drug detention centres described conditions which were even more inhumane than those found in the prison system.

Though these centres claim to treat people with drug dependence, in reality they operate as punitive and abusive detention centres, utterly lacking in medical facilities and properly trained staff. Rather than receiving evidence-based treatment, detainees are detained against their will and face systematic abuse. As one former detainee described:

***"In there, I felt that I was in hell. Trying to endure the beatings, the food, the overcrowding — it was completely unbearable."***<sup>5</sup>

*Ratha, formerly detained in Phnom Penh's Prey Speu detention centre.*

Cambodia's drug detention centres have faced sustained criticism over the years, including allegations of torture, forced labour, sexual violence, and deaths in detention.<sup>6</sup> Despite the many concerns raised from

<sup>3</sup> Amnesty International telephone interview with Long, 16 April 2020.

<sup>4</sup> Amnesty International interview with Maly, Phnom Penh, 16 November 2019.

<sup>5</sup> Amnesty International interview with Ratha, Phnom Penh, 21 November 2019.

<sup>6</sup> UN Committee Against Torture, Concluding observations of the Committee against Torture - Cambodia, January 2011, UN Doc. CAT/C/KHM/CO/2, paras. 18-20; Committee on the Rights of the Child (CRC), Concluding observations: Cambodia, August 2011, CRC/C/KHM/CO/2-3, paras. 38-39; UN Committee on Economic, Social and Cultural Rights (CESCR), Concluding observations of the Committee on Economic, Social and Cultural Rights – Cambodia, June 2009, E/C.12/KHM/CO/1, para. 33; World Health Organization

international human rights mechanisms and civil society organizations, there has been little or no improvement in the monitoring and supervision of these detention facilities, and reports of human rights abuses continue to be rife.

Every person interviewed by Amnesty International who had been sent to a drug detention centre was held involuntarily, and none had been provided access to a lawyer. Almost none had ever been brought before a judge or court. Every individual interviewed by Amnesty International provided detailed accounts of physical abuse amounting to torture or other ill-treatment committed by centre staff or so-called “room leaders”—inmates entrusted by staff to enforce discipline.

People who were formerly detained in these centres described the cruel regimes of abuse they experienced in detailed and graphic terms. Sarath, who was 17 years old at the time of his detention in Phnom Penh’s Prey Speu, recalled his arrival at the centre: *“As soon the guard left, the room leader started to beat me. I was knocked unconscious so I can’t remember what happened after that.”*<sup>7</sup>

Amnesty International received multiple allegations of deaths in the Prey Speu and Orkas Khnom detention centres in Phnom Penh. Phanith, a former “room leader” from Orkas Khnom recalled the death of a detainee in March 2018:

***“The person was so addicted that he was chained by the hands and the feet so that he could not move around. And the building leader beat him like that until he died ... The mixture of beating, torturing, and addiction was what killed him.”***<sup>8</sup>

*Phanith, a former “room leader” in Orkas Khnom drug detention centre.*

The testimonies gathered by Amnesty International detailed widespread violations of the right to be free from torture and cruel, inhuman, and degrading treatment or punishment – in addition to violations of the right to life – in compulsory drug detention facilities. These testimonies underline the urgency of shutting these centres down permanently and must spur the Cambodian authorities to undertake a prompt, thorough, and independent investigation into all allegations of torture and deaths in drug detention centres.

In addition to physical abuse, the combination of extreme overcrowding and inadequate food, clean water, and sanitation leads to a range of physical and mental health problems. Drug detention centres provide no medical assistance to deal with withdrawal symptoms, no counselling, and no proper medical supervision.

***“I felt like living there just made people worse. It’s so hard for people to eat, and it makes people so mentally stressed. Those who are pretty fine going in there get mentally ill from being in that place.”***<sup>9</sup>

*Seyha, who was detained in Orkas Khnom drug detention centre.*

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(WHO), “Assessment of Compulsory Treatment of People Who Use Drugs in Cambodia, China, Malaysia and Viet Nam,” 2009; Human Rights Watch, “Skin on the Cable: The Illegal Arrest, Arbitrary Detention and Torture of People Who Use Drugs in Cambodia,” 25 January 2010, <https://www.hrw.org/report/2010/01/25/skin-cable/illegal-arrest-arbitrary-detention-and-torture-people-who-use-drugs> (last accessed 20 April 2020); Human Rights Watch, “They Treat Us Like Animals: Mistreatment of Drug Users and “Undesirables” in Cambodia’s Drug Detention Centers, 2013, [https://www.hrw.org/sites/default/files/reports/cambodia1213\\_ForUpload\\_1.pdf](https://www.hrw.org/sites/default/files/reports/cambodia1213_ForUpload_1.pdf) (last accessed 20 April 2020); LICADHO and Human Rights Watch, “Death in Prey Speu Highlights Detention Center Abuses,” 7 December 2014, <http://www.licadho-cambodia.org/pressrelease.php?perm=365> (last accessed 20 April 2020); LICADHO, “Prey Speu Detention Center Should be Shut for Good,” 8 June 2016, <http://www.licadho-cambodia.org/articles/20160608/147/index.html> (last accessed 20 April 2020); LICADHO, “Letter to the Editor: Government Must Shut Down Prey Speu,” July 2010, <http://www.licadho-cambodia.org/reports.php?perm=198> (last accessed 20 April 2020).

<sup>7</sup> Amnesty International interview with Sarath, Phnom Penh, 21 November 2019.

<sup>8</sup> Amnesty International interview with Phanith, Phnom Penh, 21 November 2019.

<sup>9</sup> Amnesty International interview with Seyha, Phnom Penh, 4 December 2019.

Inhumane levels of overcrowding caused by the government's anti-drug campaign are plaguing both the country's prisons and its drug detention centres. Cambodia's prison population has skyrocketed by 78% since the campaign started, from 21,900 at the end of 2016 to over 38,990 in March 2020, even though Cambodia's prisons have an estimated capacity of just 26,593. In early 2020, the population of Cambodia's largest prison facility, Phnom Penh's CC1, exceeded 9,500 prisoners – 463% of its maximum capacity of 2,050.<sup>10</sup>

This overcrowding crisis is causing serious and systematic violations of prisoners' right to the enjoyment of the highest attainable standard of physical and mental health and, in many places of detention, amounts to cruel, inhuman or degrading treatment under international human rights law.

With the threat of Covid-19 spreading, some governments across the world have taken decisive action to release non-violent and at-risk prisoners, in addition to people detained without an adequate legal basis. Despite the harrowing levels of overcrowding in its detention centres, the Cambodian government has resisted any such preventative action, with arrests under the anti-drug campaign apparently increasing in early 2020.<sup>11</sup> In light of this public health emergency, it has never been more urgent for the Cambodian authorities to address the country's detention overcrowding crisis.<sup>12</sup>

There are alternatives to the government's hard-line approach to drugs. Indeed, elements within the Cambodian government, notably the Ministry of Health, have recently emphasised the public health aspects of the anti-drug campaign and expanded the availability of community-based drug treatment.<sup>13</sup> In 2019, the government accepted a recommendation at the UN Human Rights Council committing to the decriminalisation of use and possession of drugs, and it has established 431 voluntary community-based drug treatment sites across the country.<sup>14</sup> These developments are promising from a human rights perspective; however, such initiatives are doomed to fail unless there is a fundamental reform of Cambodia's anti-drug campaign.

Cambodian drug policy is at a crucial crossroads. The current incoherence in antagonistic government policies and practices can either be resolved in favour of a human rights- and public health-centred approach that emphasises the right to health of people who use drugs, or alternatively, in favour of the disastrous policies of mass detention, criminal prosecution, corruption, and abuse, which promise only to exacerbate the country's social problems.

In light of the demonstrable failings of the anti-drug campaign, Amnesty International calls for an urgent review of the Cambodian government's approach to drugs. The encouraging steps taken by elements within the Cambodian government – particularly the Ministry of Health – must be prioritised and supported, and the failed, abusive practices of the past must be consigned to history.

In order for Cambodia to embrace an effective, evidence-based, and human rights-compliant approach to drugs, it is essential that all drug detention centres be shut down promptly and permanently, and people detained therein released with sufficient provision of health and social services made available to them as required. Moreover, in order to fully protect the rights of people who use drugs and other affected communities, the authorities should move without delay towards the decriminalisation of the use and possession of drugs for personal use.

Cambodia's development partners should oppose compulsory drug "rehabilitation" and criminalisation of the use and possession of drugs, and – should the Cambodian government undertake meaningful action to reform its drug policies – provide technical and financial support to the enhancement and expansion of community-based drug treatment and harm reduction services, along with the transition towards decriminalisation.

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<sup>10</sup> Niem Chheng, "Prey Sar prison no longer accepting pre-trial detainees to ease burden," *Phnom Penh Post*, 20 January 2020, <https://www.phnompenhpost.com/national/prey-sar-prison-no-longer-accepting-pre-trial-detainees-ease-burden> (last accessed 20 April 2020).

<sup>11</sup> Khouth Sophak Chakrya, "Over 5,500 arrested for drugs," *Phnom Penh Post*, 6 April 2020, <https://www.phnompenhpost.com/national/over-5500-arrested-drugs> (last accessed 20 April 2020).

<sup>12</sup> See: Amnesty International, 'Cambodia: Overcrowded detention centres a ticking time bomb for COVID-19 amid raft of "fake news" arrests,' 27 March 2020, <https://www.amnesty.org/en/latest/news/2020/03/cambodia-overcrowded-detention-centres-covid-19-raft-fake-news-arrests/> (last accessed 20 April 2020).

<sup>13</sup> Kong Meta, "Meeting touts new approach to rehab," *Phnom Penh Post*, 18 May 2016, <https://www.phnompenhpost.com/national/meeting-touts-new-approach-rehab> (last accessed 20 April 2020).

<sup>14</sup> National Authority of Drugs and Crime, Campaign Report 2018-2019, on file with Amnesty International.

# METHODOLOGY

This report is based primarily on field research conducted by Amnesty International in Cambodia in November and December 2019. The findings are based on interviews with 51 people, including 34 people who use or previously used drugs, comprising 19 men, nine women, and six people who were minors at the time of their arrest and detention. Interviewees were primarily individuals who had been arrested and detained since January 2017 as part of Cambodia's anti-drug campaign, in addition to families of victims, local civil society activists, lawyers, and public health and drug rehabilitation experts.

Amnesty International interviewed 20 individuals who had been detained in administrative detention centres in Phnom Penh, including the Orkas Khnom (My Chance) drug "rehabilitation" centre and the Prey Speu social affairs centre (officially the Por Sen Chey Vocational Training Centre). Although social affairs centres are not officially designated as drug rehabilitation facilities, Amnesty International's research indicates that people arrested on suspicion of using drugs are equally likely to be sent to social affairs centres as to drug treatment centres. For this reason, people detained in Prey Speu were also included in this research. The organization further documented 15 cases of criminal prosecutions of individuals accused of drug-related offences, most of whom had been imprisoned in either of Phnom Penh's CC1 (men's) prison and CC2 (women's and minors') prison (collectively known as Prey Sar prison).

Several of the people whom Amnesty International interviewed said that they were dependent on drugs, and many more reported that they were not dependent but used drugs casually. Many of those who were detained and prosecuted told Amnesty International that they had either stopped using drugs completely at the time of their arrest or had never used drugs in the first place. These individuals, for the most part, told the organization that they had been falsely accused of using or selling drugs on the basis of association or location at the time of their arrest. Amnesty International did not investigate whether the individuals interviewed had or had not contravened Cambodia's narcotic laws.

Most interviewees, particularly individuals who had previously been arrested and detained, feared reprisals if it became known they had spoken with Amnesty International. To help ensure interviewees' safety and security, Amnesty International arranged for most interviews to take place in safe locations away from interviewees' homes. Because of concerns for people's security, Amnesty International is also withholding the names and specific identifying information of all the people who have been detained or prosecuted and their family members who were interviewed. Pseudonyms have been used in most cases.

Amnesty International did not provide any incentives, material or otherwise, in exchange for interviews. The organization covered necessary transportation and refreshment costs for interviewees who had travelled to speak to the organization. Interviews were conducted in Khmer and English, with the help of interpreters. Amnesty International also reviewed a number of documents relating to the cases it documented, including police reports; however, in many cases this documentation was unavailable.

The organization also reviewed a variety of laws, policy documents, and reports related to the anti-drug campaign, including some from the National Authority for Combatting Drugs (NACD), the Ministry of Interior, and the Ministry of Health. On 21 January 2020, Amnesty International sent letters to the NACD, the Ministry of Social Affairs, Veterans and Youth Rehabilitation, and the Ministry of Health requesting information regarding the country's anti-drug efforts. On 28 April 2020, the organization again wrote to the NACD and the Cambodian Human Rights Committee with the findings of this report. At the time of publication, there had been no response to any of the letters. The correspondence can be found in Annexes A and B.

# 2. BACKGROUND:

## CAMBODIA'S ANTI-DRUG CAMPAIGN

In January 2017, the Cambodian government initiated a six-month campaign against drugs. This campaign – which has seen at least 55,770 people arrested on suspicion of using or selling drugs between January 2017 and March 2020 – has been repeatedly and indefinitely extended since that time.<sup>15</sup> Although the available evidence on the prevalence of drug use in Cambodia is limited, the government's own data suggests that the anti-drug campaign has failed in its primary objective of reducing drug use among the Cambodian public.<sup>16</sup>

In recent years, governments across South-East Asia have struggled in the face of major changes in trends related to use and supply of drugs in their countries. Huge increases in the supply of methamphetamine (“crystal meth” or “ice”) have led to plummeting prices and increasing availability, with the prevalence of the synthetic drug far exceeding the once dominant heroin supply in the region.<sup>17</sup>

Across South-East Asia, governments have engaged in heavy-handed law enforcement and criminal justice-oriented responses to the increasing prevalence of synthetic drugs. In addition to prosecutions, abusive and ineffective compulsory detention in the name of “rehabilitation” is common in different countries, including

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<sup>15</sup> National Authority for Combatting Drugs, Full Year Annual Report 2017, 26 February 2018; National Authority for Combatting Drugs, Full Year Annual Report 2018, 3 April 2019; National Authority for Combatting Drugs, First Six Months Report 2019, November 2019; Khouth Sophak Chakrya, “Over 5,500 arrested for drugs,” *Phnom Penh Post*, 6 April 2020, <https://www.phnompenhpost.com/national/over-5500-arrested-drugs> (last accessed 20 April 2020).

<sup>16</sup> The periodic reports on the anti-drug campaign released by the government's National Authority for Combatting Drugs (NACD) have not shown any notable reduction in the numbers of recorded “drug users.” The NACD states that there were 20,621 “drug users” at the end of 2016, 18,104 at the end of 2017, approximately 20,000 at the end of 2018, and 19,272 in November 2019. Source: National Authority for Combatting Drugs, Full Year Annual Report 2017, 26 February 2018; National Authority for Combatting Drugs, Full Year Annual Report 2018, 3 April 2019; National Authority for Combatting Drugs, First Six Months Report 2019, November 2019.

<sup>17</sup> According to the World Drug Report 2019, “[m]ost countries in South-East Asia report methamphetamine as the main drug of concern in treatment,” UNODC, World Drug Report 2019, Executive Summary, p. 9, [https://wdr.unodc.org/wdr2019/prelaunch/WDR19\\_Booklet\\_1\\_EXECUTIVE\\_SUMMARY.pdf](https://wdr.unodc.org/wdr2019/prelaunch/WDR19_Booklet_1_EXECUTIVE_SUMMARY.pdf) (last accessed 20 April 2020). The report also states that “[q]uantities of methamphetamine seized in East and South-East Asia increased more than eightfold over the period 2007–2017 and, at 82 tons. Preliminary data for 2018 indicate a further sharp increase of around 42 per cent from the previous year, to 116 tons” and that “retail prices of crystalline methamphetamine have decreased in several countries in the subregion in recent years, including Cambodia, Indonesia, Japan, Malaysia and Myanmar,” UNODC, World Drug Report 2019, Booklet 4 on Stimulants, pp. 43-44. See also: Jeremy Douglas and Eamonn Murphy, “Rethinking drug policy in Asia and the Pacific,” *Philippine Daily Inquirer*, 14 December 2019, <https://opinion.inquirer.net/125872/rethinking-drug-policy-in-asia-and-the-pacific> (last accessed 20 April 2020).

in Viet Nam, Laos, and China.<sup>18</sup> According to UNAIDS, over 455,000 people who use drugs are held in compulsory detention centres across 11 countries in Asia, including Cambodia.<sup>19</sup>

This heavy-handed response to drugs has led to serious human rights violations that, in some cases, have amounted to crimes against humanity. Amnesty International has documented the Philippines authorities' strategy of targeting poor people suspected of using or selling drugs.<sup>20</sup> In other countries, including Viet Nam, Malaysia, Singapore, and Indonesia, the use of the death penalty for drug-related offences remains commonplace.<sup>21</sup>

President Duterte of the Philippines visited Cambodia in late 2016 and the Cambodian and Philippine governments announced cooperation in law enforcement in the "war on drugs" at the time.<sup>22</sup> And while Cambodian Prime Minister Hun Sen has stated that Cambodia would not allow extrajudicial executions to become a feature of Cambodia's anti-drug campaign, the Cambodian approach has nonetheless resulted in a litany of human rights violations.<sup>23</sup>

***"It's a different approach from the Philippines; here, they just detain you until you die."***<sup>24</sup>

Sex worker representative, Phnom Penh.

Cambodia's current anti-drug campaign was announced in late 2016 after research commissioned by the ruling Cambodian People's Party (CPP) revealed that the Cambodian public considered "drugs and crime" to be the most important issue facing Cambodian society.<sup>25</sup> The same poll found that the Cambodian public saw the ruling CPP as weakest in respect of drugs and crime, outstripping concerns such as corruption and the mismanagement of natural resources.<sup>26</sup> A May 2016 memo by the firm that carried out the poll specifically advised the Cambodian government: "we have the most to gain by focusing on law & order issues—both in policy and communications."<sup>27</sup>

Amnesty International recognizes the risks that drugs can pose to individuals and societies, and the obligation that states have to adopt adequate measures to protect people from the harmful effects of drugs. However, it is precisely because of these risks that governments need to enhance their responses to drug-related problems by adopting evidence-based approaches that put the protection of people's health and other human rights at their heart. This should include the decriminalisation of the use, possession and cultivation of drugs for personal purposes, and the provision of adequate treatment and harm reduction services for people who do use drugs. Such policies must be accompanied by an expansion of health and other social services to address drug-related problems as well as other measures to address the underlying socio-economic causes that lead people to engage in the drug trade, such as poverty, discrimination, unemployment, denial of education, or lack of housing.

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<sup>18</sup> See, for example, Adeeba Kamarulzaman and John L. McBrayer, "Compulsory drug detention centers in East and Southeast Asia," *International Journal of Drug Policy* Volume 26, Supplement 1, 1 February 2015, pp. S33-S37; Human Rights Watch, "The Rehab Archipelago Forced Labor and Other Abuses in Drug Detention Centers in Southern Vietnam," 2011, <https://www.hrw.org/sites/default/files/reports/vietnam0911ToPost.pdf> (last accessed 20 April 2020) and Human Rights Watch, "Where Darkness Knows No Limits: Incarceration, Ill-Treatment and Forced Labor as Drug Rehabilitation in China," 2010, <https://www.hrw.org/news/2010/01/06/china-drug-rehabilitation-centers-deny-treatment-allow-forced-labor> (last accessed 20 April 2020).

<sup>19</sup> UNAIDS, "Do No Harm: Health, Human Rights, and People Who Use Drugs," 2016, [https://www.unaids.org/sites/default/files/media\\_asset/donoharm\\_en.pdf](https://www.unaids.org/sites/default/files/media_asset/donoharm_en.pdf) (last accessed 20 April 2020).

<sup>20</sup> Amnesty International, "If you are poor you are killed: Extrajudicial executions in the Philippines' 'War on Drugs,'" January 2017 (Index: ASA 35/5517/2017); Amnesty International, "They Just Kill: Ongoing extrajudicial executions and other violations in the Philippines' 'War On Drugs,'" July 2019 (Index: ASA 35/0578/2019).

<sup>21</sup> Amnesty International, "Death Sentences and Executions 2019," April 2020 (Index: ACT 50/1847/2020).

<sup>22</sup> Hul Reaksmey, "Philippines President Duterte, In Cambodia, Seeks Assistance in Drug War," *VOA Cambodia*, 16 December 2016, <https://www.voacambodia.com/a/philippines-president-duterte-in-cambodia-seeks-assistance-in-drug-war/3637652.html> (last accessed 20 April 2020).

<sup>23</sup> Prak Chan Thul, "Cambodia promises harsher drug crackdown as arrests soar," *Reuters*, 8 February 2017, <https://reut.rs/31NPD0u> (last accessed 20 April 2020).

<sup>24</sup> Amnesty International interview with a sex worker representative, Phnom Penh, 29 November 2019.

<sup>25</sup> 'Public Opinion Research Cambodia' (May 2016) by Shaviv Strategy and Campaigns, on file with Amnesty International.

<sup>26</sup> 'Public Opinion Research Cambodia' (May 2016) by Shaviv Strategy and Campaigns, on file with Amnesty International.

<sup>27</sup> Ben Paviour and Ben Sokhean, "Official, Pollster Confirm CPP Polling After Findings Leaked," *Cambodia Daily*, 19 June 2017, <https://english.cambodiadaily.com/news/official-pollster-confirm-cpp-polling-after-findings-leaked-131470/> (last accessed 20 April 2020).



# THE FAILED “WAR ON DRUGS” AND THE RIGHT TO HEALTH

Across the world, countries have begun to move away from a criminal justice-dominated approach to drugs, with important shifts towards a public health and human rights-centred model.<sup>28</sup> In recent years, there has been growing recognition of the human cost of the “war on drugs,” which has involved widespread human rights violations arising as a result of the heavy reliance on criminal laws, repressive policies and other measures based on prohibition.<sup>29</sup> More broadly, it has been shown how the “war on drugs” has effectively been a war on people, in particular the poorest and most marginalised sectors of society, and has undermined the rights of millions of them. However, new approaches that emphasise treatment, rehabilitation, and harm reduction are gaining in popularity in recognition of the negative human rights consequences of criminalisation.

Years of evidence from countries in every region of the world undercut the logic of the “war on drugs” and has contributed to the current shift in understandings of drug policy. First, this evidence has revealed that prohibition of drugs has no deterrent effect on drug use. Despite years of criminalisation, rates of drug use have remained largely stable during the lifespan of the global “war on drugs.”<sup>30</sup> As noted by the Special Rapporteur on the right to health, “people invariably continue using drugs irrespective of criminal laws, even though deterrence of drug use is considered the primary justification for imposition of penal sanctions.”<sup>31</sup> Furthermore, drug dependence – as distinct from drug use – is now recognized as a complex medical condition of a relapsing nature which requires specialised, evidence-based treatment as opposed to criminalisation.<sup>32</sup> Moreover, the “war on drugs” approach exacerbates the harms associated with drug use by “directing resources towards inappropriate methods and misguided solutions, while neglecting evidence-based approaches.”<sup>33</sup>

In March 2019 the United Nations published a common position on the question of drug policy, which for the first time placed the right to health at the heart of international drug control efforts.<sup>34</sup> The policy noted the failures and limitations of the “war on drugs” on a global scale; recognized that punitive drug policies have been ineffective in reducing drug trafficking or in addressing non-medical drug use and supply; and stated that punitive policies undermine the human rights and well-being of people who use drugs, their families and communities.<sup>35</sup> Importantly, the new UN common position on drugs, which has been endorsed by all 31 UN agencies, calls for the promotion of alternatives to conviction and punishment, including the decriminalisation of use and possession of drugs for personal use.<sup>36</sup> In particular, the common position on drug control notes the negative effects of criminalisation on the enjoyment of the right to health. According to the new policy, criminalising people who use drugs can increase stigma and discrimination and thus deter affected persons from seeking treatment and rehabilitation services.<sup>37</sup>

Many international human rights mechanisms and UN agencies have raised serious concerns over the particular impact that criminalisation has on the right to health.<sup>38</sup> The UN Special Rapporteur on the right to

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<sup>28</sup> See United Nations Development Programme and others, “International guidelines on human rights and drug policy,” March 2019.

<sup>29</sup> United Nations High Commissioner for Human Rights (UNOHCHR), Study on the impact of the world drug problem on the enjoyment of human rights, September 2015, A/HRC/30/65; UNOHCHR, Implementation of the joint commitment to effectively addressing and countering the world drug problem with regard to human rights, September 2018, A/HRC/39/39.

<sup>30</sup> See United Nations Office on Drugs and Crime, Global trends in the estimated number of people who use drugs and those with drug use disorders, 2006–2017, World Drug Report 2019 Pre - release to Member States, June 2019, [https://wdr.unodc.org/wdr2019/prelaunch/pre-launchpresentation\\_WDR\\_2019.pdf](https://wdr.unodc.org/wdr2019/prelaunch/pre-launchpresentation_WDR_2019.pdf) (last accessed 20 April 2020).

<sup>31</sup> Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, United Nations General Assembly, 2010, A/65/255, para. 15.

<sup>32</sup> UN Economic and Social Council Commission on Narcotic Drugs, ‘Action taken by Member States to implement the Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem’, December 2017, E/CN.7/2018/6, p.47.

<sup>33</sup> Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, United Nations General Assembly, UN Doc. A/65/255, 2010, para. 15.

<sup>34</sup> United Nations, “What we have learned over the last ten years: A summary of knowledge acquired and produced by the UN system on drug-related matters,” UN system coordination Task Team on the Implementation of the UN System Common Position on drug-related matters, March 2019, [https://www.unodc.org/documents/commissions/CND/2019/Contributions/UN\\_Entities/What\\_we\\_have\\_learned\\_over\\_the\\_last\\_ten\\_years\\_-\\_14\\_March\\_2019\\_-\\_w\\_signature.pdf](https://www.unodc.org/documents/commissions/CND/2019/Contributions/UN_Entities/What_we_have_learned_over_the_last_ten_years_-_14_March_2019_-_w_signature.pdf) (last accessed 20 April 2020).

<sup>35</sup> *ibid.*, p. 5.

<sup>36</sup> *ibid.*, p. 50.

<sup>37</sup> *ibid.*, p. 11.

<sup>38</sup> UNOHCHR, Study on the impact of the world drug problem on the enjoyment of human rights. 4 September 2015. UN Doc. A/HRC/30/65, para. 61; UNAIDS: The Gap Report (2014). Joint United Nations Programme on HIV/AIDS. Geneva, 2014, pp. 183; WHO: Consolidated guidelines on HIV prevention, diagnosis, treatment and care for key populations. Geneva, 2014, p. 9; IUNDP:

health has drawn attention to the disproportionate focus on criminalisation and law enforcement practices at the expense of the enjoyment of the right to health and reduction of harms associated with drugs.<sup>39</sup> Among other problems, drug-law enforcement and police crackdowns: promote riskier and more harmful practices, including needle sharing and rushed injections; can lead to the use of more potent and risky substances; increase risks of transmission of blood-borne viruses, such as HIV and hepatitis C; deter people from seeking and accessing health care; and restrict the availability of harm reduction services.<sup>40</sup>



## CAMBODIA'S CRIMINAL JUSTICE SYSTEM

Cambodia's criminal justice system has become overloaded with drug-related cases since the anti-drug campaign began in 2017. Many of the most significant and long-standing issues facing Cambodia's justice system – including corruption and violations of fair trial rights, including inadequate access to legal aid – have been greatly exacerbated by the campaign.<sup>41</sup>

According to government data, as of April 2020, 56.9% of all inmates in Cambodian prisons were held on drug-related charges.<sup>42</sup> A large proportion of those behind bars are being held for using or possessing small quantities of drugs, and at least 39% of the 21,740 persons imprisoned under the anti-drug campaign between 2017 and 2019 were jailed for minor, non-trafficking offences, including use, possession, administration, and facilitation of the use of drugs.<sup>43</sup>

Cambodian authorities have spoken plainly about their desire to arrest and imprison people who use drugs as a way to address drug-related problems in the country. In his initial campaign announcement during late 2016, National Police Chief Neth Savoeun stated that police would specifically target people who use drugs as a means of identifying and tracking down major drug dealers.<sup>44</sup> In July 2019, another senior drug enforcement official reportedly told a gathering of anti-drug police, “*Please don't forgive – even if it's a minor drug crime – because it could lead to the arrest of the big fish.*”<sup>45</sup> Similar sentiments were expressed by Interior Minister Sar Kheng in March 2020 when he called for legal action against all “*drug addicts and dealers in small-scale drug use and distribution cases,*” despite the prison overcrowding crisis.<sup>46</sup>

Some officials have claimed that they are taking a different approach, stating that people who use drugs are to be treated as victims rather than criminals. In 2019, both the Minister of Justice and the Secretary General of the National Authority for Combatting Drugs (NACD) told the UN Special Rapporteur on Cambodia that everyone held in Cambodian prisons on drug charges was being held for serious trafficking offenses, with no one imprisoned for using or possessing drugs.<sup>47</sup> In September 2019, the Secretary General of the NACD reportedly stated, “*no drug users have been jailed because the government has treated drug addicts as victims who need to be treated and rehabilitated free of charge.*”<sup>48</sup>

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Addressing the Development Dimensions of Drug Policy. New York, 2015, p. 34; UN Women: A gender perspective on the impact of drug use, the drug trade and drug control regime. New York, July 2014.

<sup>39</sup> Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, United Nations General Assembly, UN Doc. A/65/255, 2010, para. 18.

<sup>40</sup> See UNOHCHR, Study on the impact of the world drug problem on the enjoyment of human rights, September 2015, A/HRC/30/65; Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, United Nations General Assembly, 2010, A/65/255

<sup>41</sup> On the Cambodian judicial system, see Kheang Un, “The Judicial System and Democratization in Post-Conflict Cambodia,” in Ojendal and Lilja (eds.), *Beyond Democracy in Cambodia: Political Reconstruction in a Post-Conflict Society*, 2009; Human Rights Committee, Concluding observations on the second periodic report of Cambodia, April 2015, UN Doc. CCPR/C/KHM/CO/2, para. 20; Report of the Special Rapporteur on the Situation of Human Rights in Cambodia, September 2019, UN Doc. A/HRC/42/60, para. 58.

<sup>42</sup> Khuon Narim, “New Justice Minister vows reforms and speedier trial procedures,” *Khmer Times*, 02 April 2020, <https://www.khmertimeskh.com/708544/new-justice-minister-vows-reforms-and-speedier-trial-procedures/> (last accessed 20 April 2020); “The interior minister shows the number of prisoners in prison” [Khmer], *Sabay News*, 02 April 2020, <http://kleykley.sabay.com.kh/article/1199544> (last accessed 20 April 2020).

<sup>43</sup> National Authority for Combatting Drugs, Full Year Annual Report 2017, 26 February 2018; National Authority for Combatting Drugs, Full Year Annual Report 2018, 3 April 2019; National Authority for Combatting Drugs, First Six Months Report 2019, November 2019.

<sup>44</sup> Lay Samean and Erin Handley, “Top officials vow harder line with drugs initiative,” *Phnom Penh Post*, 23 December 2016, <https://www.phnompenhpost.com/national/top-officials-vow-harder-line-drugs-initiative> (last accessed 20 April 2020).

<sup>45</sup> Ben Sokhean, “Don't collude with dealers: Mok Chito,” *Khmer Times*, 16 July 2019, <https://www.khmertimeskh.com/50624154/dont-collude-with-dealers-mok-chito> (last accessed 20 April 2020).

<sup>46</sup> Taing Vida, “Sar Kheng cautions against freeing suspects in minor drug crimes,” *Khmer Times*, 5 March 2020, <https://www.khmertimeskh.com/50698240/sar-kheng-cautions-against-freeing-suspects-in-minor-drug-crimes> (last accessed 20 April 2020).

<sup>47</sup> Report of the Special Rapporteur On the Situation of Human Rights in Cambodia, September 2019, UN Doc. A/HRC/42/60 para 45.

<sup>48</sup> Voun Dara, “Government issues report on drug crimes, treatment,” *Phnom Penh Post*, 23 September 2019,

The latest quarterly report on the anti-drug campaign by the NACD, covering January through March 2020, stated that all 2,413 “drug users” arrested during this period were sent to drug rehabilitation, rather than prosecuted.<sup>49</sup> However, Amnesty International’s research suggests that people who use drugs are often baselessly convicted on trafficking charges, and further reveals the abusive and prison-like conditions which people who are placed in drug detention centres also endure.

Government officials’ claims that people who use drugs are not being prosecuted through the criminal justice system purely for their drug use are inconsistent with existing Cambodian criminal law, highlighting the urgent need for legal reforms. Cambodia’s Law on Drug Control, enacted in 2012, continues to provide the primary legal basis for drug prosecutions under the anti-drug campaign.<sup>50</sup>

The law provides for a wide range of criminal offences, including the crime of “keeping” drugs (defined as possession), which carries a sentence of two to five years’ imprisonment, and up to ten years’ imprisonment in cases of repeat offending (Articles 40 and 48). Separately, the law criminalises the “unlawful consumption of narcotic substances” for individuals who have “already accepted compulsory treatment,” providing for penalties of between one- and six-months’ imprisonment, or up to one year in cases of repeat offending (Articles 45 and 53). Drug trafficking is criminalised under Article 40, carrying prison sentences of two to 20 years.



## COMPULSORY DETENTION IN THE NAME OF DRUG REHABILITATION

There are currently seven state-run drug “rehabilitation” centres, in which people who use drugs are compulsorily detained, spread across various provinces of Cambodia.<sup>51</sup> These centres are variously overseen by the national police, military police (gendarmierie), and the Ministry of Social Affairs, Veterans and Youth Rehabilitation (MoSAVY), in tandem with municipal and provincial authorities. The MoSAVY also runs “youth rehabilitation” and “vocational training” centres, including Prey Speu, a detention centre on the outskirts of Phnom Penh where people who use drugs are also frequently detained.

These centres mostly hold individuals arrested by the police in anti-drug operations and city “beautification” efforts. In addition to people who use drugs, other marginalised people are often locked away in these centres, including homeless people, sex workers, and people with mental illnesses.<sup>52</sup> Many individuals are also brought to drug detention centres by family members, hoping that their relatives might find the treatment and rehabilitation services they may require. In the latter case, families typically pay the centre an initial entry fee in addition to a monthly “donation” for each month their relative remains there.<sup>53</sup> Individuals are typically held in drug detention centres for at least six-month periods; however, longer periods of detention—up to two years—are permitted under the Law on Drug Control.<sup>54</sup>

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<https://www.phnompenhpost.com/national/government-issues-report-drug-crimes-treatment> (last accessed 20 April 2020).

<sup>49</sup> Khouth Sophak Chakrya, “Over 5,500 arrested for drugs,” *Phnom Penh Post*, 6 April 2020, <https://www.phnompenhpost.com/national/over-5500-arrested-drugs> (last accessed 20 April 2020).

<sup>50</sup> Law on Drug Control, promulgated January 2012, Royal Kram NS/RKM/0112/001.

<sup>51</sup> 1) Orkas Knhom Center, Phnom Penh; 2) Chivit Thmey Youth Rehabilitation Center, Banteay Meanchey; 3) Educational and Rehabilitation Center of Military Police, Banteay Meanchey; 4) Hope Center of Civilian Police, Battambang; 5) Educational and Rehabilitation Center of Military Police, Battambang; 6) Rehabilitation Center for Drug Dependence, Siem Reap; and 7) Education and Rehabilitation Center of Military Police, Sihanoukville.

<sup>52</sup> UN Committee Against Torture, Concluding observations of the Committee against Torture - Cambodia, January 2011, UN Doc. CAT/C/KHM/CO/2, para. 18-20; Committee on the Rights of the Child (CRC), Concluding observations: Cambodia, August 2011, CRC/C/KHM/CO/2-3, para. 38-39; UN Committee on Economic, Social and Cultural Rights (CESCR), Concluding observations of the Committee on Economic, Social and Cultural Rights – Cambodia, June 2009, E/C.12/KHM/CO/1, para. 33; World Health Organization (WHO), “Assessment of Compulsory Treatment of People Who Use Drugs in Cambodia, China, Malaysia and Viet Nam”, 2009; Human Rights Watch, “Skin on the Cable: The Illegal Arrest, Arbitrary Detention and Torture of People Who Use Drugs in Cambodia,” 25 January 2010, <https://www.hrw.org/report/2010/01/25/skin-cable/illegal-arrest-arbitrary-detention-and-torture-people-who-use-drugs> (last accessed 20 April 2020); Human Rights Watch, “They Treat Us Like Animals: Mistreatment of Drug Users and “Undesirables” in Cambodia’s Drug Detention Centers, 2013, [https://www.hrw.org/sites/default/files/reports/cambodia1213\\_ForUpload\\_1.pdf](https://www.hrw.org/sites/default/files/reports/cambodia1213_ForUpload_1.pdf) (last accessed 20 April 2020); LICADHO and Human Rights Watch, “Death in Prey Speu Highlights Detention Center Abuses,” 7 December 2014, <http://www.licadho-cambodia.org/presrelease.php?perm=365> (last accessed 20 April 2020); LICADHO, “Prey Speu Detention Center Should be Shut for Good,” 8 June 2016, <http://www.licadho-cambodia.org/articles/20160608/147/index.html> (last accessed 20 April 2020); LICADHO, “Letter to the Editor: Government Must Shut Down Prey Speu,” July 2010, <http://www.licadho-cambodia.org/reports.php?perm=198> (last accessed 20 April 2020).

<sup>53</sup> Amnesty International interview with a drug rehabilitation expert, Phnom Penh, 24 October 2019.

<sup>54</sup> Law on Drug Control, Article 102 (5).

Data on the number of people currently held in drug detention centres in Cambodia is difficult to access and verify. However, testimonies received by Amnesty International suggest that levels of overcrowding inside these centres is similar to the prison system, and that the situation has deteriorated throughout the anti-drug campaign. Limited government data reflects this: while 3,400 people were reportedly sent to these centres in 2016, 8,700 people were sent in 2017 – an increase of 256%.<sup>55</sup>

Multiple human rights mechanisms have stated that compulsory detention regimes for the purposes of drug “rehabilitation” through confinement or forced labour, including those based on the perceived danger of persons to themselves or to others, or on arguments of “medical necessity,” are inherently arbitrary and should be eliminated, and such institutions closed without delay.<sup>56</sup> The UN Working Group on Arbitrary Detention has condemned “detention imposed as a means of controlling people who use drugs, especially when such detentions are framed as health interventions... based on perceived notions that drug use in itself endangers the life of the person who uses, as well as the lives of others.”<sup>57</sup>

Similarly, both the WHO and UNODC have stated that neither detention nor forced labour are to be used as forms of treatment for drug dependence and have urged states to ensure that their legal frameworks governing drug dependence treatment and rehabilitation services comply with international human rights standards.<sup>58</sup>

Cambodia’s drug detention centres operate in a legal vacuum, with no domestic legislation adequately governing their management or operations. As such, these centres not only violate international human rights law, they also operate in the absence of oversight and regulation, rendering people detained therein at heightened risk of human rights violations.

The 2012 Law on Drug Control, in addition to Circular No. 03 of 2006 on the Implementation of Measures on Drug Education, Treatment and Rehabilitation for Drug Users, are the only sources of law which refer to compulsory drug “rehabilitation.”<sup>59</sup> However, these regulations are wholly inadequate as a legal basis for the system of mass detention which currently exists, partly due to the lack of clarity regarding the circumstances under which individuals can be involuntarily detained.

Cambodia’s Law on Drug Control does not clearly specify which authorities have the ability to order compulsory detention in the name of drug treatment, and the process by which the necessity of drug treatment is determined is so vague that it is ripe for arbitrary and abusive interpretation. The law makes reference to “compulsory drug rehabilitation,” but does not provide specific determination procedures for the involuntary committal of detainees. Article 101 states that:

In principle, treatment and rehabilitation can be undertaken only after receiving consent from drug addicts. However, in special circumstances and for the interests of drug addicts and the public, treatment and rehabilitation can be conducted compulsorily in accordance with the conditions and procedures as stipulated in this Law.

Article 108 outlines the process for “Compulsory Treatment and Rehabilitation Imposed by the Prosecutor,” stating, “[t]he prosecutor may receive a request directly from a parent, guardian, or relative of a drug addict or through other competent authorities.” However, these “competent authorities” are not defined, and the law is unclear as to whether compulsory treatment can *only* be imposed by a prosecutor, or also in other circumstances.

In cases of involuntary treatment not involving a prosecutor – which the vast majority of cases documented by Amnesty International did not – there is no provision for judicial supervision of compulsory treatment orders, in violation of international human rights standards governing administrative detention.<sup>60</sup>

Article 4 of the Law on Drug Control is also of particular concern because it defines “drug addict” as any “person who consumes drugs and is under the influence of drugs.” This provision conflates all drug use with dependency, thereby mandating treatment and rehabilitation regardless if a person has developed a

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<sup>55</sup> Kong Meta, “Ongoing drug crackdown straining facilities,” *Phnom Penh Post*, 3 January 2016, <https://www.phnompenhpost.com/national/ongoing-drug-crackdown-straining-facilities> (last accessed 20 April 2020).

<sup>56</sup> Report of the Working Group on Arbitrary Detention, 10 July 2015, UN Doc. A/HRC/30/36, para. 74; Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/65/255, para. 32; Committee Against Torture (20 January 2011), Concluding observations: Cambodia, UN Doc. CAT/C/KHM/CO/2, para. 20; ILO, OHCHR, UNDP, UNESCO, UNFPA, UNHCR, UNICEF, UNODC, UN Women, WFP, WHO and UNAIDS, “Joint statement on compulsory drug detention and rehabilitation centres,” March 2012.

<sup>57</sup> UN Human Rights Council, Report of the Working Group on Arbitrary Detention, July 2015, UN Doc. A/HRC/30/36, para. 59.

<sup>58</sup> World Health Organization and United Nations Office on Drugs and Crime, International Standards for the treatment of drug use disorders (draft for field testing), March 2016, UN Doc. E/CN.7/2016/CRP.4.

<sup>59</sup> Circular No. 03 of 2006 on the Implementation of Measures on Drug Education, Treatment and Rehabilitation for Drug Users, 23 October 2006.

<sup>60</sup> United Nations Committee on Civil and Political Rights, General Comment No. 35, UN Doc. CCPR/C/GC/35.

dependency on drugs or not. While drug dependence is a chronic and relapsing health condition that may require medical treatment, not all drug use implies dependence and therefore not all drug use requires medical treatment.

According to the UNODC, only 10% of all people who use drugs develop a drug dependence.<sup>61</sup> This definition in Cambodian law follows a misguided presumption that all drug use is inherently dangerous and leads to dependence, which deepens general misconceptions about people who use drugs, perpetuates stigma and discrimination against them, and facilitates other human rights violations.



## THE NEW NATIONAL DRUG REHABILITATION CENTRE

Since 2007, the Cambodian authorities have been progressing plans to establish a national drug rehabilitation centre to be located in Preah Sihanouk province on Cambodia's southern coast. Construction on the centre reportedly began in the province's Keo Phos Commune in August 2017.<sup>62</sup> Although the centre's opening date has not been announced, Amnesty International's analysis of satellite imagery suggests that the centre's construction could be nearing completion at the time of publication.

According to NACD reports and official public statements, the centre is a "*voluntary and community-based drug treatment complex*."<sup>63</sup> However, there are a number of factors which provide cause for concern that the centre that may risk further entrenching the human rights violations that have been reported against people who use drugs elsewhere in the country.

The NACD has stated that 50% of the cost of the new centre is being funded by Viet Nam, and Vietnamese experts are reportedly providing technical assistance in respect of the treatment model to be applied in the centre.<sup>64</sup> This is alarming, given the fact that serious human rights violations, including forced labour, have been reported in Viet Nam's drug detention centres.<sup>65</sup>

Amnesty International has analysed satellite imagery of the centre in addition to the construction plans, both pictured below. Based on this analysis, Amnesty International has serious concerns that the centre may be designed and intended for the involuntary detention of people suspected of using drugs.

The centre's exceptionally remote location – in the middle of a vast palm oil plantation in a rural part of Preah Sihanouk province, 13 kilometres away from the nearest village, Chamkar Kausu – contradicts the spirit of "community-based" treatment, despite the NACD's claims to the contrary. The location is plainly not fit for such treatment, which requires integration with the local community where a person seeking to recover from drug dependency is based. The existence of a walled perimeter fence raises further concerns regarding the possibility for involuntary detention.

Moreover, part of the premise of having a "national" centre is that individuals would travel from provinces across Cambodia in order to stay there, suggesting people would be removed from their communities. This is out of line with best practices for community-based drug treatment and rehabilitation.<sup>66</sup> For this reason, in addition to the concerns outlined above in relation to involuntary detention, Amnesty International calls for the planned National Drug Rehabilitation Centre to be abandoned in its present form.

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<sup>61</sup> United Nations Office on Drugs and Crime, World Drug Report 2018, New York, 2018, p. 7.

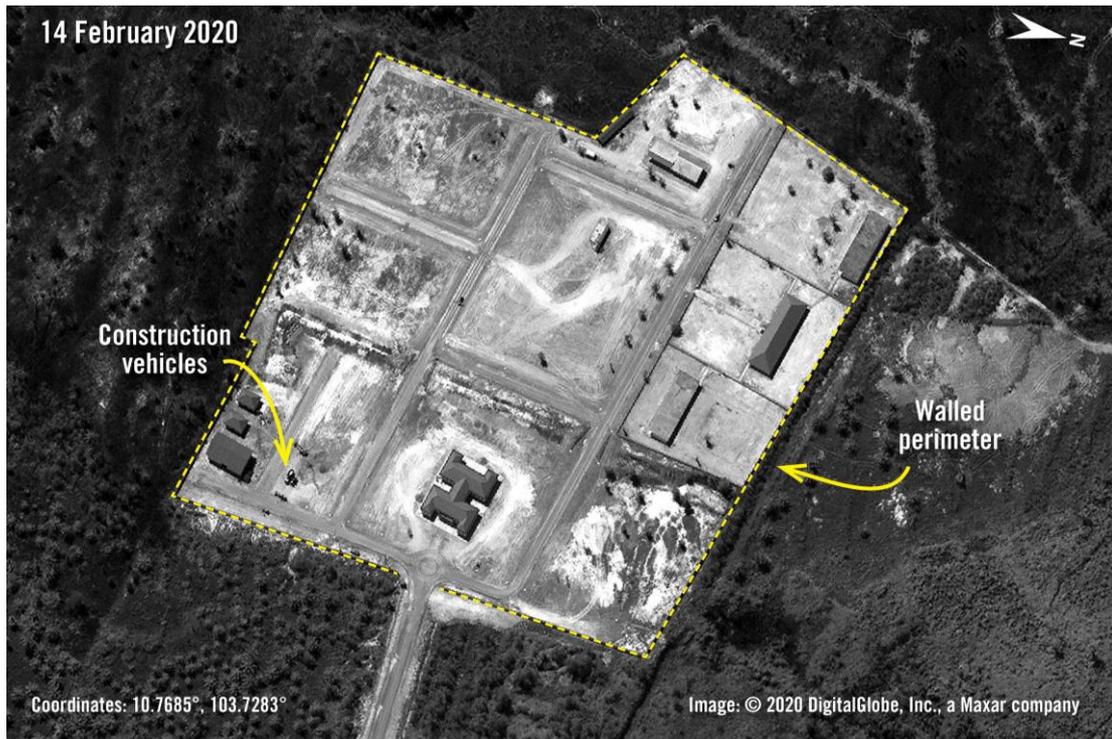
<sup>62</sup> "Government to Build \$6M Drug Treatment Center in Sihanoukville," *Fresh News Asia*, 9 August 2017, <http://en.freshnewsasia.com/index.php/en/5125-government-to-build-6m-drug-treatment-center-in-sihanoukville.html> (last accessed 20 April 2020).

<sup>63</sup> Ibid.

<sup>64</sup> National Authority for Combatting Drugs, Full Year Annual Report 2018, 3 April 2019, p. 3; May Titthara, "Drug rehab centre work to start," *Khmer Times*, 10 August 2017, <https://www.khmertimeskh.com/77549/drug-rehab-centre-work-start/> (last accessed 20 April 2020); Phan Soumy, "Officials Ask Vietnam to Help Pay for Drug Rehab Center," *Cambodia Daily*, 21 April 2017, <https://english.cambodiadaily.com/news/officials-ask-vietnam-to-help-pay-for-drug-rehab-center-128389/> (last accessed 20 April 2020).

<sup>65</sup> See, for example, CRC, Consideration of reports submitted by States parties under article 44 of the Convention Concluding observations: Viet Nam, August 2012, UN doc. CRC/C/VNM/CO/3-4, paras. 63-64, 69; UN Human Rights Council, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover, Addendum - Mission to Viet Nam, June 2012, UN Doc. A/HRC/20/15/Add.2; Human Rights Watch, "The Rehab Archipelago - Forced Labor and Other Abuses in Drug Detention Centers in Southern Vietnam," 2011, <https://www.hrw.org/sites/default/files/reports/vietnam0911ToPost.pdf> (last accessed 20 April 2020).

<sup>66</sup> UNODC and WHO, International Standards for the Treatment of Drug Use Disorders, March 2017, [https://www.who.int/substance\\_abuse/activities/msb\\_treatment\\_standards.pdf](https://www.who.int/substance_abuse/activities/msb_treatment_standards.pdf) (last accessed 20 April 2020).



↑ A satellite image of the planned national rehabilitation centre in Preah Sihanouk province, surrounded by a walled perimeter



↑ A satellite image of the planned national rehabilitation centre in Preah Sihanouk province, surrounded by a vast palm oil plantation

# 3. ARBITRARY DETENTION, TORTURE & OTHER ABUSES IN DRUG DETENTION CENTRES

***“They are not rehab centres. They are prisons.”<sup>67</sup>***

*A sex worker representative, Phnom Penh.*

***“It was so difficult there; I can’t put it into words ... They don’t try to help us at all ... It makes our situation go totally backwards.”<sup>68</sup>***

*Rith, who was detained in Prey Speu detention centre.*

Cambodia’s drug detention centres have faced sustained criticism over the years, including allegations of torture, forced labour, sexual violence, and deaths in detention.<sup>69</sup> Despite the many concerns raised from several international human rights mechanisms and civil society organizations, there has been little or no improvement in the monitoring and supervision of these detention facilities, and reports of human rights

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<sup>67</sup> Amnesty International interview with a sex worker representative, Phnom Penh, 29 November 2019.

<sup>68</sup> Amnesty International interview with Rith, Phnom Penh, 18 November 2019.

<sup>69</sup> UN Committee Against Torture, Concluding observations of the Committee against Torture - Cambodia, January 2011, UN Doc. CAT/C/KHM/CO/2, para. 18-20; Committee on the Rights of the Child (CRC), Concluding observations: Cambodia, August 2011, CRC/C/KHM/CO/2-3, para. 38-39; UN Committee on Economic, Social and Cultural Rights (CESCR), Concluding observations of the Committee on Economic, Social and Cultural Rights – Cambodia, June 2009, E/C.12/KHM/CO/1, para. 33; World Health Organization (WHO), “Assessment of Compulsory Treatment of People Who Use Drugs in Cambodia, China, Malaysia and Viet Nam”, 2009; Human Rights Watch, “Skin on the Cable: The Illegal Arrest, Arbitrary Detention and Torture of People Who Use Drugs in Cambodia,” 25 January 2010, <https://www.hrw.org/report/2010/01/25/skin-cable/illegal-arrest-arbitrary-detention-and-torture-people-who-use-drugs> (last accessed 20 April 2020); Human Rights Watch, “They Treat Us Like Animals: Mistreatment of Drug Users and “Undesirables” in Cambodia’s Drug Detention Centers, 2013, [https://www.hrw.org/sites/default/files/reports/cambodia1213\\_ForUpload\\_1.pdf](https://www.hrw.org/sites/default/files/reports/cambodia1213_ForUpload_1.pdf) (last accessed 20 April 2020); LICADHO and Human Rights Watch, “Death in Prey Speu Highlights Detention Center Abuses,” 7 December 2014, <http://www.licadho-cambodia.org/pressrelease.php?perm=365> (last accessed 20 April 2020); LICADHO, “Prey Speu Detention Center Should be Shut for Good,” 8 June 2016, <http://www.licadho-cambodia.org/articles/20160608/147/index.html> (last accessed 20 April 2020); LICADHO, “Letter to the Editor: Government Must Shut Down Prey Speu,” July 2010, <http://www.licadho-cambodia.org/reports.php?perm=198> (last accessed 20 April 2020).

abuses continue to be rife. Although human rights monitors are occasionally granted access to such centres, their access is sporadic and exceptional, and tends to be carefully stage managed by centre authorities.<sup>70</sup>

The UN Special Rapporteur on Cambodia voiced her concern about the centres in 2019, noting that:

*[T]he ongoing reliance on closed drug centres and the internment of drug users being brought into such centres by their relatives raises concerns that people are detained involuntarily without appropriate authorization and oversight.*

*Human rights principles on drug treatment promote voluntary evidence-based treatment in the community rather than compulsory treatment in closed settings. With new, larger centres being built, such facilities are moving further away from the very communities into which users could reintegrate.<sup>71</sup>*

Cambodia's drug detention centres are bereft of medical facilities and lack staff trained to assist individuals with drug dependence. Instead, as detailed in this report, detainees in these prison-like facilities are left idle and are often forced to suffer through painful withdrawals while being subjected to severe overcrowding, torture, and other abuse. In many centres, detainees are obliged to undergo military-style drills and exercise regimes considered to be part of the recovery. The Special Rapporteur on torture has stated that enforced withdrawal without medical assistance may, in certain circumstances, amount to torture.<sup>72</sup>

The very existence of Cambodia's drug detention centres is founded on a deeply flawed set of assumptions, including a belief that the combination of detention, forced abstinence, and exercise helps people to recover from drug dependence and ultimately stop using drugs. Several medical studies have concluded that there is no evidence to suggest that compulsory treatment approaches have better outcomes than non-compulsory methods.<sup>73</sup>

The UNODC has also recognized that mandatory confinement has not resulted in sustained treatment outcomes but rather has been associated with increased HIV risks, added stigma and discrimination against people who use drugs, numerous violations of human rights, and significant deviations from evidence-based best practices in drug dependence treatment.<sup>74</sup> Furthermore, human rights mechanisms have documented the widespread human rights violations that occur in such centres, including torture and other ill-treatment.<sup>75</sup>

In Cambodia, the decision as to whether an individual is placed into a drug detention centre or prosecuted for an offence of drug possession or use appears not to follow any clear or systematic pattern. However, several individuals interviewed by Amnesty International reported being asked to pay bribes to police to ensure that they would be sent to drug detention centres rather than face criminal prosecution.



## ARBITRARY ARRESTS AND TARGETING OF HARM REDUCTION SERVICES

Since the beginning of Cambodia's anti-drug campaign in January 2017, the police have significantly stepped up their efforts to identify, locate, and arrest people who use drugs. Drug raids in residential areas and sweeps of urban streets are common features of the campaign. Many of those who are arrested and who were interviewed by Amnesty International are poor, homeless, and struggling with drug dependence.

<sup>70</sup> Amnesty International interview with a prisons expert, Phnom Penh, 10 December 2019.

<sup>71</sup> Report of the Special Rapporteur on the Situation of Human Rights in Cambodia, September 2019, A/HRC/42/60 para. 47.

<sup>72</sup> Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, January 2009, UN Doc. A/HRC/10/44, para. 57.

<sup>73</sup> See Werb et al, The effectiveness of compulsory drug treatment: A systematic review, International Journal of Drug Policy, February 2016, vol. 28, pp. 1-9, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4752879/> (last accessed 20 April 2020).

<sup>74</sup> UNODC, Transition from compulsory centres for drug users to voluntary community-based treatment and services – discussion paper, 2015, [https://www.unodc.org/documents/southeastasiaandpacific/Publications/2015/hiv/Discussion\\_Paper\\_on\\_Transition\\_from\\_CCDUs\\_Edited\\_Final4\\_04Sept15.pdf](https://www.unodc.org/documents/southeastasiaandpacific/Publications/2015/hiv/Discussion_Paper_on_Transition_from_CCDUs_Edited_Final4_04Sept15.pdf) (last accessed 20 April 2020).

<sup>75</sup> Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 1 February 2013, UN Doc. A/HRC/22/53; Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/HRC/38/36. See also: International Drug Policy Consortium, "Taking stock: A decade of drug policy," 2018; The Lancet Commission on Drug Policy and Health, "Public Health and international drug policy," 2016.

Most had a very limited understanding of their rights, rendering them at heightened risk of human rights violations.

Drug raids occur mostly in poor neighbourhoods, and regularly involve indiscriminate and arbitrary arrests. People arrested during these raids are often detained despite not being in possession of any drugs and in the absence of arrest warrants. Simply being in the wrong place at the wrong time – typically a poor neighbourhood or near a drug treatment facility – can be sufficient reason for the police to round up these people. The nearby presence of drug paraphernalia, including syringes or pipes, or mere association with an individual in possession of illicit drugs, is commonly seen as sufficient cause for arrest.

According to the testimonies gathered by Amnesty International, police have also targeted the neighbourhoods and public spaces surrounding facilities that provide drug treatment and other health services to people who use drugs. Many of the people interviewed by Amnesty International were arrested in the immediate vicinity of the methadone clinic at the Khmer-Soviet Friendship Hospital, one of only healthcare facilities in Cambodia that provides methadone, a prescribed drug that can be used to substitute heroin in the treatment of opioid dependence.<sup>76</sup>

35-year-old Theara is a client of the methadone service at the Khmer-Soviet Friendship Hospital. She was arrested while eating breakfast when she was three months pregnant in front of the hospital in June 2019, after which she was held in Prey Speu detention centre. She told Amnesty International that although she did use ‘ice’ (methamphetamine), she had no drugs on her at the time of her arrest. She recalled:

*Regardless whether we had anything or not, they just arrested everyone. Nobody in the group had any drugs. I showed them my card that says I am receiving methadone treatment.*

*The clinic staff told me before that if social affairs [officers] or police come to arrest [me], I can show them my card and they won’t arrest me. But when I showed them my card, they didn’t listen to me and they tore my card in half in front of my face.<sup>77</sup>*

Targeting drug treatment and other health services in police raids deters people from seeking the medical care they may require and constitutes an additional barrier to the right to health of people who use drugs.<sup>78</sup> Such raids regularly involve the arbitrary arrest and detention of people who use drugs, interrupt essential health services, and act as a deterrent to individuals who are seeking to access drug treatment and rehabilitation. This practice further underlines the skewed implementation of the anti-drug campaign in favour of criminalisation and incarceration at the expense of public health and human rights.

Naran, a 41-year-old rubbish collector and methadone service user in Phnom Penh, was also arrested outside the Khmer-Soviet Friendship Hospital in July 2019. Similarly, although she told Amnesty International that she was not found to be in possession of any drugs when apprehended by the police, she explained, “*they came and arrested me like I was a thief,*” confiscating her rubbish collecting cart, which was her only means of making a living.<sup>79</sup>

After her arrest, she was taken to a police station. Naran recalled:

***“They screamed at us and said, ‘you will go to die in hell at Prey Speu.’ I said to the police, ‘why are you bringing me to Prey Speu? They will beat me there.’ He said back to me, ‘you fucking people are trouble-makers and cause us difficulties.’”<sup>80</sup>***

*Naran, who was arrested outside a harm reduction facility.*

<sup>76</sup> A mass arrest of people suspected of using drugs and their children, including at least three infants, was filmed outside the Khmer-Soviet Friendship Hospital and shared online on 12 June 2017. Amnesty International has verified the contents, which can be found here:

[https://web.facebook.com/watch/?v=752811018230692&\\_rdc=1&\\_rdr](https://web.facebook.com/watch/?v=752811018230692&_rdc=1&_rdr) (video credit: K01 TV News) (last accessed 20 April 2020).

<sup>77</sup> Amnesty International interview with Theara, Phnom Penh, 9 December 2019.

<sup>78</sup> Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, United Nations General Assembly, 2010, UN Doc. A/65/255.

<sup>79</sup> Amnesty International interview with Naran, Phnom Penh, 3 December 2019.

<sup>80</sup> *ibid.*

Naran was then transported to Prey Speu. Underlining the discriminatory impact of the anti-drug campaign on poor communities, Naran told Amnesty International that two people being transported along with her were released after paying bribes to the police officers accompanying them: “One girl had a necklace and gave them that. Another person had \$120 so she paid that.”<sup>81</sup>

The arrest of individuals in drugs raids and their transfer to drug detention centres operates in a legal vacuum, rendering victims subject to an almost complete lack of procedural safeguards. None of the individuals interviewed by Amnesty International who had been sent to drug detention centres were given the opportunity to consult a lawyer. None were told of the legal basis for their arrest; none were told of their rights, and the vast majority were not told how long they would be detained.

Once in social affairs transition centres, where arrestees are often kept temporarily before onward transport to detention centres, people are regularly subjected to compulsory drugs urine testing and asked to sign or thumbprint documents which they often cannot read or do not understand. As one man who was held at the social affairs transition centre in Sen Sok before his transfer to Prey Speu explained:

*At the transition centre they made me thumbprint a document which said that I am a drug user. They had my positive urine test, so I felt I had to thumbprint it. I did not read the document.*

*Most people at the centre never read the document because the police already have the evidence of the urine sample. They allowed me to look at it, but I can't read so I don't know what it said.*<sup>82</sup>

Mandatory drug testing is an arbitrary interference with an individual's privacy.<sup>83</sup> The UN Special Rapporteur on the right to health has confirmed that compulsory testing must not be used as a means to police private behaviour and any limitations must be carefully justified by public health necessity and implemented with participation, transparency and accountability, a threshold that is not met in mandatory drug testing.<sup>84</sup> Drug testing must be conducted only after informed consent has been given, and carried out in a non-discriminatory, transparent, and inclusive way. Drug testing should be intended to encourage counselling and treatment, if appropriate, and not used for judicial proceedings or compulsory treatment.

In some cases, people arrested after drugs raids are physically forced to thumbprint these documents by agents of the Ministry of Social Affairs, Veterans and Youth Rehabilitation. One woman held at Sen Sok district social affairs transition centre in 2019 told Amnesty International that she was forced to thumbprint a document she did not understand after being arrested during a street sweep:

*They didn't tell what the document was, and I didn't understand. I asked them what this was and why they forced me to thumbprint it.*

*The officer said that he was just following orders from higher up, and he wouldn't tell me what was in the document. They forced me to thumbprint it by grabbing my hand and pushing it onto the page.*

*I saw that those who refused to thumbprint got hit and beaten, so I knew if I refused, I would be hit too. One person didn't want to thumbprint and he was hit and then brought to a separate room.*<sup>85</sup>

Although Amnesty International was unable to examine any of the documents which detainees were sometimes coerced into thumbprinting in transition centres, the organization believes they refer to the written consent forms referred to in Article 104 of the Law on Drug Control on Voluntary Treatment and Rehabilitation, which states:

Before admitting a drug addict for treatment and rehabilitation, the facility shall make sure that the person does provide her/his consent on a voluntary basis for treatment and rehabilitation upon receiving key information on treatment and rehabilitation. The consent to accept treatment and rehabilitation made by a drug addict shall be made in writing.

Many people interviewed by Amnesty International who were prosecuted via the criminal justice system (as detailed in the next chapter) described being arrested in almost identical circumstances to those who were placed in drug-related administrative detention. Amnesty International's research suggests there is no coherent pattern in the handling of individual cases; rather, individual police officers, who may be influenced by bribes, seem to have significant discretion to determine the fate of arrestees.

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<sup>81</sup> *ibid.*

<sup>82</sup> Amnesty International interview with a man detained during anti-drug campaign, Phnom Penh, 2 December 2019.

<sup>83</sup> UN General Assembly, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, August 2009, UN Doc. A/64/272, para. 32.

<sup>84</sup> *Ibid.*

<sup>85</sup> Amnesty International interview with a woman detained during anti-drug campaign, Phnom Penh, 9 December 2019.

The inconsistency and arbitrary nature in the treatment of individuals suspected of using drugs is illustrated by the experience of 38-year-old Sopheap. She started using methamphetamine occasionally after learning about her husband's extramarital affair in early 2017, believing it would help to numb her emotional pain. Six months later, in October 2017, she was arrested in a drugs raid along with her two 16- and 17-year old neighbours. She recounted her arrest to Amnesty International:

*There were no more drugs left when the police came, only a bottle and lighter and other paraphernalia lying around... Then they just took our urine test because they didn't catch us with any drugs... They said they would send us to a rehabilitation centre. We thought we were going to the Orkas Khnom centre, but they actually sent us to the court, and then to the prison.<sup>86</sup>*

In addition to drugs raids conducted by police leading to detention, many people who use drugs – often those with a drug dependence – are brought to drug detention centres by family members, with varying degrees of consent, in an attempt to make them stop using drugs. Once they are inside, however, the individuals cannot leave. In such cases, the families involved typically have higher incomes in comparison to those who are rounded up during police raids.

Phanith, who was detained at Orkas Khnom for 14 months in September 2018 following a request by his sister, explained: *“In the afternoon around 10 police came to my house for me. They didn't tell me anything. They didn't tell me what I was accused of. They got a call from my family so that was enough to take me away.”<sup>87</sup>* Phanith believed he was sent to Orkas Khnom simply because his family were unwilling to take care of him after he fell on hard times: *“My family called them because I lost all my money; I lost my barber shop and got divorced. All I had left was to go back to my sister, so she thought I should go to the centre.”<sup>88</sup>*

He told Amnesty International that he was not dependent on drugs at the time, and although he occasionally used methamphetamine, he didn't have any in his possession at the time of his arrest: *“I was not even using much ice; I spent most of my money on alcohol. I was only using ice once every one or two weeks. I had no drugs at all when the police arrested me. They didn't even test my urine, not even at the rehab centre.”<sup>89</sup>*

Amnesty International spoke to a 60-year-old woman, Sopheary, who twice sent her son, Tin, to rehabilitation centres run by the Military Police in Phnom Penh and Banteay Meanchey using a combination of coercion and deception:

*We talked beforehand to the rehab staff to plan it. My son liked my brother a lot, so he agreed to come in his car to go for noodle soup, but my brother tricked him and brought him to the rehab centre. When he got there, he read the sign and said, “you took me to the rehab centre?!” and then my brother left him there.<sup>90</sup>*

Sopheary spoke of her desperation to help Tin and explained that she did not know any alternative treatment was possible. Although Sopheary initially believed that the drug rehabilitation centres could help him deal with his drug dependence, her perspective shifted after she came to see the levels of violence and ill-treatment within the centres, in addition to the financial motivations which appeared to prevail in the management of some centres. She recounted picking him up from a drug detention centre in Banteay Meanchey after he fell ill:

*He could not walk or stand when I picked him up. We had to nurse him better. There was not enough food, they only ate very little porridge in the morning and a small meal later, but he had to run 200 laps around the complex every day. If they didn't do it, they would slap him and beat him with a metal pipe... He told me that there were people dying in there, but they keep it secret. The people who are released are threatened not to tell anyone about the people who died in there. It's a business, so they need to hide it. I am so lucky that [he got sick as] I was able to take my son from there ... Otherwise if I wanted to take him out, they would make me pay \$800 to take him out.<sup>91</sup>*

Sopheary has given up on drug detention centres after having seen the abuse her son was subjected to, and the ineffectiveness of the “treatment” he received on either occasion. She told Amnesty International: *“I believe this a big business to arrest people and to make people pay, and then make them live in detention, and the police are part of it too. I'm not sure if the future will ever be better for my son ... I will never give up on him though. I will keep trying to find a way that he could survive and get better.”<sup>92</sup>*

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<sup>86</sup> Amnesty International interview with Sopheap, Phnom Penh, 16 November 2019.

<sup>87</sup> Amnesty International interview with Phanith, Phnom Penh, 21 November 2019.

<sup>88</sup> Ibid.

<sup>89</sup> Ibid.

<sup>90</sup> Amnesty International interview with Sopheary, Phnom Penh, 17 November 2019.

<sup>91</sup> Ibid.

<sup>92</sup> Ibid.



## ARBITRARY DETENTION IN THE NAME OF DRUG REHABILITATION

All 20 of the people formerly held in drug detention centres who were interviewed by Amnesty International stated that they were detained against their will, and only one of these people reported being brought before a judge prior to being detained. As previously noted, the systematic involuntary detention of people suspected of using drugs in the name of “rehabilitation” violates Cambodia’s international human rights obligations.<sup>93</sup> It further violates Articles 101, 104, and 107 of Cambodia’s Law on Drug Control, which establish the general rule that drug treatment must be voluntary.<sup>94</sup>

Article 107 of the Law on Drug Control allows for two narrow exceptions to the general rule against compulsory drug “rehabilitation,” namely where the individual concerned is deemed to be in a “state of severe drug dependence with apparent threat of immediate and severe risk exposures to her/him or to others” or “under the state of inability to express her/his willingness to accept voluntary treatment and rehabilitation.”<sup>95</sup>

Both of these exceptions are unacceptable under international human rights law. Compulsory detention for the purposes of drug “rehabilitation” — including detention based on the perceived danger of persons to themselves or to others or on arguments of “medical necessity” — is inherently arbitrary according to the Working Group on Arbitrary Detention.<sup>96</sup> In respect of the latter exception – where a person is deemed unable to provide consent – such an inability could only ever be temporary and would require the authorities to facilitate the person concerned to provide or withdraw their consent on an ongoing basis. According to WHO guidelines, drug treatment should only be undertaken with informed consent.<sup>97</sup>

People who were held at drug detention centres told Amnesty International that one of the most difficult aspects of their detention was its indefinite nature: many detainees were never told how long they were to remain in detention. While most individuals whom Amnesty International interviewed were detained for six months, individuals without family support and who could not afford to pay bribes were often held longer.

Phanith, who was detained in Phnom Penh’s Orkas Khnom for 14 months between September 2018 and November 2019 told Amnesty International: “*There are cases of people staying there for one or two years. When the NGO or UN people come to visit, the staff move those long-term people from Orkas Khnom to Prey Speu for that visit. Nobody at that centre was there voluntarily. But the staff at the centre told us to tell the NGOs that come that we are there voluntarily. Sometimes NGO staff did come and they asked us to open the cells and let people walk around like normal.*”<sup>98</sup>

The mother of a man detained in Orkas Khnom described the anxiety caused by indefinite detention: “*They never told him or me how long he would have to stay in that place. I’m worried it could be forever ... Other people left after four months, but not my son. The staff said they don’t know yet when he can get out.*”<sup>99</sup>

The involuntary detention of people suspected of using drugs not only violates Cambodia’s human rights obligations, it is in direct conflict with the community-based drug treatment model being advanced by Cambodia’s Ministry of Health. The UN Special Rapporteur on the right to health and the UN Special Rapporteur on torture and other ill-treatment have both highlighted the egregious human rights violations, including torture, which often occur in the context of compulsory “treatment” services.<sup>100</sup>

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<sup>93</sup> Report of the Working Group on Arbitrary Detention, 10 July 2015, UN Doc. A/HRC/30/36, para. 74; Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/65/255, para. 32; Committee Against Torture (20 January 2011), Concluding observations: Cambodia, UN Doc. CAT/C/KHM/CO/2, para. 20; ILO, OHCHR, UNDP, UNESCO, UNFPA, UNHCR, UNICEF, UNODC, UN Women, WFP, WHO and UNAIDS, “Joint statement on compulsory drug detention and rehabilitation centres,” March 2012.

<sup>94</sup> Article 101 states: “In principle, treatment and rehabilitation can be undertaken only after receiving consent from drug addicts.” Article 104 states: “A drug addict shall have the right to be involved in the decision to accept the treatment and rehabilitation methods and to end the treatment and rehabilitation. At any time, a drug addict can quit the voluntary treatment.” Article 107 states: “No one shall be forced into treatment and rehabilitation of drug addiction,” Law on Drug Control 2012.

<sup>95</sup> Law on Drug Control 2012, Article 107.

<sup>96</sup> Report of the Working Group on Arbitrary Detention, 10 July 2015, UN Doc. A/HRC/30/36, para. 59.

<sup>97</sup> World Health Organization and United Nations Office on Drugs and Crime, International Standards for the treatment of drug use disorders (draft for field testing), March 2016, UN Doc. E/CN.7/2016/GRP.4.

<sup>98</sup> Amnesty International interview with Phanith, Phnom Penh, 21 November 2019.

<sup>99</sup> Amnesty International interview with Sopheary, Phnom Penh, 17 November 2019.

<sup>100</sup> Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/65/255, paras. 30-39; Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 1 February 2013, UN Doc. A/HRC/22/53, paras. 40-44.



## TORTURE AND OTHER ILL-TREATMENT IN DRUG DETENTION CENTRES



☺↑ *An artist's impression of ill-treatment in a drug detention centre*

People who were formerly detained in drug detention facilities described frequent instances of physical abuse, often amounting to torture and other ill-treatment under international human rights law. People interviewed by Amnesty International described regimes of violence and fear in which “room leaders” — detainees given authority over fellow detainees by centre management — and centre staff exercise apparently unlimited power over detainees.

This lack of adequate oversight and monitoring of drug detention centres facilitates the use of force by state officials guarding the centre and “room leaders” they appoint, creating a climate where extreme violence is normalised, which sometimes results in deaths in custody. Amnesty International received worrying accounts of people being beaten to death by centre-appointed “room leaders,” followed by alleged cover-ups by centre authorities in both the Orkas Khnom and Prey Speu detention centres in Phnom Penh. Other former detainees recounted witnessing frequent suicide attempts because of the unbearable combination of suffering through unsupported withdrawals and severe physical abuse.

In addition to systematic “welcome” beatings upon arrival in the centres, detainees are subjected to severe physical punishments for infractions of arbitrary rules made by room leaders and centre staff. Assaults are most often carried out by room leaders, long-term detainees who have been selected by the centre staff to maintain discipline and order over other detainees in exchange for privileges and benefits. This practice contradicts international standards on the treatment of prisoners, which state that, according to Rule 40 of the Nelson Mandela rules for the treatment of prisoners (the “Mandela Rules”), no detainee may be employed by an institution in a disciplinary capacity or otherwise given responsibility for exercising disciplinary measures on another detainee.<sup>101</sup>

Torture and other ill-treatment are absolutely prohibited under customary international law, binding on all states whether or not they are parties to particular treaties which contain the prohibition. Cambodia is a state party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) since 1992 and the Optional-Protocol to the CAT (OPCAT) since 2007.<sup>102</sup> The prohibition against torture is non-derogable, meaning it applies in all circumstances, including during armed conflict or amid a global pandemic. The obligations arising from these treaties include the requirement not only to protect people from torture and other ill-treatment by public officials but also from similar acts by private individuals.

The prohibition of torture and other ill-treatment includes a prohibition on corporal punishment in prisons and other places of detention, including drug detention centres. The Human Rights Committee has stated that the prohibition of torture and other ill-treatment under Article 7 of the ICCPR “must extend to corporal punishment, including excessive chastisement ordered as punishment for a crime or as an educative or

<sup>101</sup> Nelson Mandela rules for the treatment of prisoners, Rule 40.

<sup>102</sup> UNOHCHR Treaty Body Database: Cambodia, [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=29&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=29&Lang=EN) (last accessed 20 April 2020).

disciplinary measure.”<sup>103</sup> The infliction of corporal punishment for disciplinary offences in places of custody is also contrary to Rule 43(1)(d) of the Mandela Rules.<sup>104</sup>

Amnesty International interviewed three former “room leaders” from the Prey Speu and Orkas Khnom detention centres, each of whom described similar regimes of control and corporal punishment that they were expected to maintain with the complicity and authorisation of centre staff.

## CASE STUDY: PHANITH

Phanith, who served as a room leader at Orkas Khnom in 2018 and 2019, explained the role of room leaders:

*“As a room leader, I had so much power. The staff always believed everything I said. If I hit anyone, I just tell the guards that the people were being disrespectful or insulting or disorganised, and the guards always believe me and allow me to discipline those people however I wanted.*

*“The staff told me that if the detainees don’t obey me or disrespect me, I can hit them. I only ever beat them with my hands...*

*“I was less strict to people who gave me gifts, like food, drinks, or shoes. I didn’t receive any salary or benefits from the centre for being room leader. I even used to give the staff there some benefits when my family came to visit me and brought me things.*

*“I was chosen as a room leader by the building leader. Normally only people whose family come to visit them regularly get to be room leader. The staff want people who will stay longer, who will pass on financial benefits to the staff, and who get visits from family and receive gifts from them.*

*“The staff there don’t do any of the work. The room leaders do all the work in that centre.*

*“I think it’s normal to be strict to the people when you are a room leader. It’s so hard to make them listen to us. When they are outside, they don’t even listen to their parents, so we have to be strict with them. If you move your hands, your hands will be chained. If you move your legs, your legs will be chained. If you shout, paper will be stuffed in your mouth.”<sup>105</sup>*

Phanith went on to detail the extreme levels of violence, sometimes leading to death, that he witnessed during his time as room leader at Orkas Khnom:

*“I saw cases where people got beaten up until they died. As a drug user, they can easily make an excuse that you are an addict, so you got a heart attack, or you did something to yourself.*

*“Someone who I knew really well — the building leader — he beat and killed a detainee in March 2018. The person was so addicted that he was chained by the hands and the feet so that he could not move around. And the building leader beat him like that until he died.*

*“The guy who did it told me personally not to be so aggressive as he had been, because he didn’t really mean to kill that guy. They tried to cover up the case after that. The mixture of beating, torturing, and addiction was what killed him ... I don’t know what the centre told his family.”<sup>106</sup>*

Sokun, who was detained in Prey Speu during 2017, described the level of abuse and ill-treatment he suffered from his room leader. “The room leader used to make me do everything for him,” he said, “and if I didn’t [do something], he would beat me badly. He asked me to bring him water, give him massages, accompany him everywhere, carry his things. I was his slave.”<sup>107</sup>

Cambodia’s human rights obligations in respect of the prohibition of torture extend beyond the direct actions of agents of the state, such as detention centre staff. The Cambodian authorities are also responsible for the prevention, investigation, prosecution, and punishment of all instances of torture or ill-treatment committed

<sup>103</sup> HRC General Comment 20, §5.

<sup>104</sup> Nelson Mandela rules for the treatment of prisoners, Rule 43.

<sup>105</sup> Amnesty International interview with Phanith, Phnom Penh, 21 November 2019.

<sup>106</sup> Ibid.

<sup>107</sup> Amnesty International interview with Sokun, Phnom Penh, 21 November 2019.

by non-state and private actors where “state authorities or others acting in official capacity or under colour of law, know or have reasonable grounds to believe” that torture or ill-treatment has occurred.<sup>108</sup>

As detainees, room leaders are not themselves agents of the state; however, the prevalence of torture and other ill-treatment described in the testimonies gathered by Amnesty International and the consistency of the roles and responsibilities of room leaders, as described by both room leaders themselves and detainees, make it inconceivable that room leaders operate without the consent and acquiescence of centre authorities. As such, in respect of the actions of room leaders, the Cambodian state “bears responsibility and its officials should be considered as authors, complicit or otherwise responsible under the Convention for consenting to or acquiescing in such impermissible acts.”<sup>109</sup>

Each of the former detainees interviewed by Amnesty International reported that beatings on arrival were a standard part of induction into life at the centres. Although individuals who are brought to detention centres by paying family members may be spared, individuals brought by the police appear to be systematically subjected to such “welcome” beatings. Thirty-three-year-old Ratha recalled his experience upon his arrival to Prey Speu in late 2017:

*The first day I arrived at the room, immediately after the centre staff walked out, the room leader told me to hold my hands up over my head, and then he kicked me so hard in the ribs three times. It almost broke my ribs and body.*

*I don't think they do it for fun, but they want to scare you. I was in pain for an hour. This is like their internal rule to welcome the newcomers. If you have parents and parents will pay, the staff will tell the room leader not to hurt or mistreat you. But for me, this was my reality.<sup>110</sup>*

The nature and severity of abuse inflicted upon detainees varies according to the individual discretion of room leaders. Rith, a 36-year-old man who was detained in Prey Speu in 2017, recalled:

*When I first arrived at the room, they wanted to discipline me. Someone asked me to catch a gecko on the wall. I did catch it at first, but its tail came off, so they beat me severely with a stick across my back several times. This was my “welcome.” For the next person who arrived after me, I had to do the same thing to him. I had to tell him to catch the lizard and I had to hit him when the tail broke off. Everyone who arrived had to do this. It was the room leader who organised all of this.<sup>111</sup>*

Several former detainees who spoke to Amnesty International described regimes of collective punishment for individual indiscretions. 45-year-old Tanh, who was detained in Prey Speu in mid-2019, recalled:

*The room leader beat the detainees in that room every day. For example, I remember one man who was dreaming, so he screamed in his sleep. The room leader got a wooden stick and beat around 50-60 people in the room in response. He called them to stand up in a row and then beat them three times each on their backs, really as hard as he could do it.*

*There was another guy who was so hungry he asked another detainee for food at night, so the room leader forced everyone in the room to stand up and he beat every person in the room, even though just one person in the room was hungry. They told him no food was allowed at night, it was a bad habit, so he had to be punished.<sup>112</sup>*

At Prey Speu, the harsh conditions, abusive practices, and the design of the facility lead to frequent escape attempts by detainees. Room leaders and centre staff ban talking amongst detainees in the hope of preventing further escape attempts, and those who attempt to escape and are caught face severe punishment.

Pisey, a community outreach worker with a harm reduction NGO, spent three months detained in Prey Speu along with her two-year-old son after being arrested in a street sweep in June 2019. She recalled one such incident:

*After three days in there, I saw a girl being severely beaten by a male staff member of the centre. She had tried to escape by breaking through the roof. She ran around 100m before being caught. She was beaten for a whole day and she was never taken back to the same room after that. They*

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<sup>108</sup> CAT General Comment 2, §18. See also Report of the Special Rapporteur on torture, UN Doc. A/HRC/31/57 (2016) §§10-11.

<sup>109</sup> Ibid.

<sup>110</sup> Amnesty International interview with Ratha, Phnom Penh, 18 November 2019.

<sup>111</sup> Amnesty International interview with Rith, Phnom Penh, 2 December 2019.

<sup>112</sup> Amnesty International interview with Tanh, Phnom Penh, 2 December 2019.

*used a wooden stick like we use for fishing. He beat her on the legs and the feet mostly so that she couldn't walk. They beat her with that stick every two hours for the whole day.*<sup>113</sup>

Severe physical punishments are meted out for minor infractions of unwritten and arbitrary rules, making violence — and the constant threat of violence — a central facet of life in these detention centres. One woman told Amnesty International of her experiences of violence in Orkas Khnom:

*“At lunch time and in the afternoon, they would beat me and slap my face. They said I spoke too loudly. They would slap me so hard that it made my ear go numb ...*

*One time I turned away, and then they made other people hold my face. There was a lesbian couple in my room who would kiss secretly in there. They got caught and then beaten for this, they were hit five times each with a stick for this ...*

*It gave me goosebumps and I got so terrified when I saw this violence. This happened to everyone and it was normal. Violence like this was part of the daily routine; part of their programme.*<sup>114</sup>

***“This [violence] happened to everyone and it was normal. Violence like this was part of the daily routine; part of their programme.”***

Several detainees reported witnessing the deaths of their fellow inmates, often due to a combination of physical abuse, withdrawals without any medical support, and inhumane conditions of detention.

The right to life, guaranteed by the Cambodian Constitution and the ICCPR, includes an obligation on states to conduct thorough, independent, and impartial investigations into all allegations of deaths in custody. The Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions further state that there “shall be thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death.”<sup>115</sup>

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<sup>113</sup> Amnesty International interview with Pisey, Phnom Penh, 4 December 2019.

<sup>114</sup> Amnesty International interview with a woman detained during anti-drug campaign, Phnom Penh, 3 December 2019.

<sup>115</sup> UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, Recommended by Economic and Social Council resolution 1989/65 of 24 May 1989, para. 9.

## CASE STUDY: RATHA

Ratha, a 32-year-old former detainee of Prey Speu, recalled seeing his roommate die in these circumstances in December 2017:

*“My roommate Vireak was beaten up until he was killed in December 2017. It’s difficult for me to talk about this. It was the security chief — a detainee appointed by the centre — who punched and kicked him until he died. [It happened because] someone in the room reported to the room leader that he was planning to run away.*

*“After beating him from around 4.30pm until around 11pm, they discovered he was dead around midnight. I saw them beat him with my eyes in the room I was in.*

*“Around 20 people beat him, including security chiefs and detainees in the room. Most people didn’t join in, but some did when they were told to do so. The security chief told the detainees to join in the beating. They beat his head against the wall and kicked him.*

*“I was the one who tried to wake him because I saw the water from the toilet was leaking on to him. When I tried to wake him, he was cold and stiff. I immediately informed the room leader. The doctor and room leader came to check if he was alive, but he was already dead. Thirty minutes later the ambulance came to take him to the pagoda... I was so terrified after that.”<sup>116</sup>*

Ratha’s recollection of this incident raises serious questions about the authorities’ reaction to deaths in custody, with Vireak’s death apparently covered up by the Prey Speu authorities. He explained:

*“A week later I saw the family come to the centre with around seven or eight police... The police came to ask where the man was because he had been brought to the centre. The centre staff told the police and family that the guy ran away.*

*“I knew the house where the family lived so I wanted to tell them the truth about what happened to their son. After I was released, I went there to tell them the truth. After that they tried to file a complaint [with the police], but they didn’t get anywhere because they didn’t have money.”<sup>117</sup>*



☺↑ An artist’s impression of Ratha’s story

<sup>116</sup> Amnesty International interview with Ratha, Phnom Penh, 4 December 2019.

<sup>117</sup> Ibid.

The testimonies gathered by Amnesty International suggest widespread violations of the right to be free from torture and cruel, inhuman and degrading treatment or punishment, in addition to violations of the right to life, in drug detention facilities. These violations appear to occur with total impunity; despite many well-publicised reports of torture, other ill-treatment and deaths in social affairs and drug detention centres in Cambodia over the past ten years, Amnesty International found no evidence of credible or independent investigations into these reports. The organization wrote to the Cambodian Ministry of Social Affairs, Veterans and Youth Rehabilitation on 4 February 2020 in order to request information in relation to investigations into allegations of torture and other ill-treatment in drug detention centres, but has received no responses at the time of publication.<sup>118</sup>

## CASE STUDY: TEANG AND NARAN

Naran, 41, vividly recounted the suicide of a Vietnamese friend who had faced repeated bouts of physical violence in Prey Speu in August 2019.<sup>119</sup> Teang, who was arrested alongside Naran in a street sweep operation, died seven days after he had arrived at Prey Speu. Naran and Teang spoke every time they could, including at mealtimes. Naran recalled how Teang complained of his treatment at the hands of his room leaders:

*“He could not walk because the room leaders beat him so badly over his legs and feet. He was beaten so badly over his head with a wooden stick that his head was very swollen when I saw him.... Every time when he was having withdrawals, they beat him, and they wanted to take revenge on him because he had escaped one time before. They beat him two times per day. They thought it would prevent him from running away.”*

Cambodia’s Vietnamese population — both established ethnic Vietnamese communities and more recent arrivals — face widespread discrimination in Cambodian society. Many are denied legal recognition in the form of identification cards and family books, putting them at a heightened risk of homelessness and poverty.<sup>120</sup> Naran told Amnesty International: *“Vietnamese detainees are always treated worse than Cambodian detainees. They are really neglected and discriminated against.”*

Over breakfast, one week after arriving at Prey Speu, Teang told Naran that the constant beatings he suffered combined with his heroin withdrawals were becoming too much for him to bear. He asked Naran to take care of his wife and children if she got out of Prey Speu before he did. Later that day, Teang did not show up for lunch. Naran went to bring food to him in his cell:

*“I found him hanging by a hammock tie in the room. When we saw him, the staff tried to make us all go to our own rooms immediately. They said they would call an ambulance. However, I believe that the ambulance did not take him away, because he was already dead. I saw that he was stiff and pale.”*

A few days after her release from Prey Speu on medical grounds, Naran attempted to contact Teang’s family to inform them about what had happened to him. Her account raises further concerns about the handling of deaths in compulsory drug detention centres:

*“Neither his wife nor his mother had heard that he had died or that anything had happened to him. I never dared to speak or tell anyone this story before ... The day after I [was released], I told an NGO that Teang hanged himself. I told them that he became unconscious but did not dare to tell them that he was dead. I told them that he was abused every day. I never heard anything about him since that day.”*

<sup>118</sup> Letter to the Cambodian Ministry of Social Affairs, Veterans and Youth Rehabilitation, 16 January 2020, on file with Amnesty International (see Annex A).

<sup>119</sup> Amnesty International interview with Naran, Phnom Penh, 3 December 2019.

<sup>120</sup> See Report of the Special Rapporteur on the Situation of Human Rights in Cambodia, September 2019, UN Doc. A/HRC/42/60/Add.1, paras. 47-51; Minority Rights Group, “Cambodia: Ethnic Vietnamese,” November 2017, <https://minorityrights.org/minorities/ethnic-vietnamese/> (last accessed 20 April 2020); Tim Frewer, “Cambodia’s Anti-Vietnam Obsession,” *The Diplomat*, 6 September 2016, <https://thediplomat.com/2016/09/cambodias-anti-vietnam-obsession/> (last accessed 20 April 2020).



©↑ An artist's impression of Teang and Naran's story

The failure to investigate and prosecute allegations of torture and other ill-treatment in drug detention centres violates Cambodia's obligations under the Convention Against Torture, which require states to conduct "prompt and impartial investigations wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction."<sup>121</sup> This obligation extends to circumstances where no formal complaint has been made but there are indications that torture or other ill-treatment may have occurred.<sup>122</sup> In light of the widespread testimonies of people formerly held in drug-related detention, Amnesty International calls for a prompt, thorough and independent investigation into all such allegations in places of detention in Cambodia.



## "TREATMENT" AS PUNISHMENT

The testimonies of individuals formerly detained in Cambodia's drug detention centres strongly suggest that this system is not intended to meaningfully assist those with drug dependence; rather, this system appears to be intended to remove individuals deemed "undesirable" from public spaces and to punish people for their perceived moral failings. Individuals formerly detained in the name of "rehabilitation" spoke to Amnesty International of the complete absence of appropriate medical care and facilities within detention centres. They described an absence of concrete rehabilitation and treatment plans, with an apparent reliance on abstinence as the sole solution to drug dependence.

The combination of abstinence and exercise, which are most commonly used as supposed rehabilitation strategies, have been discredited by public health and human rights experts.<sup>123</sup> In addition to being denied evidence-based treatment while detained, individuals who have a drug dependence are forced to go through withdrawal without any medical assistance or supervision. According to international human rights law, the denial of opioid substitution therapy and other harm reduction services, including in places of detention, violates the right to health and in certain circumstances may amount to torture.<sup>124</sup>

In order to meet the definition of torture, the necessary elements are: 1) the presence of severe pain; 2) which is intentionally inflicted; 3) as punishment for an act (in this case, allegedly using drugs); 4) committed by a state actor or a third person with their consent.<sup>125</sup> Importantly, in respect of the 'intent' element, it is sufficient that the deprivation of opioid substitution therapy is intentional, not necessarily that the level of pain suffered is intentionally inflicted.<sup>126</sup> The testimonies gathered by Amnesty International strongly suggest that many individuals detained in drug detention centres in Cambodia are being tortured or otherwise ill-treated through the intentional denial of opioid substitution therapy.

Piseth, a 33-year-old man who was detained at Phnom Penh's Orkas Khnom centre in mid-2019, told Amnesty International:

*There was absolutely no counselling, no medication, no treatment inside that centre. They gave us Buddhist recitals to do early morning and before sleep in the cell every day. I was on methadone when I went there. So, when I was there for two days, I started to get very sick and a bad fever and I started to lose control of myself.*

*So, the room leader started to beat me because I may have accidentally disturbed him because I couldn't sit still because of my condition. I fell unconscious after the room leader beat me over the head.<sup>127</sup>*

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<sup>121</sup> UN Convention Against Torture, Articles 12, 16.

<sup>122</sup> Principle 2, UN Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Recommended by General Assembly resolution 55/89 of 4 December 2000.

<sup>123</sup> UNODC and WHO, International Standards for the Treatment of Drug Use Disorders, March 2017, [https://www.who.int/substance\\_abuse/activities/msb\\_treatment\\_standards.pdf](https://www.who.int/substance_abuse/activities/msb_treatment_standards.pdf) (last accessed 20 April 2020); World Health Organization and United Nations Office on Drugs and Crime, International Standards for the treatment of drug use disorders (draft for field testing), March 2016, UN Doc. E/CN.7/2016/CRP.4.

<sup>124</sup> Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, January 2009, UN Doc. A/HRC/10/44, para. 57; Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, January 2009, UN Doc. A/HRC/10/44 para. 73, UN Doc. A/HRC/22/53, para. 73; Human Rights Committee, Concluding observations on the seventh periodic report of the Russian Federation, April 2015, UN Doc. CCPR/C/RUS/CO/7, para. 16.

<sup>125</sup> UN Convention Against Torture, Article 1.

<sup>126</sup> Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 1 February 2013, UN Doc. A/HRC/22/53, para. 73.

<sup>127</sup> Amnesty International interview with Piseth, Phnom Penh, 18 November 2019.

Sarath, who was detained at Prey Speu in 2017, said: “*There was a person who gathered us and explained to us not to use drugs again, and about the consequences. That happened once per month. It was about an hour. But there was no counselling.*”<sup>128</sup>

The lack of scientifically supported treatments available in state-run compulsory drug detention centres violates Article 102 of Cambodia’s Law on Drug Control, which states:

The treatment and rehabilitation of drug dependence shall accompany appropriate scientific medical services, namely:

1. Treatment and rehabilitation shall be managed by healthcare experts;
2. Methods of treatment and rehabilitation shall clearly respond to the need of each individual’s symptom and shall be decided by a health care expert in consultation with and with the consent from the person in question;
3. The treatment and rehabilitation shall comply with national and international norms and rules of best practices applicable to the treatment and rehabilitation of drug dependence in an effective and humanitarian manner.

Sony had been using methadone as an opioid substitution therapy for five years when he was arrested on the first day of the anti-drug campaign in January 2017. He told Amnesty International of the severe pain he experienced when forced to go through withdrawal without any medical support during his detention at Prey Speu:

*The first month I arrived I couldn’t sleep at all because I didn’t have any access to methadone. I had hot and cold sweats. I was crying. I couldn’t even see properly. All of my body was in pain and I had no energy at all. I couldn’t sleep and I couldn’t eat. This lasted for a whole month...*

*The doctor only came there two times per week. If you are sick, you can ask for simple medication from them. For me, when I felt like this, I just tried to stay calm and have a bath. I knew the medication [they provided] they had was not that effective...*

*There were three people just like me having withdrawals in the room at that time, but they were only kept in the centre for a week because their families came to take them back. The family is likely to pay \$50 to the staff there for the release.*

*They kept vomiting and even vomited on me because the space was so tight. They had diarrhoea and couldn’t eat anything. I asked if we could sleep next to each other so we could try to take care of each other. If you are extremely addicted and make noise, if you can’t control yourself, people will beat you. They do this to calm you.*<sup>129</sup>

Theara, age 35, told Amnesty International that she was arrested and detained at Prey Speu on four different occasions. On each occasion, she became so ill due to the denial of methadone that she needed to be hospitalised:

*My methadone levels are so high that if I skip it, I will pass out and I am at risk of dying. At Prey Speu it was so crowded. We could not sleep or move, so I had to fight people for space in there.*

*Can you imagine living like that when there was no medicine for my methadone? I became so agitated. I wanted to pour water over myself to calm down, but it just made people around me so angry.*<sup>130</sup>

The complete absence of medically-supported and evidence-based treatment in Cambodia’s drug detention centres violates Cambodia’s own drug law, in addition to the right to health of people who use drugs. The UN Special Rapporteur on the right to health has pointed out that, “*Proper medical management of drug dependence requires that treatment be evidence-based*” and that “*nearly 90 to 100 per cent of people who use drugs returned to drug use after being subjected to forced treatment in [compulsory drug treatment] centres.*”<sup>131</sup>

The absence of scientifically-supported treatment within compulsory drug treatment centres can have lethal consequences for individuals even after their release. This is particularly true of people with an opioid dependence and those who are receiving methadone treatment. 41-year-old rubbish collector Naran

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<sup>128</sup> Amnesty International interview with Sarath, Phnom Penh, 21 November 2019.

<sup>129</sup> Amnesty International interview with Sony, Phnom Penh, 3 December 2019.

<sup>130</sup> Amnesty International interview with Theara, Phnom Penh, 9 December 2019.

<sup>131</sup> Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, United Nations General Assembly, 2010, UN Doc. A/65/255, para. 34.

recounted the fate of her former cellmates in Prey Speu: “*There were three other people I know who shared the cell [in] Prey Speu. One was killed in a traffic accident, and the two others died from overdoses after their release from Prey Speu.*”<sup>132</sup> People with opioid dependence are at severe risk of death from overdose following periods of detention.<sup>133</sup> The Special Rapporteur on the right to health has noted, “[w]here [Opioid Substitution Therapy] *is not available, a higher incidence of overdose often is observed following drug dependence treatment, owing to the individual’s decreased tolerance for the drug.*”<sup>134</sup>



## OVERCROWDING AND INHUMANE CONDITIONS OF DETENTION

Every former detainee interviewed by Amnesty International described extreme overcrowding during their time in drug detention centres, with the situation deteriorating markedly between 2017 and 2019 as a result of the anti-drug campaign. This severe overcrowding, in combination with a lack of access to clean water and nutritious food, has a major impact on detainees’ physical and mental health.

International human rights law requires that all persons deprived of their liberty – including those held in prisons and other places of detention – must be treated with humanity and with respect for the inherent dignity of the human person.<sup>135</sup> This right is applicable regardless of the material wealth of a country – all states must at least ensure certain basic standards for persons deprived of their liberty.<sup>136</sup> Conditions in detention must as far as possible reflect those existing in the community at large. Furthermore, poor or harsh conditions of detention may constitute cruel, inhuman or degrading treatment or torture. The Special Rapporteur on torture has noted that:

*Overcrowding gives rise to other human rights violations such as poor quality and quantity of food, poor hygiene, lack of adequate sleeping accommodation, insufficient air ventilation, a high risk of contamination of diseases, as well as very limited access to medical treatment, recreational activities or work opportunities... These conditions constitute in themselves a form of cruel, inhuman and degrading treatment.*<sup>137</sup>

Rule 13 of the Mandela Rules states: “All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.”<sup>138</sup>

Rule 21 states that detainees must be provided with separate beds and clean bedding.<sup>139</sup> Yet people formerly detained in drug detention centres consistently described conditions which were so cramped that it was impossible to sleep on one’s back on the floor of the cell. Instead, detainees squash together on their sides, or have to sleep in shifts. Conditions are exacerbated by a lack of ventilation, with many former detainees describing hot, windowless cells infested with mosquitoes.

Sreytouch, a sex worker who was detained for five months in 2019, described the severe overcrowding at Orkas Khnom:

*Sleeping was so difficult there because there was never enough space to sleep. Sixty people were in my small room and it was so tight, we could not even move or lie down flat when we were sleeping. We had to press against each other on our sides.*<sup>140</sup>

Ratha, who was detained in Prey Speu in 2017, described similarly cramped conditions:

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<sup>132</sup> Amnesty International interview with Naran, Phnom Penh, 3 December 2019.

<sup>133</sup> UNODC, World Drug Report 2018, Executive Summary, p. 21.

<sup>134</sup> Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, United Nations General Assembly, 2010, UN Doc. A/65/255, para. 52.

<sup>135</sup> Article 10(1) of the ICCPR sets out the general obligation for the humane treatment of persons deprived of liberty: “All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.”

<sup>136</sup> HRC General Comment 21, §4.

<sup>137</sup> UN News Centre, “Independent UN expert urges Ghana to re-think criminal justice, mental health practices,” 18 November 2013. See also SPT Fourth Annual Report, UN Doc. CAT/C/46/2 (2011) §52.

<sup>138</sup> Nelson Mandela rules for the treatment of prisoners, Rule 13.

<sup>139</sup> Ibid, Rule 21.

<sup>140</sup> Amnesty International interview with Sreytouch, Phnom Penh, 3 December 2019.

*It was so hard to live in Prey Speu, and so hard to eat there. It was so crowded. I was there for six months and I never, ever got a proper sleep. I had to sleep in front of the toilet for about 20 days, with so many mosquitoes always biting. People would kick me when they passed by. The smell was so horrible ... In there, I felt that I was in hell. Trying to endure the beatings, the food, the overcrowding, it was completely unbearable. Even if I used the bathroom too long, they would scream at me.<sup>141</sup>*

People interviewed by Amnesty International described being confined to their extremely cramped cells for 22 to 24 hours per day. While most people said they were allowed outside for one to two hours daily at mealtimes, others described being forced to eat in their rooms, and only being allowed outside their cells if they paid money to their “room leaders.”

Accounts of exercise periods were similarly uneven. While some detainees had three one-hour periods of exercise outside their cell per week, others — particularly when overcrowding deteriorated as the anti-drug campaign progressed — described minimal exercise, and always within the confines of their cells.

Those interviewed by the organization described a governance regime in which corruption was central to the allocation of relative ‘privileges’ within compulsory drug detention centres. Bribes and “gifts” to centre staff and “room leaders” can secure more sleeping space, better nutrition, protection from violence, and even early release.

The overall impact of this overcrowding, combined with other inhumane conditions of detention constitutes cruel, inhuman or degrading treatment under international human rights law, and in some cases may amount to torture or other ill-treatment.

The conditions are so brutal that many detainees are physically and mentally traumatised by their experiences of mistreatment and abuse, which may in turn exacerbate drug dependence. Seyha, who spent six months in Orkas Khnom in 2017-2018, summed up the impact of these conditions: “*I felt like living there just made people worse. It’s so hard for people to eat, it makes people so mentally stressed. People who are pretty fine [going in] get mentally ill from being held in that place.*”<sup>142</sup>

***“At least it was better [at Orkas Khnom] than how I lived under Pol Pot. Yet under the Khmer Rouge, we were able to walk and sleep with more space compared to there. They have to sleep on the floor, on top of each other like pigs, on the hard floor with no blanket.”<sup>143</sup>***

*Sopheary, whose adult son is detained in Orkas Khnom.*

In addition to overcrowding, detainees suffer from a lack of sanitation and adequate healthcare in compulsory drug detention centres. According to international human rights standards, places of custody need to maintain proper standards of sanitation and hygiene to avoid disease. Rule 15 of the Mandela Rules states: “The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.”<sup>144</sup> Rule 16 calls for the provision of adequate bathing and shower installations and Rule 18(1) requires the provision of water for washing and of toilet articles.<sup>145</sup>

Many former detainees recounted to Amnesty International that they became ill while in detention as a result of overcrowding, unsanitary conditions, and poor nutrition, with skin conditions and stomach illnesses most prevalent. All of the former detainees who spoke to Amnesty International described the prevalence of these health problems, and the absence of appropriate medical care inside the centres. If detainees become ill, they can visit an on-site medical centre; however, the only medicine they are likely to receive is paracetamol.

<sup>141</sup> Amnesty International interview with Ratha, Phnom Penh, 21 November 2019.

<sup>142</sup> Amnesty International interview with Seyha, Phnom Penh, 4 December 2019.

<sup>143</sup> Amnesty International interview with Sopheary, Phnom Penh, 17 November 2019.

<sup>144</sup> Nelson Mandela rules for the treatment of prisoners, Rule 15.

<sup>145</sup> Ibid, Rules 16 and 18.

Pich, a sex worker detained in Orkas Khnom twice and Prey Speu once between 2017 and 2019, recalled her experience in Orkas Khnom:

*My skin became irritated and diseased in there. One person infected the next, until everyone in the room was infected. That skin disease made me feel really hot and cold at the same time. I had big sores on my skin that were so painful. I developed that problem in there early and it lasted until after I left. I still have the scars. Once I got out three months later, it started to get better ... All they ever gave us was paracetamol.<sup>146</sup>*

Some detainees blamed their skin problems on a lack of clean water and access to sanitation. As one former detainee said: “Most people in there had skin diseases because we couldn’t clean ourselves properly. When people are ill, [the authorities] don’t take them to the hospital unless they are extremely ill, or unless it’s too late.”<sup>147</sup>

Mony explained the long-term impact of the health problems she encountered in Prey Speu in 2018:

*I got serious skin irritation and lesions all over my body in there. By the time I left I could hardly walk, and my legs were very swollen ... It took me an entire year to be able to stand up and walk again, so I became a beggar.<sup>148</sup>*

People who spoke to Amnesty International also complained of inadequate food of poor quality which frequently made them ill. The food provided in compulsory drug detention centres had fatal consequences in late 2019. In December, two children detained in Banteay Meanchey’s Phnom Bak drug detention centre were reported to have died, and at least 150 more became ill after being poisoned by unwashed, pesticide-laden vegetables provided by the centre.<sup>149</sup>

The inhumane conditions of detention in compulsory drug detention centres, combined with enforced withdrawals and prevalent torture and other ill-treatment at the hands of room leaders and centre staff, leads many detainees to attempt to kill themselves.

Phanith, the room leader in Orkas Khnom, told Amnesty International that he frequently witnessed self-harm and attempted suicide by people detained in the centre. He recalled:

***“I saw around one person every week trying to kill themselves in there.***

***“Some people run into a wall with their head to try to die by suicide. Some bash their heads against the wall, others try to use towels to hang themselves ...***

***“I never wanted to come back there because I couldn’t bear to ever see those images again.”<sup>150</sup>***

<sup>146</sup> Amnesty International interview with Pich, Phnom Penh, 3 December 2019.

<sup>147</sup> Amnesty International interview with a man detained during anti-drug campaign, Phnom Penh, 4 December 2019.

<sup>148</sup> Amnesty International interview with Mony, Phnom Penh, 4 December 2019.

<sup>149</sup> Soth Komsoeun, “Pesticide-laden cucumbers’ kill two, poison 150 in Banteay Meanchey,” *Phnom Penh Post*, 6 December 2019, <https://www.phnompenhpost.com/national/pesticide-laden-cucumbers-kill-two-poison-150-banteay-meachey> (last accessed 20 April 2020).

<sup>150</sup> Amnesty International interview with Phanith, Phnom Penh, 21 November 2019.

# 4. CRIMINALISATION AND DENIAL OF FAIR TRIAL RIGHTS

***“If you have enough money, you will not get imprisoned for drugs.”***<sup>151</sup>

*Prisons expert, Phnom Penh.*

***“I believe there are many people like me who didn’t do wrong but got arrested anyway.”***<sup>152</sup>

*Kuy, who was arrested in a drugs raid in Phnom Penh.*



## CRIMINALISATION AND THE RIGHT TO HEALTH

For this report, Amnesty International directly documented 15 cases of people prosecuted for drug-related offences since the anti-drug campaign began in January 2017, including men, women, and children.<sup>153</sup> Amnesty International’s research contradicts the claims made by Cambodian drug policy officials in relation to the non-prosecution and detention of people simply for their use of drugs. In the vast majority of cases documented by Amnesty International, those imprisoned were either in possession of small quantities of drugs for personal use at the time of their arrest, or were wrongfully arrested despite not being found with any drugs at all.

As previously noted, Cambodia’s Law on Drug Control provides for a wide range of drug-related criminal offences, including the crime of “keeping” drugs (defined as possession), which carries a sentence of two to five years’ imprisonment, and up to ten years’ imprisonment in cases of repeat offending (Articles 40 and 48). Separately, the law criminalises the “unlawful consumption of narcotic substances” for individuals who have “already accepted compulsory treatment,” providing for penalties between one- and six-months’ imprisonment, or up to one year in cases of repeat offending (Articles 45 and 53).

The criminalisation of people who use drugs is a central pillar of the “war on drugs,” which has been proven to have a deleterious effect on the right to health, while failing in its primary mission of preventing the harms

<sup>151</sup> Amnesty International interview with a prisons expert, Phnom Penh, 10 December 2019.

<sup>152</sup> Amnesty International interview with Kuy, Phnom Penh, 18 November 2019.

<sup>153</sup> Throughout this report, “children” refers to persons under 18 years old.

associated with drugs. Both in Cambodia and globally, criminalisation has deterred people from seeking help with drug dependence and related health problems; it has led to riskier methods of drug use, which increases the risks in HIV infections and other diseases; and it has led to the proliferation of unsafe and harmful drugs being sold on the illicit market.

The Special Rapporteur on the right to health has commented in respect of criminalisation:

*The excessive use of imprisonment for drug-related offences of a minor nature is indeed ineffective in reducing recidivism, as well as having a disproportionate effect on the health and well-being of those arrested for minor offences. It also overburdens criminal justice systems, preventing them from efficiently coping with more serious crime. The provision of evidence-based treatment and care services to drug-using offenders, as an alternative to incarceration, has been shown to substantially increase recovery and reduce recidivism.*<sup>154</sup>

In order to comply with their obligation to protect and respect the right to health, Amnesty International calls on all states to end the criminalisation of, and punishment for, the use, possession and cultivation of all drugs for personal use. States must pay particular attention to the disproportionate impact on marginalised groups that are affected by the prohibition of the use of drugs in public spaces, including people who are homeless.

Decriminalisation policies should be accompanied by an expansion of health and other social services to address the risks related to drug use, which has demonstrated to have beneficial impacts on public health, public security and human rights. Law enforcement and judicial authorities should be adequately trained about new regulations related to decriminalisation to ensure people who use drugs are not arbitrarily detained simply for their use, possession or cultivation of drugs for personal use.



## DRUG CASES AND FAIR TRIAL RIGHTS: A PRESUMPTION OF GUILT

In every criminal case documented by Amnesty International, the accused person was convicted, and each described trials which violated the right to a fair trial. According to interviewee accounts, judges often treated accused persons as though their guilt was assumed, and in no instances were bail or other non-custodial alternatives to pre-trial detention utilised or even explicitly considered. None of those interviewed were made aware of their rights, and only two defendants were provided with free legal aid.

A fundamental principle of the right to fair trial is the right of everyone charged with a criminal offence to be presumed innocent until and unless proved guilty according to law after a fair trial.<sup>155</sup> The requirement that the accused be presumed innocent means that the burden of proving the charge rests on the prosecution. A court may not convict unless guilt has been proved beyond reasonable doubt.<sup>156</sup>

In the cases documented by Amnesty International, however, individuals were routinely convicted based on flimsy and inadequate evidence. Poor defendants often face quickfire trials in the absence of defence lawyers, in which trial judges flout the presumption of innocence and accept the content of dubious police reports as proven fact.

Many of the individuals interviewed by Amnesty International were prosecuted after testing positive for drugs when police subjected them to a compulsory urine testing. In some cases, forced urine testing even led to convictions for trafficking. 40-year-old Maly was arrested in Phnom Penh in March 2017 along with five others near her home when eight police officers arrived to conduct a drug raid. She told Amnesty International:

*I didn't have any ice at the time, but they took me to have a urine test. None of the five people I was with had any ice on them, but they all got taken to be tested at the [police] station and we all tested positive ... I asked the police why they arrested me and what mistake I had made. They said it's because I am a drug user ...*

<sup>154</sup> Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, United Nations General Assembly, 2010, UN Doc. A/65/255, para. 28.

<sup>155</sup> International Covenant on Civil and Political Rights (ICCPR), Article 14(2).

<sup>156</sup> Human Rights Committee (HRC) General Comment 32, §30.

*At the court, the judge charged me with drug trafficking. All of the five people were charged with trafficking even though we are all just drugs users. They are very poor people who could not possibly be drug traffickers because they could not even afford it ...*

*The police wrote a report that I was a drug trafficker and I got sent to prison. I did not understand why they charged me with this. I am so poor and don't even have money to buy food for my children. So how could I afford to buy these drugs to sell?<sup>157</sup>*

As previously noted, mandatory drug testing is an arbitrary interference with an individual's privacy.<sup>158</sup> Moreover, according to international best practice, threshold quantities to determine what is considered as "possession for personal use" intended to distinguish personal possession from other offences such as trafficking, should only be used to set minimum quantities below which a person cannot be prosecuted. Even if a person is found with a quantity that exceeds the threshold, it should not be assumed that a person can be charged with an offence for distribution or trafficking unless the intent to sell or distribute is proven.

Although the Cambodian authorities frequently claim that they only target drug traffickers in their anti-drug operations, people like Maly, who are poor and homeless and without the means to adequately defend the accusations against them, are often convicted of trafficking drugs. The devastating arrest left Maly's children hungry and alone:

*When they arrested me, my children were crying so much near the police truck, and they couldn't visit me because they were so young. I was crying so much because I felt pity for my children. I was concerned they would have no food to eat without me.*

Deprived of legal assistance and due process, Maly was sent to pre-trial detention, and ultimately convicted, without ever understanding the nature of the case against her:

*After staying at the prison for six months, they brought me to the court. I did not know why I was there. They did not explain anything – they only explained what was happening after I already got my sentence. The [trial] judge asked me the same questions again:*

*'Are you a drug trafficker? If you are not a trafficker, why does the police report say you are a drug trafficker?' I said I have no idea. All five of us said the same thing. The judge sent me to CC2 prison ... I spent two years and two months there.<sup>159</sup>*

The conduct of the police and the judge as described by Maly violates the right to be presumed innocent. The presumption of innocence requires that judges refrain from prejudging any case.<sup>160</sup> It also means that authorities, including prosecutors, police and government officials must not make statements indicating an opinion about the guilt of the accused before the conclusion of criminal proceedings, or following an acquittal.

In other cases, individuals reported being convicted despite not being found in possession of any drugs, and even in the absence of any drugs testing. With the odds stacked against any poor person who enters the criminal justice system, simply being in the wrong place at the wrong time, or being wrongfully accused by another person, can lead to years in prison.

36-year-old Kuy, who was arrested prior to the launch of the crackdown in February 2016, recalled his arrest to Amnesty International:

*I was sleeping at Tapaing Market, a place where there is a lot of drug use happening. People around there were selling ice while I was sleeping, but I didn't have any drugs at that time. The police came and arrested us and took us to the military police [gendarmierie] station in Tonle Bassaac, and then on to the court.<sup>161</sup>*

When he was taken to the Phnom Penh Municipal Court, one of the people who was arrested along with Kuy told the investigating judge that Kuy had not been selling drugs. Kuy was questioned for approximately five minutes in the absence of a lawyer. He explained: "We didn't have money, so we didn't have a lawyer. They told me I could look for a lawyer, but I didn't know where to look."

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<sup>157</sup> Amnesty International interview with Maly, Phnom Penh, 16 November 2019.

<sup>158</sup> UN General Assembly, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, August 2009, UN Doc. A/64/272, para 32.

<sup>159</sup> Amnesty International interview with Maly, Phnom Penh, 16 November 2019; Amnesty International interview with the sister of a woman detained during anti-drug campaign, Phnom Penh, 16 November 2019.

<sup>160</sup> *Telfner v Austria* (33501/96), European Court (2001) §§15, pp. 19-20.

<sup>161</sup> Amnesty International interview with Kuy, Phnom Penh, 18 November 2019.

***“If you know anyone who did something wrong, or you’re in the wrong place at the wrong time, you will get arrested... The judge charged me with drug trafficking, and I was sent to pre-trial detention in Prey Sar prison.”***

*Kuy, who was charged with drug trafficking.*

Kuy was charged with drug trafficking and sent to pre-trial detention in Phnom Penh’s CC1 men’s jail. At his trial six months later, he still didn’t have a lawyer. Kuy told Amnesty International that his trial lasted for less than ten minutes:

*They asked our names and read out the police report and asked us if it was true. I said I did not sell any drugs. There was a thirty-minute break and then they announced the verdict. It was guilty for all three people and the sentence was 2.5 years per person ...*

*They told us we could appeal, but I had no money for a lawyer. They told us we could find a lawyer from an NGO, but didn’t mention how or which one, so I didn’t know where to look.<sup>162</sup>*

While most of the individuals accused of drug offences interviewed by Amnesty International admitted to previously using drugs, several were accused and convicted despite claiming never to have used drugs at all. In some cases, people reported that they were tortured or otherwise ill-treated to extract a “confession,” as happened to Sreyneang:

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<sup>162</sup> Ibid.

## CASE STUDY: SREYNEANG

The criminalisation of people who use drugs can destroy lives, leading to difficulties in employment, housing and child rearing. 30-year-old mother Sreyneang told Amnesty International that she lost her home and her job as a garment worker after she was tortured, extorted, wrongfully convicted, and imprisoned along with her young son following her arrest during a raid in 2017.<sup>163</sup>

In May 2017, Sreyneang was at home with her two young children in Dangkao commune, where she rented a small room in a building housing mostly low-income garment and construction workers. A large group of police officers arrived outside and conducted a raid, arresting two men who lived upstairs. They then searched other rooms in the building. Sreyneang was the only neighbour home at the time. When they entered her room, the police arrested Sreyneang:

*"I tried to ask them why they were arresting me, and they told me they would tell me at the police station. There were absolutely no drugs in my house. I've never been a drug user and never even tried it. When they took me to the district police station, they even tested my urine [for drugs], and it tested negative."*

Along with the two men from upstairs, Sreyneang was taken to the local commune police station in Dangkao, where the police questioned her. She recalled:

*"They used a taser to electrocute me when they were questioning me, by shoving it into my side. I told them I just had a baby and asked them not to do it anymore, so they eventually stopped."*

*"They asked me how many times I sold drugs and when was the last time. I said I never sold any drugs and don't know anything about it. The police officer said If I didn't confess it, he would use the taser on me again."*

*"The taser was so painful and made me feel completely exhausted. I begged him not to do it again. Then he called a female police officer to come to question me. She used very bad words to me."*

*"She said: 'if you keep not answering me, I will pluck out your vaginal hair.'" When I kept denying, she said, "why do you still say you're not guilty? One of the two guys said he bought drugs from you!"*

Sreyneang told Amnesty International that she witnessed the other two men also being tortured by the police: *"The police used a stick to beat those two guys about five times each. The police officer kicked the leg of the guy's chair to knock one of them to the ground and then stamped on his head."*

The actions of the police as described by Sreyneang, both against herself and the men she was arrested alongside, amount to torture as defined under international human rights law, which is absolutely prohibited in all circumstances. "Confessions" extracted under torture must never be treated as admissible evidence in trials.

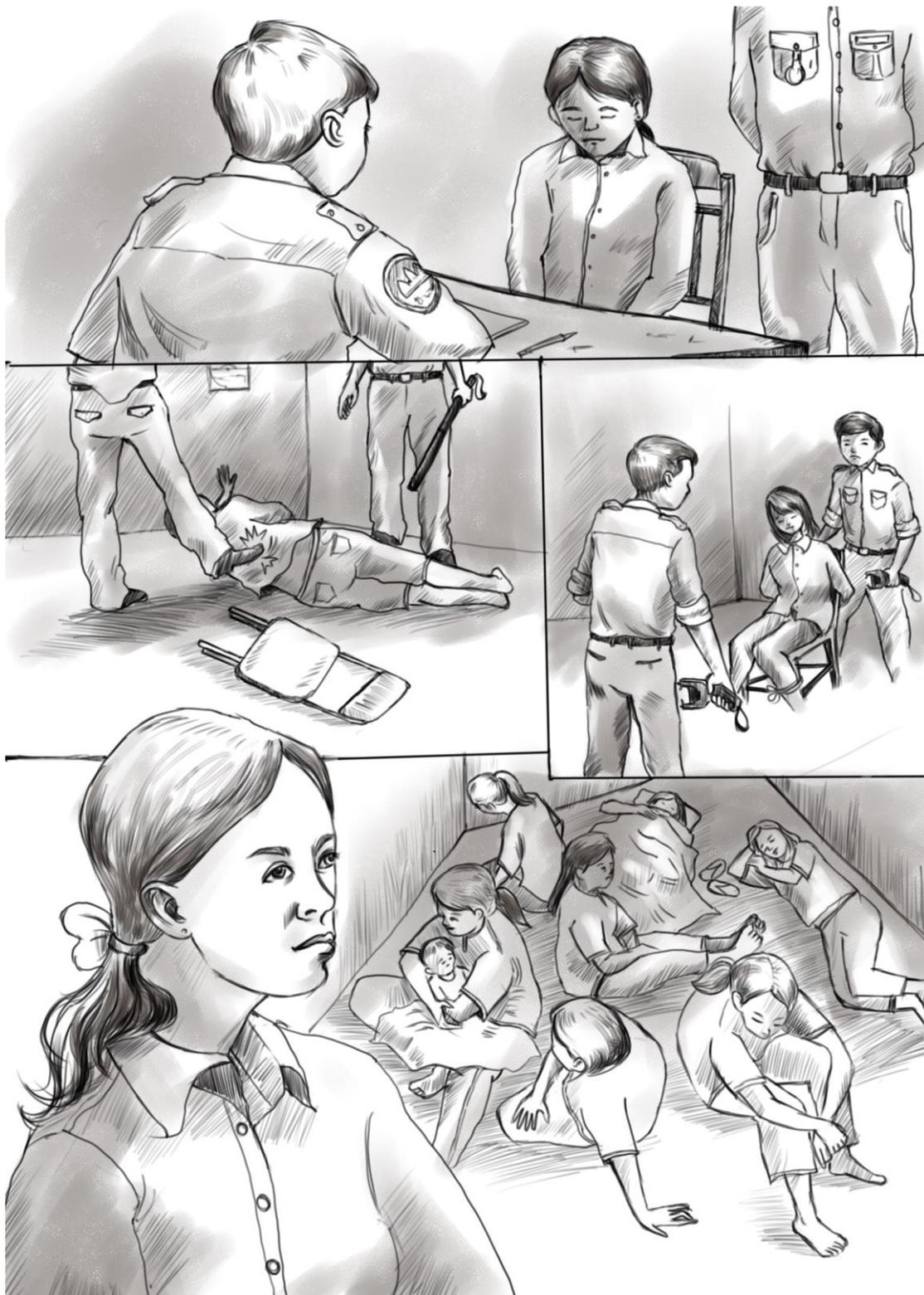
When Sreyneang's sister went to the police station to check on her, the police who arrested Sreyneang recommended a lawyer that could represent Sreyneang. Her sister arranged for the representation, paying him USD \$500. Yet Sreyneang was only permitted to meet with her lawyer for ten minutes before being questioned by the investigating judge at the Phnom Penh Municipal Court.

International human rights law requires that anyone accused of a criminal offence must have adequate time and facilities to prepare a defence.<sup>164</sup> This includes the amount of time an accused person is able to access their lawyer at all stages of the criminal process.<sup>165</sup>

<sup>163</sup> Amnesty International interview with Sreyneang, Phnom Penh, 22 November 2019.

<sup>164</sup> ICCPR, Article 14(3)(b).

<sup>165</sup> HRC General Comment 32, §32.



👁️ ↑ *An artist's impression of Sreyneang's story*

Sreyneang described the conduct of the investigating judge in her case:

*“At the court, I told the investigating judge that the police report was not true, and I told him that the police tortured me. He said he did not believe me. I spoke to [the investigating judge] for about twenty minutes and then they sent me to CC2. The lawyer was in the same room with me, but he didn’t say anything; he just sat there.*

*“I was then sent to CC2 prison ... I wasn’t given any documents. Nobody told me if I was accused or charged ... There was no mention of pre-trial detention or bail. Nothing at all ... After 6.5 months I was sent to the court again. They told me I was going for my trial on drug trafficking. I was surprised because I didn’t even know I was charged with drug trafficking.”*

The right to adequate time and facilities to prepare a defence requires all people charged with a criminal offence to be promptly informed in detail of the nature and cause of any charges against them.<sup>166</sup> When an individual is formally charged, they must be given detailed information about the law under which they are charged and the alleged material facts which form the basis of the accusation. The information must be sufficient and detailed enough to allow preparation of the defence.<sup>167</sup> Sreyneang described her trial:

*“During the trial ... the other guy admitted his crime and told the judge that I was totally innocent. He said I didn’t do anything, and he did it alone. He admitted that he only accused me because the police beat him very badly and he wanted it to stop. But the judge said he didn’t believe him and said that maybe we had made a deal together.”*

Sreyneang told Amnesty International that her allegation of torture was dismissed out of hand by the investigating judge in her case, and similar allegations by her co-accused were again summarily dismissed by the trial judge. The Cambodian authorities, including judicial authorities in criminal proceedings, have an obligation to launch a thorough, independent and impartial investigation into all credible allegations of torture.<sup>168</sup> Failure to adequately investigate such allegations violates Cambodia’s obligation to protect people from torture.

Fifteen days after her hearing, Sreyneang was again brought to court from pre-trial detention for her verdict announcement. She was found guilty and sentenced to 2.5 years imprisonment, along with the two co-accused. Her co-accused again protested Sreyneang’s innocence during the verdict announcement:

*“When we got this verdict, the other guy said, ‘why do we get the same punishment, I already told you that she is totally innocent! And she has small children!’ But they didn’t listen. I was crying a lot. I was thinking of committing suicide at that moment, taking pills. But then I just thought of my children, what would happen to them without me.”*

Sreyneang’s life has been turned upside down by her experience of the anti-drug campaign. After she went to prison, her husband of ten years divorced her. Since her release in November 2019, she has not been able to find work as a garment worker, partly because prison authorities confiscated her ID card and family book during her imprisonment, and never returned them. She lost her home, and she and her children now stay at her sister’s house in cramped conditions. She reflected:

*“My life is so difficult now. Some people don’t talk with me anymore and are not friendly with me because I went to jail. Some people pity me and pity my son. Some people give some money to help my children to eat something.”*

Failure to respect the right to be presumed innocent is also apparent in the high rates of pre-trial detention in Cambodia. As of April 2020, 42% of Cambodia’s 38,990 prisoners were detained awaiting the commencement of their trials.<sup>169</sup> In every criminal case documented by Amnesty International in which drug-related charges were brought, pre-trial detention was imposed without adequate consideration given to alternative, non-custodial pre-trial measures.

According to international human rights law, pre-trial detention must only be imposed when strictly necessary and as a measure of last resort.<sup>170</sup> Similar guarantees against arbitrary detention are provided for under Article 38 of the Cambodian Constitution and Article 203 of the Cambodian Code of Criminal

<sup>166</sup> ICCPR, Article 14(3)(a).

<sup>167</sup> HRC General Comment 32, §31.

<sup>168</sup> Committee Against Torture (CAT) General Comment 2, §18. See also report of the Special Rapporteur on torture, UN Doc. A/HRC/31/57 (2016), §§10-11.

<sup>169</sup> “The interior minister shows the number of prisoners in prison” [Khmer], Sabay News, 02 April 2020, <http://kleykley.sabay.com.kh/article/1199544> (last accessed 20 April 2020).

<sup>170</sup> HRC General Comment 35, paras. 36-38.

Procedure. The overuse of pre-trial detention in the Cambodian criminal justice system has received sustained criticism from international human rights mechanisms and civil society organizations.<sup>171</sup>

In some cases, all that may be required to secure a conviction is a false accusation by a complete stranger. Sixty-five-year-old Nary told Amnesty International of her strong anti-drug sentiments, and how she always sought to uphold the law. Her husband, who was incapacitated through illness, had been a police officer all of his life. Nonetheless, Nary was arrested after 10 police officers came to her house in March 2017 and asked if they could conduct a search. A young woman who lived nearby was arrested at the same time and was caught with a supply of methamphetamine. Nary recalled:

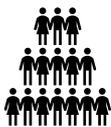
*After they finished searching, they wrote a report saying they checked this house and didn't find anything. Then they said that they wanted me to come to the Military Police station. They said they just wanted to talk to me because I was a witness, but then they kept me there overnight ...*

*They asked me if I ever hired a girl to sell drugs. I kept rejecting what they were saying. I said my husband is a police officer and I have my own work ... I don't know why, but the girl was released on the same day she was arrested. There were around 93 bags of drugs on that girl when they arrested her.*

*One police officer told me that another police officer told that girl to accuse me of being her supplier so she could get off ... I think she accused me because she is a dealer and she wanted to lie about me so that she could be free.<sup>172</sup>*

Despite vehemently maintaining her innocence, Nary was convicted and sentenced to two years' imprisonment for drug trafficking. Although the reasons why Nary's neighbour accused her are unknown, several individuals who were accused of trafficking reported to Amnesty International that they were told by the police that they would receive more lenient punishment if they identified their suppliers.

The cases documented by Amnesty International suggest a widespread failure to respect the right to be presumed innocent, among other fair trial rights, in drug-related cases that are prosecuted under Cambodia's anti-drug campaign. This is especially the case when individuals from poor or otherwise marginalised communities are accused and sentenced under Cambodia's drug laws.



## SQUALID AND OVERCROWDED PRISONS

People who are criminalised under Cambodia's anti-drug campaign are likely to be placed in one of the country's 28 squalid and dangerously overcrowded prisons. As of April 2020, 56.9% of all prisoners in Cambodia were held on drug-related charges and over 60% of pre-trial detainees were detained on drug-related charges.<sup>173</sup> Overcrowding in Cambodian prisons has reached unprecedented levels. In early 2020, the population of CC1 exceeded 9,500 prisoners – 463% of its maximum capacity of 2,050. This staggering level of overcrowding led the prison to announce in early 2020 that it could no longer receive any more pre-trial detainees.<sup>174</sup>

People formerly held in Cambodian jails described extreme overcrowding in hot, humid, and dirty cells lacking any beds or bedding, often holding hundreds of people. Some cells in Phnom Penh's Prey Sar jail were reported to house up to 530 prisoners.<sup>175</sup> Due to the severity of overcrowding, prisoners can barely move during the 22 to 24 hours they spend inside their cells each day. At night, prisoners are forced to sleep

<sup>171</sup> LICADHO, "Time for Bail: Ending Needless Mass Detention," October 2018, [http://www.licadho-cambodia.org/reports/files/227Time%20for%20Bail\\_Ending%20Needless%20Mass%20Detention\\_fin.pdf](http://www.licadho-cambodia.org/reports/files/227Time%20for%20Bail_Ending%20Needless%20Mass%20Detention_fin.pdf) (last accessed 20 April 2020); CCHR, "Fair Trial Rights in Cambodia Monitoring at the Court of Appeal Annual Report (1 November 2017-31 October 2018), October 2019, [https://cchrcambodia.org/admin/media/report/report/english/CCHR%20Report%20on%20Fair%20Trial%20Rights\\_%202017-2018\\_ENG.pdf](https://cchrcambodia.org/admin/media/report/report/english/CCHR%20Report%20on%20Fair%20Trial%20Rights_%202017-2018_ENG.pdf) (last accessed 20 April 2020).

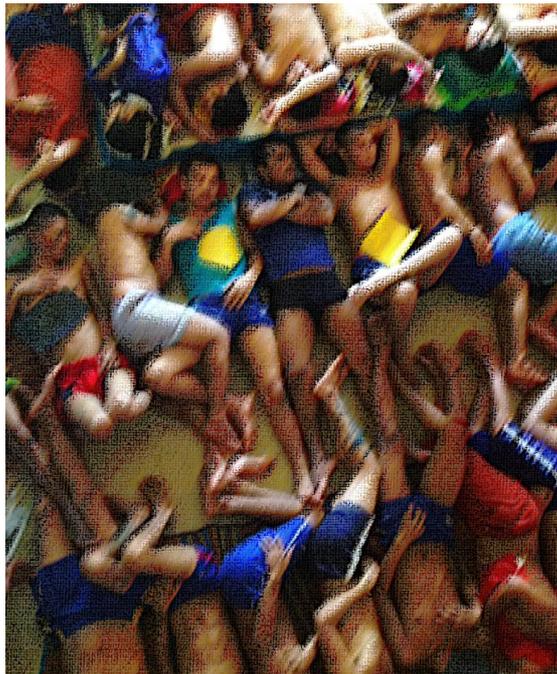
<sup>172</sup> Amnesty International interview with Nary, Phnom Penh, 8 December 2019.

<sup>173</sup> Khuon Narim, "New Justice Minister vows reforms and speedier trial procedures," Khmer Times, 02 April 2020, <https://www.khmertimeskh.com/708544/new-justice-minister-vows-reforms-and-speedier-trial-procedures/> (last accessed 20 April 2020); "The interior minister shows the number of prisoners in prison" [Khmer], Sabay News, 02 April 2020, <http://kleykley.sabay.com.kh/article/1199544> (last accessed 20 April 2020).

<sup>174</sup> Niem Chheng, "Prey Sar prison no longer accepting pre-trial detainees to ease burden," Phnom Penh Post, 20 January 2020, <https://www.phnompenhpost.com/national/prey-sar-prison-no-longer-accepting-pre-trial-detainees-ease-burden> (last accessed 20 April 2020).

<sup>175</sup> Amnesty International telephone interview with a man detained during anti-drug campaign, 16 April 2020.

on hard concrete floors without bedding, often while pressing up against other prisoners and unable to straighten their legs.



©↑ A men's cell in Phnom Penh's Prey Sar prison, 2018

Former prisoners told Amnesty International of the significant impact overcrowding had on their physical and mental health. Invariably, corruption played a central role in determining who could obtain privileges in prison. One former prisoner summed up the situation succinctly: “If you have no money, you have no respect, no place to sleep, no food to eat. It's so terrible.”<sup>177</sup>

Thirty-five-year-old Soth described the squalid environment he was forced to sleep in following his incarceration in CC1 in late 2017:

*Living in that room was so difficult. Because I had no money, I had to sleep in the bathroom, where it was so hard to sleep. I could only try to get to sleep after everyone used the toilet and washing facilities at around one a.m., and we had to wake up at four or five a.m. ... It was so hot and there was no air. The smell was so disgusting, and it was so dirty sometimes ... There were 130 people in my cell. I always had to sleep on my side because it was so squashed.*<sup>178</sup>

These conditions clearly violate the Nelson Mandela rules for the treatment of prisoners, which state: “accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation,”<sup>179</sup> and that detainees must be provided with separate beds and clean bedding.<sup>180</sup>

In addition to the issues caused by overcrowding, prisoners' rights to adequate healthcare are being violated by poor healthcare services and inadequate food lacking in nutrition. In Prey Sar (encompassing CC1 and CC2), prisoners receive only two meagre meals per day. Many complained that the food lacked in nutrition and caused them to be sick. According to the Mandela Rules, “food of nutritional value adequate for health and strength, of wholesome quality” must be provided to all prisoners, yet former prisoners consistently described prison food which failed to meet these standards.<sup>181</sup>

Almost all of the former prisoners interviewed by Amnesty International developed some form of health problems as a result of overcrowding, malnutrition or poor sanitation. Most commonly, former prisoners

Food lacks in nutrition, illness is rife, and healthcare services are negligible in Cambodia's prisons. The conditions described violate a variety of prisoners' human rights, often constituting cruel, inhuman or degrading treatment as defined under international human rights law. Urgent action is required on the part of the Cambodian authorities to ensure that overcrowding is addressed, and that prisoners' human rights are respected.

People held in CC1 men's prison reported especially severe issues related to overcrowding. 36-year-old Kuy told Amnesty International how the problems got steadily worse as the anti-drug campaign progressed:

*I saw a huge increase in the numbers of prisoners and overcrowding during my time in CC1. For every three people being released, there were fifteen people arriving. It started from late 2016. There were so many more people when I left compared to my arrival.*<sup>176</sup>

<sup>176</sup> Amnesty International interview with Kuy, Phnom Penh, 18 November 2019.

<sup>177</sup> Amnesty International interview with a human rights defender detained during anti-drug campaign, Phnom Penh, 24 November 2019.

<sup>178</sup> Amnesty International interview with Soth, Phnom Penh, 18 November 2019.

<sup>179</sup> Nelson Mandela rules for the treatment of prisoners, Rule 13.

<sup>180</sup> Ibid, Rule 21.

<sup>181</sup> Ibid, Rule 22.

reported serious skin problems, with itchy and painful lesions appearing all over their bodies. Chamroeun, who was held for 2.5 years at CC1 prison described his living conditions:

*With 52 people in my small cell, I could not sleep and could hardly move. I developed terrible skin problems all over my body and my body was swelling up, because the food had no nutrition at all. It was so difficult to eat.*<sup>182</sup>

Many former prisoners described the maddening itch of living with untreated scabies, which persisted throughout their period of imprisonment. Others developed skin problems that were never diagnosed or identified. Vuthy (pictured) was imprisoned in CC2 as a 14-year-old. He recalled: *My skin became covered with sores when I was there. I still have the scars. It was because the cell we lived in was not clean. Most people in my cell had these skin problems.*<sup>183</sup>



All of the former prisoners interviewed by Amnesty International described similarly unsanitary conditions in which people regularly became ill as a result of poor sanitation. These conditions violate Cambodia's obligation to ensure that prisoners are held in sanitary conditions and provided with enough water and sanitary products to ensure their good health and cleanliness.<sup>184</sup>

☺↑ Vuthy showed the scars on his leg to Amnesty International, 9 December 2019.

The right to health applies to everyone equally, and people deprived of their liberty must have access to healthcare services equal to those available in the wider community.<sup>185</sup> However, Amnesty International repeatedly heard that prisoners who sought medical assistance for their illnesses only ever received paracetamol, regardless of the nature and seriousness of their medical complaints. Vibol, who was jailed in CC2 prison, said, *whatever disease we have, they only offer us paracetamol. If I have fever, cold, stomach ache, whatever, it's always paracetamol.*<sup>186</sup>

One man described the lethal consequences of the inadequate medical care provided in CC1 prison after he saw another inmate die due to medical neglect in July 2018:

*His cellmates had been shouting at the guards to help for over one hour because [the man] was having difficulty breathing, but they did nothing. It was a manageable issue which could have easily been medicated – a doctor [imprisoned] in his cell said so afterwards.*

*When the guards came, they did nothing to help him. They just left his dead body on the ground outside my cell for one hour. Then they took him to the hospital. We were told two hours later that he had died in the hospital. It was clearly a lie.*<sup>187</sup>

All of the former prisoners interviewed by Amnesty International described widespread corruption within the prison system that had a significant impact on the severity of the conditions faced by inmates. Former prisoners detailed corruption involving prison staff which led to entrenched inequality between richer and poorer inmates.

Former prisoners detailed how the overcrowding crisis has become particularly lucrative for prison staff, with sleeping space, time outdoors, adequate food, family visits, and other rights and privileges being commodified at a premium. One child prisoner told Amnesty International, *“If we ever wanted to get out to see the sky, we had to pay 5,000 riel each time.”*<sup>188</sup>

<sup>182</sup> Amnesty International interview with Chamroeun, Phnom Penh, 18 November 2019.

<sup>183</sup> Amnesty International interview with Vuthy, Phnom Penh, 9 December 2019.

<sup>184</sup> Nelson Mandela rules for the treatment of prisoners, Rule 18.

<sup>185</sup> Ibid, Rule 24.

<sup>186</sup> Amnesty International interview with Vibol, Phnom Penh, 16 November 2019.

<sup>187</sup> Amnesty International telephone interview with a man detained during anti-drug campaign, 16 April 2020.

<sup>188</sup> Amnesty International interview with a boy detained during anti-drug campaign, Phnom Penh, 9 December 2019.

With 22,176 prisoners in Cambodia currently held on drug-related charges – 57% of the prison population – Cambodia’s anti-drug campaign is by far the biggest contributor to the overcrowding and conditions amounting to cruel, inhuman or degrading treatment suffered by people in Cambodian prisons. These conditions are utterly unjustifiable under international human rights law and underline the grave human rights consequences of this anti-drug campaign.



## CORRUPTION AND FAIR TRIAL RIGHTS

At all stages of the criminal justice process – including arrest, initial detention, creation of the police report, the selection of charges, at trial, in sentencing, and in prisons – individuals accused of drug-related offences are faced with endemic corruption implicating police, lawyers, and judges, which serves to negate the presumption of innocence and trample on fair trial rights.

Accused persons are often subject to extortion by the police soon after their arrest in exchange for favourable alterations to the initial police report on their case. Accused persons and their families, even when they are innocent of the accusations against them, often comply with these extortion attempts due to a lack of faith in just outcomes through the legal process. Vorn, the sister of a woman who was accused of drug trafficking in 2017, recalled:

*When my sister was at the district police station, one officer told me that if I gave \$100 to him, he would change my sister’s police report. The next day, I came back gave him \$100. He didn’t mention what he would change in the report, but he said he would make the case lighter after it gets sent to court.<sup>189</sup>*

Police reports are often determinative in the outcome of criminal trials in Cambodia. As such, changes to police reports can serve to exonerate certain individuals, or in some cases, change the nature of the offences. Chantha, the elder sister of 16-year-old Narin, told Amnesty International:

*After we got a call from [Narin], the next morning I went with my dad to visit Chroy Chrangvar district police station, where they were detained. The police who arrested my brother told me that if I wanted my brother to be released, I would have to pay around \$1,500.<sup>190</sup>*

Chantha further described how the police sought to capitalise on the overcrowding crisis in Cambodia’s prisons:

*They said if we cannot afford it [\$1,500], we should pay around \$500 for him not to be sent to Prey Sar prison in Phnom Penh, but instead he could have better conditions at the prison in Takhmao in Kandal province.*

*They told us if we don’t have money, the child is going to be sent to Prey Sar, and it’s going to be very difficult for him there. But I couldn’t afford this, and neither could my dad. Every time my dad came to visit my brother, he fainted because he was so scared of those police.<sup>191</sup>*

People accused of drug offences face extortion at more than one point in the criminal justice process. Besides their initial arrest, they may be asked to make payments to the trial judge in their case. One former prisoner from the Koh Kong provincial jail described regularly seeing his fellow inmates negotiating the prices for their release via various interlocutors. He recalled:

*In Khmer we call it “luy rutgaa” [commission money] – it’s the process of getting out of jail by paying bribes. First you have to talk with the police at the prison, then the police talk to the judge at the court. If it’s a big [drugs] case, the cost will be between US \$6 – \$20k.*

*There is a fixed price for different crimes. If you pay the money, your time is cut down. You might get three years sentence and 2.5 years suspended. You always have to pay money for [suspended sentences] in drugs cases.<sup>192</sup>*

In practice, the corruption prevalent in the policing and prosecution of drugs offences in Cambodia serves to discriminate against the poor. Those who can afford to pay may secure their freedom, or at least lighter

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<sup>189</sup> Amnesty International interview with Vorn, Phnom Penh, 22 November 2019.

<sup>190</sup> Amnesty International interview with Chantha, Phnom Penh, 6 December 2019.

<sup>191</sup> Ibid.

<sup>192</sup> Amnesty International interview with a human rights defender detained during anti-drug campaign, Phnom Penh, 24 November 2019.

punishment, whereas people without financial means are left to struggle against a legal system that consistently fails to respect their fair trial rights, including the presumption of innocence. Corruption in the criminal justice system is central to the inequalities which characterise the anti-drug campaign, ensuring that only the poor end up bearing the brunt of anti-drug efforts. As one prisons expert told Amnesty International, *“If you have money, you will not get imprisoned for drugs.”*<sup>193</sup>

The existence of corruption among anti-drug police was apparently recognized by deputy commissioner of national police Mok Chito in June 2019, when he reportedly told a gathering of anti-drug police, *“Being anti-drug law enforcement officers makes it easy for you to get involved with drug crimes ... You need to be moral and professional in the implementation of your work.”*<sup>194</sup>

Rith, who was ultimately detained in Prey Speu in 2017, recounted being extorted to pay money in order to be sent to a drug detention centre rather than prosecuted:

*They took us to the Phnom Penh Military Police station around Veng Sreng street. I requested if I could call my family so they could bring me food, but [the military police] asked my family for money in order to have me released. My family was poor and in a desperate situation, though, so we couldn't afford it.*

*The [military police] then talked to us four who were arrested together and said if our families have money to give them – \$200 each – we would be sent to Prey Speu for six months. But if they didn't pay, we would be sent to CC1 and convicted as drug traffickers.*<sup>195</sup>

The discriminatory impact of corruption in the anti-drug campaign on poor people is also visible in the practice of sentence reductions and pardons for people who are already serving their sentences. Sentence reductions and pardons are a long-running tradition in Cambodia, usually occurring three times per year to coincide with major national holidays. The pardons and sentence reductions are granted by request of the Prime Minister to the King, and are supposed to meet a range of criteria which are decided by the Prime Minister. People accused of having committed violent crimes or selling drugs are generally not considered. However, the system of annual pardons has been the subject of sustained criticism on grounds of alleged corruption in the determination of eligible beneficiaries.<sup>196</sup>

One prisons expert told Amnesty International that despite official policy, people accused of drug trafficking routinely bribe their way out of prison:

*If you can pay the required fee to prison staff, your name can be included in the annual pardons and sentence reductions by Hun Sen and the King. Especially the rich and drug traffickers - those who can pay enough money - they can get their names on the list every year.*<sup>197</sup>

Nary, the 65-year-old woman imprisoned in Phnom Penh's CC2 jail, told Amnesty International about her first-hand experience of paying her way into a sentence reduction, despite being imprisoned on trafficking charges:

*I felt so happy when the guard told me I could be released soon. But the guard said, 'If I can get you released, how much money will you give me?' I said I could get her \$100. Then two days before my release, she came to take this money off me, and I got released.*<sup>198</sup>

Experts interviewed by Amnesty International spoke of a general perception among judges and police alike in Cambodia that people accused of drug offences are particularly lucrative targets for extortion.<sup>199</sup> While corruption has long plagued the Cambodian courts, the anti-drug campaign has exacerbated existing

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<sup>193</sup> Amnesty International interview with a prisons expert, Phnom Penh, 10 December 2019.

<sup>194</sup> Ben Sokhean, “Don't collude with dealers: Mok Chito,” *The Khmer Times*, 16 July 2019, <https://www.khmertimeskh.com/50624154/dont-collude-with-dealers-mok-chito> (last accessed 20 April 2020).

<sup>195</sup> Amnesty International interview with Rith, Phnom Penh, 6 December 2019.

<sup>196</sup> See May Titthara and Stuart White, “Officials accused of taking bribes for royal pardons,” *Phnom Penh Post*, 31 January 2013, <https://www.phnompenhpost.com/national/officials-accused-taking-bribes-royal-pardons> (last accessed 20 April 2020); May Titthara, “Pardons given to 70,” *Phnom Penh Post*, 8 April 2014, <https://www.phnompenhpost.com/national/pardons-given-70> (last accessed 20 April 2020); May Titthara, “Prisoner to Receive Pardons,” *Phnom Penh Post*, 12 May 2014, <https://www.phnompenhpost.com/national/prisoners-receive-pardons> (last accessed 20 April 2020); David Boyle, “Royal pardons ‘undermined’ child sex abuse fight,” *Phnom Penh Post*, 21 June 2012, <https://www.phnompenhpost.com/national/royal-pardons-%E2%80%98undermined%E2%80%99-child-sex-abuse-fight> (last accessed 20 April 2020); Niem Chheng, “Violent criminals among pardonees,” *Phnom Penh Post*, 8 December 2017, <https://www.phnompenhpost.com/national/violent-criminals-among-pardonees> (last accessed 20 April 2020).

<sup>197</sup> Amnesty International interview with a prisons expert, Phnom Penh, 10 December 2019.

<sup>198</sup> Amnesty International interview with Nary, Phnom Penh, 8 December 2019.

<sup>199</sup> Amnesty International interview with a prisons expert, Phnom Penh, 10 December 2019; Amnesty International interview with a lawyer, Phnom Penh, 5 December 2019.

problems.<sup>200</sup> The failure to meaningfully tackle corruption in the police and judicial system in turn provides a financial incentive to police and judges to enthusiastically enforce the anti-drug campaign for their own enrichment, with grave consequences for the rights of poor people who find themselves subject to criminal prosecution.



## FAILURES OF LEGAL ASSISTANCE IN DRUG-RELATED CASES

Many of the fair trial rights violations experienced by accused persons in drug-related prosecutions, particularly those living in poverty, are compounded by the inadequate provision of free legal aid and the poor quality of legal representation available. Of the 15 criminal cases documented by Amnesty International, only two people were provided with free legal aid, including one child and one adult. As a lawyer told Amnesty International:

*A poor person charged with a drugs offence has a slim chance of a fair trial in Cambodia. They are poor, so they won't have a private lawyer. They generally don't know the law, and they could have been tortured, forced to confess, or abused by law enforcement officers.*

*They are at a very high risk of being victimised by the justice system. When I represent my clients at trials, I see many issues related to the presumption of innocence. Questions tend to be framed in a way that those people are already deemed guilty and they should confess if they want lighter sentences.<sup>201</sup>*

Under current law, free legal aid is only available to adults in felony cases (in which the defendant faces more than five years' imprisonment) whereas free legal aid is available to children in both felony and misdemeanour cases.<sup>202</sup> This means that the vast majority of people living in poverty who cannot afford a lawyer of their choosing are deprived of free legal assistance. A lawyer told Amnesty International:

*In misdemeanour cases, there is no legal requirement for courts to ensure that the defendant has a lawyer. But that's a big problem in Cambodia, because so many people who are charged with misdemeanours have their fair trial rights violated. Some people get tortured to 'confess,' so without a lawyer, they are in so much danger.<sup>203</sup>*

Sopheap, 38, was arrested in a drugs raid on the basis of being found with drug paraphernalia and testing positive in a forced drugs test. She was sentenced to two years' imprisonment in the absence of a defence lawyer. She recounted:

*We had no lawyer during police questioning or in court, and there was no mention of any rights to legal assistance at any stage. They asked us if we have a lawyer and I said no. So, they asked if we had a lawyer from an NGO, we said no ... They didn't say anything about getting a free lawyer ...*

*At the Phnom Penh court, they said we were accused of using drugs. The judge read a [police] report when we were in the court and he asked if I accept my mistake. I said it was true that I used drugs so I accept my mistake ... Then he said they would not ask any more questions because we had pleaded guilty. Then he sent us to the jail.<sup>204</sup>*

Even in cases where defendants do manage to obtain legal assistance, the conduct of lawyers is often problematic, and the quality of legal assistance is often poor. The payment of bribes to trial judges by defendants in drug prosecutions is regularly facilitated by lawyers. A lawyer who spoke to Amnesty International explained:

*Lawyers and judges have long-term relationships with each other, and they build trust together. It's pretty common for judges to seek out trusted lawyers to seek corrupt payments from defendants to*

<sup>200</sup> On corruption in the Cambodian judicial system, see Kheang Un, "The Judicial System and Democratization in Post-Conflict Cambodia," in Ojendal and Lilja (eds.), *Beyond Democracy in Cambodia: Political Reconstruction in a Post-Conflict Society*, 2009; Human Rights Committee, Concluding observations on the second periodic report of Cambodia, April 2015, UN Doc. CCPR/C/KHM/CO/2, para. 20; Report of the Special Rapporteur on the Situation of Human Rights in Cambodia, September 2019, UN Doc. A/HRC/42/60, para. 58.

<sup>201</sup> Amnesty International interview with a lawyer, Phnom Penh, 5 December 2019.

<sup>202</sup> Article 46, Criminal Code of the Kingdom of Cambodia; Article 301, Code of Criminal Procedure of the Kingdom of Cambodia.

<sup>203</sup> Amnesty International interview with a lawyer, Phnom Penh, 5 December 2019.

<sup>204</sup> Amnesty International interview with Sopheap, Phnom Penh, 16 November 2019.

*lessen their sentence or charge. That is why we need to strengthen the integrity and independence of lawyers.*<sup>205</sup>

Prime Minister Hun Sen has personally criticised widespread corruption in the legal system and urged the Bar Council of the Kingdom of Cambodia (BAKC) to take disciplinary measures against corrupt lawyers.<sup>206</sup>

The corruption of lawyers and judges undermines the right to be tried by an independent and impartial tribunal, which requires that judges have “no interest or stake in the particular case, do not have pre-formed opinions about it, and do not act in ways that promote the interests of one of the parties.”<sup>207</sup> Nary, a 65-year-old woman, told Amnesty International that even though she was the victim of a baseless accusation, she felt she had no option but to pay a bribe to the court, which was facilitated by her private lawyer:

*My son paid \$2,000 for me so that I would get a lighter sentence. The second lawyer we hired told us to do so. That money went to the judge. I thought about appealing my conviction but felt there was no point. We already spent \$2,000 to get a lighter sentence, and appealing would be so expensive. I did not think there was any chance the court would let me free anyway.*<sup>208</sup>

In several cases documented by Amnesty International, defence lawyers sought to facilitate the payment of bribes to judges in the course of their representation in order to receive lighter sentences.

***“The court gave me a lawyer and that lawyer said to me, if you want to receive less punishment, you have to pay money to the court. I knew myself I could not afford this, so I didn’t bother to ask how much.”***<sup>209</sup>

*Chamroeun, who was arrested in mid-2017, was given free legal aid and assigned a lawyer ahead of his trial.*

The Cambodian Ministry of Justice is currently working on a new draft policy on legal aid, aimed at filling current gaps in the current provision of legal aid. It is unclear, however, whether the policy will seek to provide free legal aid to individuals accused of misdemeanours who cannot afford a lawyer of their choosing.

<sup>205</sup> Amnesty International interview with a lawyer, Phnom Penh, 5 December 2019.

<sup>206</sup> Niem Chheng, “Bar association takes on corruption among lawyers,” *Phnom Penh Post*, 1 September 2019, <https://www.phnompenhpost.com/national/bar-association-takes-corruption-among-lawyers> (last accessed 20 April 2020); Ben Sokhean, “Hun Sen keen to eradicate judicial corruption,” *Khmer Times*, 29 August 2019, <https://www.khmertimeskh.com/50638116/hun-sen-keen-to-eradicate-judicial-corruption> (last accessed 20 April 2020).

<sup>207</sup> Principle 2 of the Bangalore Principles; *Karttunen v Finland*, HRC, UN Doc. CCPR/C/46/D/387/1989 (1992) §7.2.

<sup>208</sup> Amnesty International interview with Nary, Phnom Penh, 8 December 2019.

<sup>209</sup> Amnesty International interview with Chamroeun, Phnom Penh, 18 November 2019.

# 4. IN THE MARGINS: DISCRIMINATORY IMPACT ON AT-RISK GROUPS



## CRIMINALISATION & WOMEN'S RIGHTS

*“When I was at the district police station, they were so cruel to my son ... They said if I wanted to breastfeed, I had to pay them.”*

Sreyneang, Phnom Penh, 16 November 2019.



 ↑ *An artist's impression of women arrested under the anti-drug campaign*

Cambodia's anti-drug campaign is having a disproportionate impact on women. While 57% of all prisoners in Cambodia are held on drug-related charges, 73% of all women prisoners are imprisoned on drug-related

charges.<sup>210</sup> Women, especially those who live in poverty, disproportionately engage in the drug trade as couriers or other low-ranking, low-paying, high-risk positions in the drug trade supply chain, making them especially at risk of prosecution. Global research shows that the vast majority of women arrested and detained for drug-related offences have not committed a violent crime and are first-time offenders.<sup>211</sup>

The right to equality and non-discrimination is protected under international law, from which several obligations arise.<sup>212</sup> The principle of non-discrimination requires as well that states take into account and address any disparate impact of criminal drug law enforcement on women.<sup>213</sup>

Amnesty International interviewed 11 women who were detained under the anti-drug campaign, including six who were sent to drug detention centres and five who were prosecuted. Among those prosecuted, four were convicted for trafficking, while one was convicted for 'using' drugs. In none of the accounts told to Amnesty International did the trial judge explicitly consider non-custodial sentences.

Among those convicted, four stated that they were not in possession of any drugs when they were arrested; two of these women were convicted based on forced urine testing, and two told Amnesty International that they were arrested as bystanders in drugs raids despite never having possessed or used drugs. All five trials described to Amnesty International violated the fair trial rights of the accused women by failing to meet evidentiary standards and violating the right to the presumption of innocence.

All five women, three of whom were imprisoned alongside their infant children, described harrowing prison conditions that severely impacted their physical and mental well-being, and that of their young children.

Sopheap, who served over two years for trafficking in CC2 women's facility in Phnom Penh, described her cell:

*The cell had around 160 people inside. We slept like the Cambodian smoked fish on a stick. Back and forth, crossing one another, and so tight to each other ... The cell was about 15 x 2 metres. We had to sleep on our sides because there was no space to lie down. This was normal for a women's room ...*

*If you have money you have a better and bigger space in the same cell. It cost around \$100-200 for a good space. I paid \$100 to give to the room leader, who gave it to the official in the prison to pay for more space. This made me able to sleep on my back instead of on my side. And it enabled me to straighten my legs.<sup>214</sup>*

Cambodian law allows for the imprisonment of children along with their mothers until they reach three years of age. The anti-drug campaign has led to significant increases in the numbers of mothers held in detention with their children. In the 18 prisons monitored by LICADHO, a Cambodian human rights NGO, the number of infants imprisoned increased from 30 at the end of 2015 to 138 in mid-2018.<sup>215</sup> By February 2019, 170 mothers with children and 51 pregnant women were reported to reside in Cambodia's prisons.<sup>216</sup>

In recognition of the particular needs of women prisoners, the UN Rules for the Treatment of Women Prisoners (Bangkok Rules) state that the principle of non-discrimination requires states to address the particular challenges that women confront in the criminal justice and penitentiary systems, which includes the need to provide adequate services for women who use drugs in prison or other forms of detention.<sup>217</sup>

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<sup>210</sup> Khuon Narim, "New Justice Minister vows reforms and speedier trial procedures," Khmer Times, 02 April 2020, <https://www.khmertimeskh.com/708544/new-justice-minister-vows-reforms-and-speedier-trial-procedures/> (last accessed 20 April 2020); "The interior minister shows the number of prisoners in prison" [Khmer], Sabay News, 02 April 2020, <http://kleykley.sabay.com.kh/article/1199544> (last accessed 20 April 2020).

<sup>211</sup> See UNODC, "Women and drugs: drug use, drug supply and their consequences," in *World Drug Report 2018*, June 2018, [https://www.unodc.org/wdr2018/prelaunch/WDR18\\_Booklet\\_5\\_WOMEN.pdf](https://www.unodc.org/wdr2018/prelaunch/WDR18_Booklet_5_WOMEN.pdf) (last accessed 20 April 2020); Report of the Special Rapporteur on violence against women, its causes and consequences, "Pathways to, conditions and consequences of incarceration for women," 21 August 2013, UN Doc. A/68/340, paras. 23-24; Report of the Special Rapporteur on violence against women, its causes and consequences: Mission to the United States of America, 6 June 2011, UN Doc. A/HRC/17/26/Add.5, para. 45.

<sup>212</sup> Under the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and other human rights law and standards, states are obliged to ensure equal rights to men and women in all respects, including access to health care services for women that are equivalent to those available to men. CEDAW, articles 2 and 12.

<sup>213</sup> Report of the Special Rapporteur on violence against women, "Pathways to, conditions and consequences of incarceration for women," 21 August 2013, UN Doc. A/68/340, para. 81.

<sup>214</sup> Amnesty International interview with Sopheap, Phnom Penh, 16 November 2019.

<sup>215</sup> LICADHO, "Time for Bail: Ending Needless Mass Detention" October 2018, [http://www.licadho-cambodia.org/reports/files/227Time%20for%20Bail\\_Ending%20Needless%20Mass%20Detention\\_fin.pdf](http://www.licadho-cambodia.org/reports/files/227Time%20for%20Bail_Ending%20Needless%20Mass%20Detention_fin.pdf) (last accessed 20 April 2020), p. 3.

<sup>216</sup> Khorn Savi, "PM calls for mercy in sentencing women with children," *Phnom Penh Post*, 19 February 2019, <https://www.phnompenhpost.com/national/pm-calls-mercy-sentencing-women-children> (last accessed 20 April 2020).

<sup>217</sup> United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders. ECOSOC resolution 2010/16, December 2010.

WHO, UNAIDS and UNODC guidelines, reinforced by the Commission on Narcotic Drugs resolution 55/5 of 2012, have emphasized the need to ensure comprehensive health and reproductive services for women who use drugs, including HIV-related services.<sup>218</sup> Rule 64 of the Bangkok Rules requires states to consider non-custodial sentences for pregnant women and women with dependent children, taking into account the best interests of the child.<sup>219</sup>

In 2019, Prime Minister Hun Sen publicly recognized the unique difficulties faced by mothers with young children in Cambodia's prisons, and called for their early release.<sup>220</sup> In response to the prime minister's comments, a spokesman for the department of prisons told local media that while overcrowding was a problem in men's prisons, this was not the case in women's prisons.<sup>221</sup>

Amnesty International interviewed two mothers who gave birth to their children while serving prison sentences and another who was imprisoned along with her infant child. In contrast to the claims by the department of prisons, their accounts suggest that overcrowding and poor conditions also pervade women's prisons and have a particularly serious impact on mothers and children.



©↑ An artist's impression of life for women in detention

Mothers told Amnesty International that they suffered from a complete lack of pre-natal and post-natal care inside the prison system, despite the fact that Article 40 of the Prison Law requires that such care be provided.<sup>222</sup> Mothers detained in CC2 prison reported that their children received no food from the prison, and that they received no additional food when breastfeeding. One mother who was imprisoned in CC2 described her experience:

*The samlor was not enough to eat, and we could only have one serving and not more. When my sister came to visit me, she brought me food so I could make some food for my child. The mothers with children got the same amount of food as other prisoners. And the children didn't get any food, so I could only breastfeed and try to find food to cook for him.*

*My young son was constantly sick with fever. I think it was because he did not have enough food or nutrition. The room had no window and was much too hot too. The air was so stale. I was so worried about him, but I never knew what to do. There was nobody to help take care of him.*<sup>223</sup>

The Bangkok Rules contain specific provisions regarding food for women detainees who are pregnant or breastfeeding: "Pregnant or breastfeeding women prisoners shall receive advice on their health and diet under a programme to be drawn up and monitored by a qualified health practitioner. Adequate and timely

<sup>218</sup> UNODC, UN Women, WHO and INPUD, Policy Brief: Women Who Inject Drugs and HIV, [https://www.unodc.org/documents/hiv-aids/publications/WOMEN\\_POLICY\\_BRIEF2014.pdf](https://www.unodc.org/documents/hiv-aids/publications/WOMEN_POLICY_BRIEF2014.pdf) (last accessed 20 April 2020).

<sup>219</sup> UN Rules for the Treatment of Women Prisoners, Rule 64.

<sup>220</sup> Khorn Savi, "PM calls for mercy in sentencing women with children," *Phnom Penh Post*, 19 February 2019, <https://www.phnompenhpost.com/national/pm-calls-mercy-sentencing-women-children> (last accessed 20 April 2020).

<sup>221</sup> Khorn Savi, "PM calls for mercy in sentencing women with children," *Phnom Penh Post*, 19 February 2019, <https://www.phnompenhpost.com/national/pm-calls-mercy-sentencing-women-children> (last accessed 20 April 2020); LICADHO, "Incarcerated Mothers and Pregnant Women: LICADHO Calls for Urgent Action," 8 April 2019, <http://www.licadho-cambodia.org/pressrelease.php?perm=438> (last accessed 20 April 2020).

<sup>222</sup> Law on Prisons 2011, Article 40.

<sup>223</sup> Amnesty International interview with a woman detained during anti-drug campaign, Phnom Penh, 22 November 2019.

food, a healthy environment and regular exercise opportunities shall be provided free of charge for pregnant women, babies, children and breastfeeding mothers.”<sup>224</sup> The accounts received by Amnesty International suggest that these standards are systematically violated in Cambodian jails.

40-year-old Maly detailed the difficulties of raising her child in the overcrowded conditions of CC2 prison:

*It was so hard to raise my daughter inside. She wanted to move around, she wanted more space, she wanted to see the outside. She wanted freedom ... I would walk around with her so she could look out the window, but it involved standing in other people's space, so they would scream at me ...*

*My child had no freedoms. Some people were lucky, they could see through a window. When I raised my child in prison, I was so worried that she would not be healthy. She often got fever and flu. Because we had no space, my child normally slept on top of my body.<sup>225</sup>*



© An artist's impression of life for mothers with infants and pregnant women in detention

Sreytouch, another breastfeeding mother imprisoned in CC2, told Amnesty International:

*The sleeping space for me and my one-year old son was only about 0.3 or 0.4 metres width across, it was so tight ... If I slept on my side, my son could sleep on the floor. If I slept on my back, he had to sleep on top of me.*

*I was sleeping in front of the toilet, so we would be woken up often by people using the toilet during the night. The toilet water would splash on us. I was in this position next to the toilet for the whole 2.5 years. This is the place for the people who are poor like me. People with money can afford more space.<sup>226</sup>*

Vy learned that she was pregnant fifteen days after arriving at CC2 prison in May 2017. She told Amnesty International that she only had enough food because she was given supplementary food supplies by an NGO that came to visit mothers in CC2 regularly. She explained that her medical needs and those of her child were routinely neglected by prison medics in CC2:

*I used to have so much stomach pain. I think it was from the food they gave us. It was difficult to get any medical care in there. When I went to the medical centre, pregnant or with my new baby, they never paid any attention to us, and just told us to go back to the room. If I went 10 times, I guess they gave me medicine around five times.<sup>227</sup>*

This treatment violates international standards and Cambodia's own Prison Law, which states that infants held with their mothers in prison must be provided with food, clothing and healthcare.<sup>228</sup> The Bangkok Rules state: "Suitable health care, at least equivalent to that in the community,"<sup>229</sup> and "adequate and timely food,

<sup>224</sup> UN Rules for the Treatment of Women Prisoners, Rule 48.

<sup>225</sup> Amnesty International interview with Maly, Phnom Penh, 16 November 2019.

<sup>226</sup> Amnesty International interview with Sreytouch, Phnom Penh, 22 November 2019.

<sup>227</sup> Amnesty International interview with Vy, Phnom Penh, 6 December 2019.

<sup>228</sup> Law on Prisons, Article 41.

<sup>229</sup> UN Rules for the Treatment of Women Prisoners, Rule 9.

a healthy environment and regular exercise opportunities shall be provided free of charge for pregnant women, babies, children and breastfeeding mothers.”<sup>230</sup>

In February 2020, as overcrowding in Cambodian prisons reached its most severe level to date, local media reported that a five-month-old baby imprisoned with her mother in Phnom Penh’s CC2 jail had died. According to local human rights group LICADHO:

*The mother of the child who died was sent to pre-trial detention in mid-2019 after authorities alleged she possessed a sachet of methamphetamine worth just 10,000 riel, or \$2.50. The woman was not provided a lawyer and was unaware of her right to apply for bail. She was eight months pregnant when she was sent to prison.*<sup>231</sup>

The Cambodian government’s human rights committee responded by stating that they would not be investigating the death.<sup>232</sup>

Mothers with young children are also detained in Cambodia’s drug detention centres. Mothers previously detained in these centres also described not being given any food rations for their children. Pisey, who was detained in Prey Speu along with her two-year-old son in 2019, told Amnesty International:

*The food was not enough. We ate twice a day and there was hardly any meat. They brought the food to us in our room. I only got one portion to share between me and my child. I got nothing extra for him. And we never had enough water for a shower.*<sup>233</sup>

Women sex workers interviewed by Amnesty International reported being severely impacted by the anti-drug campaign, partly because those who solicit in public spaces are frequently targeted in street sweeps, and partly because of high reported levels of drug use among sex workers. Several sex workers told Amnesty International that they used drugs in order to facilitate their work, as it enabled them to work for longer hours, and to feel better while working. Many sex workers are sent to drug detention centres after being rounded up in street sweeps. The practice of coerced “confessions” under threat of violence was detailed by a sex worker representative, who told Amnesty International:

***“When our girls are arrested, they are forced to do urine tests. Even if it is negative, they are forced to thumbprint confessions about using drugs, and then sent to Orkas Khnom [detention centre]. If the girls don’t thumbprint the confessions, they are beaten.”***<sup>234</sup>

Sex worker representative, Phnom Penh.

Thyda, a sex worker who was rounded up in a street sweep nearby Phnom Penh’s Wat Phnom in July 2019 told Amnesty International that she was held in Orkas Khnom centre for five months. Before she was sent there, she was forced to “confess” to using drugs at a Daun Penh police station. She explained: “I never got urine tested but they made me “confess” that I was a drug user and that I tested positive. They forced me to admit it, because this centre [Orkas Khnom] is for drugs only, not for sex workers. I knew they would use violence on me unless I admitted to what they wanted. If you don’t say it, you get slapped. I saw that.”<sup>235</sup>

Women sex workers who use drugs are entitled to the same human rights protections as everyone else, yet they are exceptionally vulnerable to state violence and intersectional discrimination on the basis of their gender, profession, and social status. As one sex worker activist told Amnesty International: “If you are a sex worker, especially one who uses drugs, nobody cares about you. You cannot defend yourself.”<sup>236</sup>

<sup>230</sup> Ibid, Rule 48.

<sup>231</sup> LICADHO, “A Child Living in Prison has Died: LICADHO Calls for Urgent Action” February 2020, <http://www.licadho-cambodia.org/pressrelease.php?perm=447> (last accessed 20 April 2020).

<sup>232</sup> Ouch Sony, “Government ‘Unlikely’ to Probe Prison Baby’s Death, Official Says,” Voice of Democracy, 21 February 2020, <https://vodenglish.news/government-unlikely-to-probe-prison-babys-death-official-says/> (last accessed 20 April 2020).

<sup>233</sup> Amnesty International interview with Pisey, Phnom Penh, 4 December 2019.

<sup>234</sup> Amnesty International interview with a sex worker representative, Phnom Penh, 29 November 2019.

<sup>235</sup> Amnesty International interview with Thyda, Phnom Penh, 3 December 2019.

<sup>236</sup> Amnesty International interview with a sex worker representative, Phnom Penh, 29 November 2019.



## CHILDREN'S RIGHTS AND THE DETENTION OF JUVENILES



☺↑ An artist's impression of life for children in detention

Children (those under 18 years of age) have been a largely unreported casualty of Cambodia's anti-drug campaign. Amnesty International interviewed five children who were either subject to compulsory detention in drug "rehabilitation" centres or prosecuted via the criminal justice system. The organization interviewed four children who were prosecuted for drugs-related charges under the anti-drug campaign, including three who were convicted on charges of "using" drugs and one who was convicted for trafficking.

Among the three children who were prosecuted for "using" drugs, two were convicted on the basis of positive results to compulsory drug tests which they were forced to undertake after being arrested in drugs raids, and one was convicted after his uncle, with whom he was travelling at the time, was caught in possession of a small personal quantity of methamphetamine.

Amnesty International believes that no child should be imprisoned or otherwise deprived of liberty solely for using or possessing drugs. The deprivation of a child's liberty for other drug-related offences should be a last resort and for the shortest appropriate period of time, and must be in a facility especially suited to their needs. The Committee on the Rights of the Child has consistently called on states to avoid the treatment of children as criminals for their use of drugs,<sup>237</sup> and has recommend States not to subject children who use drugs to criminal proceedings.<sup>238</sup>

Vuthy, the one child who was convicted for trafficking, told Amnesty International that he was tortured by police during his detention at a police station following his arrest in 2018. He was 14 at the time. He recalled:

*They took us to the commune police station and separated us and then asked me who is my boss. I didn't tell so they punched me on the chest four or five times hard. Then another officer who was writing the report told that officer to stop beating me...*

*At the district police station, I was beaten again. They asked me again who my boss was. I said I don't know, so two officers beat me across the face. They punched me hard three or four times. They just kept asking me who my boss was.<sup>239</sup>*

<sup>237</sup> Committee on the Rights of the Child (21 April 2011), Concluding Observations: Ukraine, UN Doc. CRC/C/UKR/CO/4, para. 61(b); Committee on the Rights of the Child (26 February 2004), Concluding Observations: Armenia, UN Doc. CRC/C/15/ADD.225, para. 63; Committee on the Rights of the Child (26 February 2004), Concluding Observations: Indonesia, UN Doc. CRC/C/15/ADD.223, para. 74(b); Committee on the Rights of the Child (21 September 2005), Concluding Observations: Norway, UN Doc. CRC/C/15/Add.263, para. 44(b).

<sup>238</sup> Committee on the Rights of the Child (7 April 2011), Concluding Observations: Mexico, UN Doc. CRC/C/OPAC/MEX/CO/1, para. 29; Committee on the Rights of the Child (21 April 2011), Concluding Observations: Ukraine, UN Doc. CRC/C/UKR/CO/3-4, paras. 59-60.

<sup>239</sup> Amnesty International interview with Vuthy, Phnom Penh, 9 December 2019.

The arrest or detention of children must be a measure of last resort, including for drug treatment,<sup>240</sup> and must be for the shortest appropriate period of time.<sup>241</sup> However, the Cambodian Center for Human Rights, a local human rights organization which systematically monitors proceedings at Cambodia's Court of Appeal, reported in 2019 that "pre-trial detention of juvenile [sic] appears to be the norm rather than a measure of last resort."<sup>242</sup> All of the children interviewed by Amnesty International were also placed in pre-trial detention.

Sixteen-year-old Narin's uncle was found with a small quantity of methamphetamine when Narin was riding on the back of his motorbike. Narin had used "ice" on several occasions in the past but had not done so for several weeks prior to his arrest. After being arrested along with his uncle, Narin tested negative for drugs at the police station. Despite this, he was charged with "using" drugs and sent to pre-trial detention in Phnom Penh's CC2 prison. He told Amnesty International:

*At my trial, I didn't know what crimes I was charged with ... The trial lasted around thirty minutes in total. The judge asked me if the drugs had belonged to me, and I said no. My uncle confessed that all the drugs belonged to him and pleaded guilty ...*

*The judge asked me if I wanted to make any request, so I said, 'please judge give me the minimum punishment'. The lawyer briefly asked the judge to find me not guilty, but there was no mention about my drugs test in the court ... Around three days later I was sent back for my sentencing. The judge said we were guilty of using drugs and sentenced me for 1.5 years.<sup>243</sup>*

This lack of understanding of the criminal process by children who are prosecuted, and the failure of the criminal justice system to guarantee additional juvenile justice protections set forth in the Convention on the Rights of the Child and ensure that accused persons, especially under-18s, are fully aware of their rights, was apparent in several cases documented by Amnesty International. Vuthy, a 14-year-old boy, recalled:

*[On] my first day at the court they asked me how many friends of mine got arrested and someone read the police report to me ... The sixth time I went to the court they told me I got sentenced to one year in prison ...*

*I didn't understand the process and what the different court visits meant. The first time I understood what was happening was when they told me my prison sentence. Nobody ever asked me if I had a lawyer or gave me one.<sup>244</sup>*

Under the Convention on the Rights of the Child (CRC), states have an obligation to ensure the best interests of the child are observed in all actions concerning children, including in the context of criminal justice.<sup>245</sup> The Human Rights Committee has recognized that, under the ICCPR, States are required to adopt special measures to protect the personal liberty and security of every child.<sup>246</sup> The Special Rapporteur on the Independence of Judges and Lawyers has stated that children in conflict with the law require broader safeguards to be applied to them, particularly at the sentencing stage in criminal proceedings.<sup>247</sup>

According to Cambodian law, children must always be provided with legal aid when they are accused of criminal offences, whatever the nature of the accusations they face.<sup>248</sup> However, three of the four prosecuted under-18s interviewed by Amnesty International said that they were prosecuted without being provided with legal representation.

In prison, children are faced with the same unbearable levels of overcrowding which plague adult detention centres, but with heightened vulnerabilities. Amnesty International's research raises significant concerns regarding child protection and the incarceration of under-18s under Cambodia's anti-drug campaign. Narin described his cell to Amnesty International:

*When we first arrived, it was so tight in the room, we could only sleep on our side squashed together. It was all young men and boys in our room, from 13 to 29 years old ... The older prisoners would sometimes take clothes off the children for fun and make them get naked.*

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<sup>240</sup> Committee on the Rights of the Child, General Comment 10: Children's rights in juvenile justice, UN Doc. CRC/C/GC/10, para. 11.

<sup>241</sup> Convention on the Rights of the Child, Art. 37.

<sup>242</sup> CCHR, "Fair Trial Rights in Cambodia Monitoring at the Court of Appeal Annual Report (1 November 2017-31 October 2018), October 2019, [https://cchrcambodia.org/admin/media/report/report/english/CCHR%20Report%20on%20Fair%20Trial%20Rights\\_%202017-2018\\_ENG.pdf](https://cchrcambodia.org/admin/media/report/report/english/CCHR%20Report%20on%20Fair%20Trial%20Rights_%202017-2018_ENG.pdf) (last accessed 20 April 2020).

<sup>243</sup> Amnesty International interview with Narin, Phnom Penh, 6 December 2019.

<sup>244</sup> Amnesty International interview with Vuthy, Phnom Penh, 9 December 2019.

<sup>245</sup> Convention on the Rights of the Child, Arts. 3(1), and 40(2)(b)(iii).

<sup>246</sup> HRC General Comment 35: Article 9 (Liberty and security of person), 16 December 2014, UN Doc. CCPR/C/GC/35, para. 62.

<sup>247</sup> Report of the Special Rapporteur on the independence of judges and lawyers, 1 April 2015, UN Doc. A/HRC/29/26, para. 67.

<sup>248</sup> Article 301, Code of Criminal Procedure of the Kingdom of Cambodia.

*Sometimes the older guys and the room leader would make those children dance for them so they could watch.*<sup>249</sup>

All four children interviewed by Amnesty International were held in cells with both adults and children in Phnom Penh's CC2 women's and children's facility, in contravention of Cambodian and international human rights law. Amnesty International understands that this practice occurs because children who turn eighteen within prisons are generally not transferred out of juvenile facilities after they legally become adults.

The combined housing of children and adults in the same prison cell is prohibited under international law.<sup>250</sup> Mixed detention of adults and under-18s poses a clear risk to the safety and well-being of minors, and these dangers are amplified in the extremely overcrowded conditions which currently prevail in Cambodian prisons. Moeun, who was 16 at the time of his imprisonment for "using" drugs, told Amnesty International: *"There were 182 prisoners in our room, a mixture of young boys and men."*<sup>251</sup>

Children interviewed by Amnesty International described the extreme hardship of their lives in prison. Sixteen-year-old Narin spoke of the inadequate provision of food and round the clock confinement in packed cells:

*There was not enough food. Living there, if you don't have family to visit you, you will never have enough food. If I fully relied on the centre food, I would always feel hungry, because they only give two meals per day ... They brought the food to our rooms. We could only get out to eat if we gave money to the prison officer, normally between 5,000 – 10,000 riels [\$1.25 - \$2.50]. Even then, we could only go out for 30 minutes ... They only allow people who are sick to go outside for free.*<sup>252</sup>

Juveniles detained in drug detention centres described harsh treatment and abuse similar to that faced by adult detainees. Sarath, who was 17 years old at the time of his detention at Prey Speu, recalled his arrival at the centre: *"as soon the guard left, the room leader started to beat me. I was knocked unconscious so I can't remember what happened after that."*<sup>253</sup>

The CRC states that "every child ... shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances."<sup>254</sup> However, widespread corruption in Cambodian prisons prevents many children who live in poverty from receiving regular visits from their families.

One woman whose sixteen-year-old younger brother was imprisoned in CC2 detailed the various illegitimate payments that were required in order to conduct a visit, highlighting the prohibitive costs of visitation:

*When I went to visit him, I had to spend a lot of money. I had to pay money five separate times before I could see my brother, at least \$15 in total just for paying officials.*

*At the first step, I had to spend about \$2.50 at the front gate. At the second stage, they copied my ID and I had to pay another \$2.50 USD there. When I got closer to the food check, I had to pay another \$2.50. When I reached the food registration desk, I had to pay \$1.25. Then at the last stage when they call your name, this time you have to pay \$5 ... There was never any receipt or record of anything. If it cost less, I would have visited my brother more. Every single time I visited him, I had to spend more than \$100, including the transport, all the food we had to buy for him, and giving him money to buy things inside.*<sup>255</sup>

The prohibitive cost of visits due to corruption has a disproportionate impact on poorer inmates. Vannak was 16 years old at the time of his arrest. Born in an impoverished neighbourhood in Phnom Penh, Vannak's parents work as rubbish collectors, and he has never attended school. Vannak was convicted for "using" drugs and sentenced to two years' imprisonment after testing positive after an enforced drugs test in 2017. Recounting his time in CC2 prison, he told Amnesty International:

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<sup>249</sup> Amnesty International interview with Narin, Phnom Penh, 6 December 2019.

<sup>250</sup> CRC, Article 37 (c); United Nations Rules for the Protection of Juveniles Deprived of their Liberty, General Assembly resolution 45/113, para 29.

<sup>251</sup> Amnesty International interview with Moeun, Phnom Penh, 16 November 2019.

<sup>252</sup> Amnesty International interview with Narin, Phnom Penh, 6 December 2019.

<sup>253</sup> Amnesty International interview with Sarath, Phnom Penh, 21 November 2019.

<sup>254</sup> CRC, Article 37 (c).

<sup>255</sup> Amnesty International interview with the sister of a boy detained during anti-drug campaign, Phnom Penh, 6 December 2019.

***“I didn’t have any visitors for my two years inside because my parents had no money to visit. I missed them so much. What I missed the most is my mum. I was so unhappy that nobody could visit me.”<sup>256</sup>***

Vannak, who was 16 when he was arrested.



©↑ An artist’s impression of corruption in prison visitation

The criminalisation of children under Cambodia’s anti-drugs campaign not only leads to multiple violations of children’s rights in the course of their prosecution and detention, it can also have a severe, long-term impact on the well-being and prospects of the children who are jailed. Many face stigma in their communities after they are branded as criminals.

Seventeen-year-old Moeun spoke of his enduring shame after being released from prison: *“I felt so ashamed when I went back home, with my history of being a prisoner ... I don’t know what my future is or what I can do.”<sup>257</sup>*

<sup>256</sup> Amnesty International interview with Vannak, Phnom Penh, 16 November 2019.

<sup>257</sup> Amnesty International interview with Moeun, Phnom Penh, 16 November 2019.



## PEOPLE LIVING WITH HIV

Poor and marginalised people living with HIV often bear the brunt of heavy-handed policing of anti-drug operations. A representative of a civil society organization that provides harm reduction, counselling, and rehabilitation services for people who use drugs explained the impact of drug raids on the group's most at-risk clients:

*If our clients are caught up in raids, our service to them is broken and their recovery is derailed. If they are receiving medical treatment, this becomes a huge and life-threatening problem. Especially for clients with HIV and tuberculosis, trying to find them after they are arrested becomes a huge problem.*<sup>258</sup>

Organizations supporting people living with HIV in Cambodia have complained of significant difficulty in providing effective treatment to those with whom they work as a result of the anti-drug campaign.<sup>259</sup> Community and outreach workers with public health organizations, including those promoting harm reduction services, are regularly arrested in drugs raids while conducting outreach activities and sometimes detained in compulsory drug rehabilitation centres.

Veasna, an outreach worker, was arrested in May 2019 while conducting outreach with a community in Phnom Penh with high levels of intravenous drug use. He told Amnesty International: *"I was in an apartment block popular with drug users. Then suddenly two or three police cars and some motorbikes arrived and arrested around ten people, including me ... I didn't have any drugs on me at the time. Some of the others didn't have any drugs either.*

***"I tried to explain to them that I work for an NGO, but they said, 'how is it possible that you are [an NGO] trainer if you are also a user?'"***

***"I told them that quitting drugs is a process, but the police don't care. When they conduct a raid, they will just arrest everyone there whether they use drugs or not."***<sup>260</sup>

Veasna, a HIV outreach worker who was arrested in a drug raid in May 2019.

Outreach and community workers told Amnesty International that they can often secure their release from compulsory drug detention centres if they can prove that they are working for NGOs. Nonetheless, such arrests have a significant deterrent effect on people who may need to access the services that outreach workers are promoting due to fear of the police. Amnesty International heard of the chilling effect that these raids have had, preventing people who use drugs from seeking healthcare, information or tools that may help them to avoid infection and minimise the risk of vein damage and other more serious health consequences.

Civil society leaders told Amnesty International that a closing civic space in Cambodia has created a climate of fear among civil society organizations and hampered activists' ability to speak out about the negative impacts of the anti-drug campaign, particularly on people living with HIV. One HIV expert described her fears: *"I want to tell you how bad the situation is now, but I cannot say anything. I can't speak. If you quoted and named me, I could face a serious problem. Look at [assassinated government critic] Kem Ley. He spoke the truth and now he is dead."*<sup>261</sup>

<sup>258</sup> Amnesty International interview with drugs expert, Phnom Penh, 31 October 2019.

<sup>259</sup> See, for example, Martin de Bourmont and Khouth Sophak Chakrya, "Is Cambodia's war on drugs working?" *Phnom Penh Post*, 14 June 2017,

<https://www.phnompenhpost.com/national-post-depth/cambodias-war-drugs-working> (last accessed 20 April 2020).

<sup>260</sup> Amnesty International interview with Veasna, Phnom Penh, 18 November 2019.

<sup>261</sup> Amnesty International interview with an HIV expert, Phnom Penh, 25 October 2019.

# 5. A GLIMMER OF HOPE: EVIDENCE-BASED TREATMENT IN CAMBODIA

There are clear alternatives to the authorities' abusive, punitive, and ineffectual approach to people who use drugs. Within Cambodia, fledging voluntary community-based drug treatment is being rolled out by the Ministry of Health, and a number of NGOs provide voluntary treatment and rehabilitation services to people who wish to recover from drug dependence.

Most encouraging among the government's recent efforts towards drug policy reform is the Ministry of Health's rollout of community-based drug treatment (CBDT) centres. As of September 2019, CBDT was being implemented in two national hospitals, 24 provincial referral hospitals, 73 district referral hospitals and 332 commune health centres, with 431 facilities in total spread across all 25 provinces.<sup>262</sup> It should be noted that the vast majority of these facilities were pre-existing general health centres, which have now been given added CBDT responsibilities. The government has also authorised two non-governmental organizations to run needle and syringe exchange programmes.<sup>263</sup>

The Cambodian authorities have further cooperated with the United Nations Office on Drugs and Crime to provide training to health officials, who have in turn trained healthcare professionals staffing the 431 CBDT facilities. These initiatives represent the best hope for Cambodia's approach to people who use drugs; however, significant improvements to existing services are required in order for the right to health of people who use drugs to be fully respected.

When Amnesty International spoke to the staff of two CBDT facilities in Phnom Penh, some displayed a worrying lack of understanding of the complexities of drug dependence. One commune health centre staff member told Amnesty International that she did not have enough expertise on drug dependence, so when the police referred people for drug treatment, she could only refer them onwards to a national hospital.

CBDT facilities are under-resourced, under-promoted, and lacking in appropriate medical facilities. Staff require further training to ensure that they can meet the needs of people with drug dependence, and the services require promotion among the general public and law enforcement agents. People accessing CBDT may require specialised medication to help cope with withdrawals, and counselling by qualified and trained staff who can support their recovery and community integration. Cambodia's development partners should support the strengthening of CBDT and harm reduction services as an alternative to compulsory drug treatment.

There are examples of well-functioning evidence-based treatment services within Cambodia; however, they are currently provided by NGOs with a limited reach. Nonetheless, the successes of their treatment model should provide inspiration for what is possible should the Cambodian authorities meaningfully commit to transitioning away from the existing, punitive approach to people who use drugs. The experiences of people who have benefitted from voluntary, evidence-based treatment attest to this.

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<sup>262</sup> National Authority of Drugs and Crime, Campaign Report 2018-2019, on file with Amnesty International.

<sup>263</sup> Ibid.

## CASE STUDY: DARA

Eighteen-year-old Dara told Amnesty International that he used to go everywhere, and do everything, with his four best friends; today, however, Dara is the only one of his group who is not in prison as a result of the anti-drug campaign.

At 14, he and his friends began sniffing glue. Dara told Amnesty International that he was having serious family problems at the time; his father had died, and his mother could no longer support him or his siblings.

He soon started using “ice,” and quickly became dependent, leading to a range of negative consequences for his health and well-being. Dara told Amnesty International how he has managed to achieve health, stability, and happiness after receiving counselling and other evidence-based treatment from an NGO:

*“At the beginning [of my recovery], even though I wanted to stop, I kept changing my mind and sometimes I felt like running away. I was having a lot of emotional problems. My mind kept switching between wanting to stay or go. I was having a really difficult time ...*

*“The team of social workers and nurses who looked after me encouraged me so much. They motivated me when I faced difficult moments. They used to speak calmly and listened to me. They encouraged me and supported me.*

*“Since I left the program, two social workers followed up with me a lot at the beginning. Now it’s about once a month, but if I feel bad, I contact my caseworker or talk to them on the phone. I also have a group meeting regularly with other people who are in recovery.*

*“If it wasn’t for the services from [the NGO], I would still be using drugs. I think the government should provide the same services [the NGO] provides, but in every community so that everyone can have this kind of service.”<sup>264</sup>*

Dara reflected on the government’s anti-drug campaign:

*“I think the campaign doesn’t work. When people come out of prison, they just relapse back into the same life again. There is no change in lifestyle or mindset of people who get arrested ...*

*“When they go to jail or a rehab centre, there is no encouragement or education or support to change mindset. They are not helped to understand the cause of their dependence, so of course they go back and end up using again.*

*“I have many friends who have been arrested, and they just end up using and back in jail again ... It’s only me that made it — all the rest of my friends have gone to prison now. In the prison, you just go in and you get abused and there is nothing to help people in there. I feel so lucky to have made it.”<sup>265</sup>*

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<sup>264</sup> Amnesty International telephone interview with Dara, 24 February 2020.

<sup>265</sup> Ibid.

# 6. CONCLUSION AND RECOMMENDATIONS



## ADVANCING A HUMAN RIGHTS APPROACH TO DRUGS

With a devastating human cost and few, if any, positive results, Cambodia’s anti-drug campaign has proven to be both ineffective and a human rights disaster. Cambodia’s own experience in the “war on drugs” has shown, once again, that this repressive strategy has plainly failed, and has instead been a war on people, particularly the poorest and most marginalised sectors of society.

Over three years after its inception, the anti-drug campaign has failed to reduce drug use and dependence in Cambodia.<sup>266</sup> In the process, tens of thousands of people have had their rights trampled upon in the fruitless pursuit of a drugs policy lacking in any credible evidence base. It is well beyond time that the Cambodian authorities change course by putting the protection of the right to health at the centre of drug policy and fully embracing an evidence-based, human rights-compliant approach to drugs.

As a first step, Cambodian authorities must move promptly to close all compulsory drug rehabilitation centres and social affairs centres, and ensure that people detained there are immediately released with sufficient provisions of health and social services available to them, as required. Compulsory drug detention centres have no legitimate basis under international human rights law; they have shown themselves to be beyond reform; and they are vectors for abuse and cruelty.

The authorities should also move towards the decriminalisation of the use and possession of drugs for personal use. Such a reform would have multiple benefits to improve the situation not only of people who use drugs, but of the wider community as well. A decriminalised approach to drug use would dismantle the heavy barriers that impede people who use drugs from accessing the medical care they may require. It would also significantly ease Cambodia’s prison overcrowding crisis — an acute problem during the current COVID-19 pandemic — and free multiple financial and human resources that could be then allocated to increase the quality and availability of health and social services. This would in turn reduce the risks and harms associated with drug use, including through prevention, harm reduction, treatment, and rehabilitation.

There are glimmers of hope for an alternative path within existing government policies. The Cambodian authorities have recently undertaken a number of tentative steps in the direction of an evidence-based and human rights-compliant approach to people who use drugs. In 2019, the Cambodian government accepted a recommendation made by Portugal during its Universal Periodic Review at the UN Human Rights Council, which committed to “[adopting] a public health and human rights approach to the world drug problem,

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<sup>266</sup> The periodic reports on the anti-drug campaign released by the government’s National Authority for Combatting Drugs (NACD) have not shown any notable reduction in the numbers of recorded “drug users.” The NACD states that there were 20,621 “drug users” at the end of 2016, 18,104 at the end of 2017, approximately 20,00 at the end of 2018, and 19,272 in November 2019. Source: National Authority for Combatting Drugs, Full Year Annual Report 2017, 26 February 2018; National Authority for Combatting Drugs, Full Year Annual Report 2018, 3 April 2019; National Authority for Combatting Drugs, First Six Months Report 2019, November 2019.

including the decriminalisation of drug consumption and the provision of harm reduction services.”<sup>267</sup> This is an encouraging signal of intent, though it now needs to be translated into action.

Despite the welcome efforts to shift Cambodia’s drug strategy towards public health and human rights-based policies, including community-based care, Cambodia’s anti-drug campaign continues to pose a significant threat to the rights and health of people who use drugs. As it stands, the anti-drug campaign remains overwhelmingly dominated by criminalisation and incarceration.

There is a clear tension between the evidence-based efforts carried out by the Ministry of Health and the anti-drug campaign’s continued emphasis on detention and criminalisation. These approaches are entirely antagonistic, and the heavy-handedness of the campaign serves to severely limit the effectiveness of any community-based, voluntary initiatives.

Individuals who live under the constant threat of arrest, detention, and ill-treatment are naturally deterred from seeking voluntary treatment from the same government authorities who are mistreating and criminalising them. Should drug use and possession remain criminalised and heavily policed; should anti-drug raids continue to target poor neighbourhoods and people who use drugs; should “rehabilitation” centres continue to function as abusive detention centres, then the hopes for a successful transition to community-based drug treatment will remain slim.

## RECOMMENDATIONS

### TO THE PRIME MINISTER AND THE NATIONAL AUTHORITY FOR COMBATTING DRUGS

1. Immediately announce a comprehensive review of the anti-drug campaign, designed to bring the campaign into conformity with international human rights law and standards, centring the right to health and other human rights.
2. Order the immediate and permanent closure of all compulsory drug “rehabilitation” centres and social affairs centres and ensure that all drug treatment and rehabilitation in Cambodia is evidence-based, voluntary, and safeguarded by informed consent. Further ensure the provision of adequate healthcare and social support to people released from drug detention centres as per their individual needs.
3. Prioritise health care and drug treatment in community settings and ensure that community-based drug treatment services and facilities are run in accordance with prevailing scientific evidence and human rights standards.
4. Ensure community-based programmes are adequately funded and improved with technical support from the UN and civil society organizations.
5. Initiate the process of implementing UPR Recommendation 110.156 by decriminalising the use and possession of drugs for personal use and enhancing harm reduction services.
6. Train law enforcement agencies in harm reduction and ensure they do not target health and harm reduction facilities as a strategy for drug enforcement operations.
7. Abandon current plans for building a new national drug treatment centre in Preah Sihanouk province and ensure that all future treatment facilities operate in line with international guidelines for drug treatment and rehabilitation in community settings.
8. Include people who use drugs and other affected communities, as well as civil society organizations and experts in health, social services and other relevant fields, in the design, implementation, monitoring and evaluation of drug control laws and policies that affect them.

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<sup>267</sup> See UPR-Info, Cambodia: Responses to Recommendations 110.156, 5 April 2019, recommendation 110.156.

9. Guarantee a safe and enabling environment for human rights defenders who advocate reforming drug laws and policies, in which they are able to conduct their activities without fear of punishment, reprisal, or intimidation.
10. Address the root causes and socio-economic factors that may increase the risks of using drugs or that lead people to engage in the drug trade, including ill-health, denial of education, unemployment, lack of housing, poverty, and discrimination.
11. Put in place a wide set of gender-sensitive and holistic socio-economic protection measures to ensure that drug control laws and policies contribute to overcoming structural sources of vulnerability, stigma and discrimination that affect people who use drugs or who engage in the drug trade, especially women and those belonging to marginalised and disadvantaged communities.

## **TO THE MINISTRY OF JUSTICE AND THE SUPREME COUNCIL OF THE MAGISTRACY**

12. Initiate the process of reviewing and amending the 2012 Law on Drug Control in order to explicitly prohibit compulsory drug treatment and detention in drug treatment centres, and remove all criminal offences for the use and possession of drugs for personal use.
13. Undertake a process to review convictions and sentences for offences related to the use and possession of drugs for personal use and, where appropriate, quash, commute or reduce existing convictions and/or sentences.
14. Avoid the imprisonment of children or other forms of deprivation of liberty solely because of their use or possession of drugs. The deprivation of a child's liberty for drug-related offences should be a last resort and for the shortest appropriate period of time, and must be in a facility especially suited to their needs and separated from adults.
15. Promote the use of non-custodial sentences for parents or caregivers with dependent children, taking into account the best interests of the child, and for pregnant women.
16. Organize and provide professional training to judges on the presumption of innocence, the right to liberty, and fair trial rights.
17. Ensure that judges are aware of their obligation to only order pre-trial detention as a measure of last resort and where strictly necessary when release would create a substantial risk of flight, harm to others or interference with the evidence or investigation.
18. Ensure that the new policy on legal aid, currently in draft form, provides free legal aid for all accused persons who cannot afford a lawyer of their choosing when facing potentially custodial sentences.

## **TO THE MINISTRY OF INTERIOR**

19. Immediately announce and disseminate to all law enforcement officials the notification that no people who use drugs should be arrested or detained solely on the basis of their drug use, possession, or dependence.
20. Train police and law enforcement officials on harm reduction principles and promote constructive engagement and partnerships between law enforcement officials and health providers around health and other human rights issues.
21. Launch prompt, thorough, independent and impartial investigations into allegations of torture and other ill-treatment committed by police officers in drug-related cases and bring all those responsible to justice, in fair trials.
22. Ensure that all people held in Cambodian prisons are provided with adequate sleeping space, exercise, nutritious food, and clean water and sanitation, in line with the Nelson Mandela Rules for the Treatment of Prisoners.
23. Consider the release or other non-custodial measures for pregnant women, infants, and breastfeeding mothers deprived of their liberty, and ensure that specialised treatment is provided for those who remain in detention in line with international standards.

24. Ensure that independent civil society organizations are allowed to operate freely and without fear of reprisals, and guarantee they have unfettered access to places of detention.
25. Explicitly recognize the legitimacy of all human rights defenders and publicly support their work by acknowledging the particular and significant role they play in advancing human rights.

## **TO THE MINISTRY OF HEALTH**

26. Increase access to health and social services to reduce the risks and harms associated with the use of drugs, including prevention, information, harm reduction, voluntary treatment and rehabilitation services where medically indicated and on a non-discriminatory basis, including in prisons and other situations where people are deprived of their liberty.
27. Ensure that harm reduction, treatment and rehabilitation services are available, acceptable and easily accessible to everyone on a non-discriminatory basis, and ensure that they are of good quality. This means paying particular attention to the needs of the most marginalised and to the specific needs of women, children, and adolescents.
28. Guarantee that drug treatment and rehabilitation programmes for people who use drugs are evidence-based, voluntary and safeguarded by informed consent. Such programmes must provide measures to protect the rights of any person who — temporarily or permanently — is unable to provide consent.
29. Provide harm reduction, treatment and rehabilitation services in suitable environments for women and girls who use drugs, including by providing integrated sexual and reproductive healthcare, information and services, and childcare facilities, which should be responsive to other gender-specific needs.
30. Follow international best practice for the design and implementation of prevention campaigns to introduce a range of different evidence-based interventions and policies based on the age of the target group, the level of risk, and the environment in which the campaign will be implemented.
31. Scale up training for community-based drugs treatment centre staff and improve the facilities and medical provisions of existing facilities.
32. Ensure that community-based drug treatment services are widely advertised and disseminated in local communities and via the media.
33. Expand harm reduction services, including needle exchanges, in provinces with higher reported levels of injecting drug use.
34. Provide training to police officers on harm reduction and overdose interventions, with assistance from suitable UN agencies and NGOs where appropriate.

## **TO THE MINISTRY OF SOCIAL AFFAIRS, VETERANS AND YOUTH REHABILITATION AND PROVINCIAL AND MUNICIPAL AUTHORITIES**

35. Bring an end to street sweeps and city “beautification” activities involving the arbitrary arrests of individuals suspected of using drugs, homeless people, sex workers, and other marginalised groups.
36. Cease the practice of compulsory drugs testing of people arrested in drugs raids and street sweeps, and ensure that any drug testing is conducted only after informed consent has been given, and carried out in a non-discriminatory, transparent, and inclusive way.
37. Immediately and permanently close all social affairs and involuntary drug detention centres, and ensure that people detained therein are released immediately with sufficient provisions of health and social services available to them, as required.
38. Ensure that independent monitors from the UN and civil society organizations have full and unhindered access to all detention centres.

## **TO THE MINISTRY OF EDUCATION, YOUTH AND SPORT**

39. Ensure that Cambodian universities provide adequate degree, diploma and research programmes in social work, counselling, psychology and drug dependence in order to ensure the availability of human resources required to support an evidence-based approach to drugs.
40. Carry out awareness campaigns that can help children prevent or delay their first use of drugs for non-medical purposes and, for all people who use drugs, to avoid the development of a dependence and reduce drug-related harms. Prevention interventions should include public educational programmes and information campaigns that incorporate harm reduction information and are based on scientific evidence that accurately describes the effects of drugs, including the risks both to people who use drugs and to others, without stigma.
41. Develop targeted prevention campaigns specifically tailored for children and adolescents both in educational settings and in environments outside of school, such as street and party locations, aimed at empowering them to make informed decisions about their own conduct and provide them with information about where to find help if they require it.

## **TO CAMBODIA'S DEVELOPMENT PARTNERS**

42. Utilise all relevant cooperation channels to encourage the Cambodian authorities to shut down all compulsory drug "rehabilitation" centres and to move towards the decriminalisation of the use and possession of drugs.
43. Provide financial and technical support for Cambodia's transition to community-based voluntary drug treatment and decriminalisation, conditional upon the end of Cambodia's compulsory drug treatment regime.
44. Ensure that financial and technical support to Cambodia's justice sector takes full account of all evidence of human rights violations occurring in the judicial system and in places of detention, and ensure that assistance programmes are responsive to such evidence and targeted to prevent such violations in future.

## ANNEX A

H.E. Mam Bunheng  
Minister of Health  
No: 80 Samdach Penn Nouth Blvd (289)  
Sankat Beoungkak 2, Tuol Kork District  
Phnom Penh  
Cambodia  
Via email: webmaster@moh.gov.kh

21 January 2020

Subject: Campaign against illegal drug use in Cambodia

Dear Minister Mam Bunheng,

**[please find Khmer version below]**

I'm writing on behalf of Amnesty International to request information about the Royal Government of Cambodia (RGC)'s campaign against illegal drugs which officially began in January 2017.

As you may know, Amnesty International is a global movement of millions of people who campaign for a world where human rights are enjoyed by all. We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations. We campaign and advocate for human rights change on the basis of serious and thorough research on a variety of human rights issues all over the world.

In this context we are currently conducting research on the treatment of individuals suspected of using drugs in Cambodia. We are looking into current policies and practices in Cambodia in addition to international rules and best practices in relation to the treatment of drug users. We are focusing on the treatment of individuals suspected of using drugs from a public health and human rights perspective.

In this respect, information about the relevant policies and practices of the Ministry of Health, in addition to data in relation to the individuals imprisoned and detained during the ongoing crackdown on illegal drugs would greatly benefit our research.

We would therefore be most grateful if you could provide us with information on the following:

1. How many service users have availed of Cambodia's 432 community-based drug treatment centres since 2017?
2. What medical, counselling, and rehabilitation services are available to community-based drug treatment centre service users?
3. Could you please provide information on the training which has been provided to staff responsible for the provision of community-based drugs treatment?
4. Could you please provide information regarding any plans for future training, monitoring, and quality assurance in relation to community-based drugs treatment?
5. What is the your position on the involuntary detention of people who use drugs in compulsory drug rehabilitation an social affairs centres?

6. According to NACD secretary-general Meas Virith, Cambodian government policy is not to prosecute individuals on the basis of drug use alone. As such, what is your position on articles 45 and 52 of the 2012 Law on Drug Control, which explicitly criminalise the use of drugs and impose custodial sentences?<sup>268</sup>

Please feel free to respond either in English or in Khmer.

We appreciate your attention to these issues and we would welcome the opportunity to meet with you to discuss them.

Sincerely,

Nicholas Bequelin  
Director, East and Southeast Asia and the Pacific Regional Office  
Amnesty International  
Bangkok, Thailand

CC:

- H.E. Ke Kim Yan  
Chairman of National Authority for Combating Drugs  
#275 Norodom Blvd  
Phnom Penh  
Cambodia  
Via email: [info@nacd.gov.kh](mailto:info@nacd.gov.kh)
- H.E. Vong Soth  
Minister of Social Affairs, Veterans and Youth Rehabilitation  
788 Monivong Blvd  
Sangkat Boeung Trabek, Khan Chamkamorn  
Phnom Penh  
Cambodia  
Via email: [info@mosvy.gov.kh](mailto:info@mosvy.gov.kh)

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<sup>268</sup> “NACD secretary-general Meas Virith said Cambodia had busted thousands of criminals transporting and dealing drugs and sent many of them to court for criminal prosecution. “Many have been imprisoned but no drug users have been jailed because the government has treated drug addicts as victims who need to be treated and rehabilitated free of charge,” he said.” - <https://www.phnompenhpost.com/national/government-issues-report-drug-crimes-treatment>

H.E. Vong Soth  
Minister of Social Affairs, Veterans and Youth Rehabilitation,  
788 Monivong Blvd  
Sangkat Boeung Trabek  
Khan Chamkamorn  
Phnom Penh  
Cambodia  
Via email: info@mosvy.gov.kh

21 January 2020

Subject: Campaign against illegal drug use in Cambodia

Dear Minister Vong Soth,

I'm writing on behalf of Amnesty International to request information about the Cambodian government's campaign against illegal drugs which officially began in January 2017.

As you may know, Amnesty International is a global movement of millions of people who campaign for a world where human rights are enjoyed by all. We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations. We campaign and advocate for human rights change on the basis of serious and thorough research on a variety of human rights issues all over the world.

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In this respect, information about the relevant policies and practices of the Ministry of Social Affairs, Veterans and Youth Rehabilitation (MoSAVY), in addition to data in relation to the individuals imprisoned and detained during the ongoing crackdown on illegal drugs would greatly benefit our research.

We would therefore be most grateful if you could provide us with information on the following:

1. How many state-run compulsory drug treatment centres and social affairs centres exist in Cambodia? What government authorities are responsible for each centre?
2. How many individuals are currently detained in each of Cambodia's compulsory drug treatment centres and social affairs centres? Please provide a breakdown according to each centre and the gender and age of residents.
3. Which laws and policies regulate the administration of Cambodia's drug rehabilitation centres and social affairs centres?
4. Are individuals residing in drug rehabilitation centres and social affairs centres detained against their will? If so, what is the legal basis of their detention and which government authorities are responsible for ordering their detention?
5. Does MoSAVY maintain a policy of conducting compulsory drug testing of individuals who are arrested during street sweeps and drug raids, even when they are not found in possession of drugs? What is the legal basis of this compulsory drug testing? Does the Cambodian government maintain a policy of subjecting individuals who test positive for drugs during compulsory testing to compulsory drug treatment?

6. What drug rehabilitation programmes and medical services are provided in Cambodia's compulsory drug rehabilitation centres? Are there written policies or regulations governing the provision of these programmes and medicines? If so, can they be made available to us?
7. What vocational training programmes are employed in Cambodia's compulsory drug rehabilitation centres? Are there written policies or regulations governing the provision of vocational training? If so, can they be made available to us?
8. Does the Cambodian government maintain its plan to open a national drug treatment centre in Preah Sihanouk province? If so, when is the centre expected to become operational? What healthcare and rehabilitation services are planned for the centre? Will this centre provide voluntary or compulsory drug treatment?
9. Does the MoSAVY have data on how many instances of ill-treatment in drug rehabilitation centres and social affairs centres have been investigated by the authorities since 2017, and what measures have been taken against the alleged perpetrators? If so, can such data be made available to us?

Please feel free to respond either in English or in Khmer.

We appreciate your attention to these issues and we would welcome the opportunity to meet with you to discuss them.

Sincerely,

Nicholas Bequelin  
Director, East and Southeast Asia and the Pacific Regional Office  
Amnesty International  
Bangkok, Thailand

CC:

- H.E. Sar Kheng  
Minister of Interior  
275 Norodom Boulevard  
Phnom Penh  
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Via email: [info@interior.gov.kh](mailto:info@interior.gov.kh)
- H.E. Ang Vong Vathana  
Minister of Justice  
Samdech Sothearos Boulevard  
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Via email: [info@moj.gov.kh](mailto:info@moj.gov.kh)
- H.E. Mam Bunheng  
Minister of Health  
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Sangkat Beoungkak 2, Tuol Kork District  
Phnom Penh  
Cambodia  
Via email: [webmaster@moh.gov.kh](mailto:webmaster@moh.gov.kh)

H.E. Ke Kim Yan

Chairman of National Authority for Combating Drugs H.E. Ke Kim Yan  
Chairman of National Authority for Combating Drugs  
#275 Norodom Blvd  
Phnom Penh  
Cambodia  
Via email: [info@nacd.gov.kh](mailto:info@nacd.gov.kh)

21 January 2020

Subject: Campaign against illegal drug use in Cambodia

Dear Excellency Ke Kim Yan,

**[please find Khmer version below]**

I'm writing on behalf of Amnesty International to request information about the Royal Government of Cambodia (RGC)'s campaign against illegal drugs which officially began in January 2017.

As you may know, Amnesty International is a global movement of millions of people who campaign for a world where human rights are enjoyed by all. We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations. We campaign and advocate for human rights change on the basis of serious and thorough research on a variety of human rights issues all over the world.

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In this respect, information about the relevant policies and practices of the National Authority for Combating Drugs (NACD) and the RGC, in addition to data in relation to the individuals imprisoned and detained during the ongoing crackdown on illegal drugs would greatly benefit our research.

We would therefore be most grateful if you could provide us with information on the following:

1. What is the capacity and actual population of each of Cambodia's prisons? What proportion of prisoners and detainees in the prison system are imprisoned on drugs-related charges?
2. How many individuals have been arrested and convicted on suspicion of drug-related offences since January 2017?
3. How many accused persons have been found not guilty in drugs-related trials since January 2017?
4. What proportion of charged persons in drugs-related prosecutions were granted bail as they awaited trial since January 2017?
5. According to NACD secretary-general Meas Virith, Cambodian government policy is not to prosecute individuals on the basis of drug use alone. As such, does the Cambodian government intend to amend articles 45 and 52 of the 2012 Law on Drug Control, which explicitly criminalise the use of drugs and impose custodial sentences?<sup>269</sup>
6. Is the NACD aware of cases in which people accused of using drugs have been asked to pay bribes to police officers or judges in order to receive lesser charges or sentence reductions? How many such cases have been investigated and prosecuted since 2017?

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<sup>269</sup> "NACD secretary-general Meas Virith said Cambodia had busted thousands of criminals transporting and dealing drugs and sent many of them to court for criminal prosecution. "Many have been imprisoned but no drug users have been jailed because the government has treated drug addicts as victims who need to be treated and rehabilitated free of charge," he said." - <https://www.phnompenhpost.com/national/government-issues-report-drug-crimes-treatment>

7. Does the draft policy on legal aid which is currently being drafted by the Ministry of Justice contain provisions for legal aid in misdemeanour cases?

Please feel free to respond either in English or in Khmer.

We appreciate your attention to these issues and we would welcome the opportunity to meet with you to discuss them.

Sincerely,

Nicholas Bequelin  
Director, East and Southeast Asia and the Pacific Regional Office  
Amnesty International  
Bangkok, Thailand

CC:

- H.E. Sar Kheng  
Minister of Interior  
275 Norodom Boulevard  
Phnom Penh  
Cambodia  
Via email: [info@interior.gov.kh](mailto:info@interior.gov.kh)
- H.E. Ang Vong Vathana  
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Via email: [info@moj.gov.kh](mailto:info@moj.gov.kh)
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Via email: [webmaster@moh.gov.kh](mailto:webmaster@moh.gov.kh)
- H.E. Vong Soth  
Minister of Social Affairs, Veterans and Youth Rehabilitation  
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- H.E. Khoun Sreng  
Governor of Phnom Penh  
69 Preah Monivong Boulevard  
Phnom Penh  
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## ANNEX B

H.E. Keo Remy  
Chairman of Cambodian Human Rights Committee  
Building 3, Street VI.13,  
Toukok Village, Toul Sangke Commune,  
Russey Keo District,  
Phnom Penh,  
Cambodia  
Via email: info@chrc.gov.kh

28 April 2020

### Subject: Amnesty International report on Cambodia's anti-drug campaign

Dear Excellency Keo Remy:

[please find Khmer version below]

I am writing on behalf of Amnesty International to seek your responses in relation to a forthcoming report by the organization on the Royal Government of Cambodia (RGC)'s anti-drug campaign, which officially began in January 2017. The report is based on five months of research by Amnesty International.

As you may know, Amnesty International is a global movement of millions of people who campaign for a world where human rights are enjoyed by all. We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations. We campaign and advocate for human rights change on the basis of serious and thorough research on a variety of human rights issues all over the world.

Prior to publishing this report, we would like to give you the opportunity to respond to allegations of human rights violations contained within the report, including allegations related to:

- the widespread arbitrary arrest of people suspected of using drugs;
- the systematic arbitrary detention of people suspected of using drugs, in compulsory drug rehabilitation centres;
- incidents of physical abuse amounting to torture and other ill-treatment in compulsory drug rehabilitation centres;
- widespread inhumane conditions of detention amounting to torture or other ill-treatment in both compulsory drug rehabilitation centres and prisons;
- violations of fair trial rights, including the right to be presumed innocent and the right to liberty of people accused of drug-related charges.

Please find attached in Annex A a draft of the executive summary of the report for your consideration. We appreciate your attention to this matter and we would welcome the opportunity to meet with you to discuss the issues raised in this report.

In order to ensure that any responses received by you or other government agencies are reflected appropriately in the report, please respond no later than 6 May 2020. Please feel free to respond either in English or in Khmer.

Sincerely,

Nicholas Bequelin  
Director, East and Southeast Asia and the Pacific Regional Office  
Amnesty International  
Bangkok, Thailand

CC:

- H.E. Sar Kheng  
Minister of Interior  
275 Norodom Boulevard  
Phnom Penh  
Cambodia  
Via email: [info@interior.gov.kh](mailto:info@interior.gov.kh)
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Via email: [webmaster@moh.gov.kh](mailto:webmaster@moh.gov.kh)
- H.E. Vong Soth  
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Via email: [info@mosvy.gov.kh](mailto:info@mosvy.gov.kh)
- H.E. Ke Kim Yan  
Chairman of National Authority for Combating Drugs  
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H.E. Ke Kim Yan  
Chairman of National Authority for Combating Drugs  
#275 Norodom Blvd  
Phnom Penh  
Cambodia  
Via email: info@nacd.gov.kh

28 April 2020

**Subject: Amnesty International report on Cambodia's anti-drug campaign**

Dear Excellency Ke Kim Yan:

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- incidents of physical abuse amounting to torture and other ill-treatment in compulsory drug rehabilitation centres;
- widespread inhumane conditions of detention amounting to torture or other ill-treatment in both compulsory drug rehabilitation centres and prisons;
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In order to ensure that any responses received by you or other government agencies are reflected appropriately in the report, please respond no later than 6 May 2020. Please feel free to respond either in English or in Khmer.

Sincerely,

Nicholas Bequelin  
Director, East and Southeast Asia and the Pacific Regional Office  
Amnesty International  
Bangkok, Thailand

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- H.E. Sar Kheng  
Minister of Interior  
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Minister of Social Affairs, Veterans and Youth Rehabilitation  
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- H.E. Keo Remy  
Chairman of Cambodian Human Rights Committee  
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Toukok Village, Toul Sangke Commune,  
Russey Keo District,  
Phnom Penh,  
Cambodia  
Via email: [info@chrc.gov.kh](mailto:info@chrc.gov.kh)

**AMNESTY INTERNATIONAL  
IS A GLOBAL MOVEMENT  
FOR HUMAN RIGHTS.  
WHEN INJUSTICE HAPPENS  
TO ONE PERSON, IT  
MATTERS TO US ALL.**

#### CONTACT US



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# SUBSTANCE ABUSES

## THE HUMAN COST OF CAMBODIA'S ANTI-DRUG CAMPAIGN

In January 2017 the Cambodian government embarked on a massive anti-drug campaign. The campaign's overwhelming emphasis on detention and prosecution – rather than ensuring access to adequate healthcare for people who use drugs – has led to a burgeoning public health and human rights crisis.

As this report details, three years since its launch, the country's campaign against drugs has not only failed in its primary mission of reducing drug use and drug-related harms, it has led to serious and systematic human rights violations.

These violations include not only what amounts to a systematic denial of the right to health, but also arbitrary arrests and detention, extortion, wrongful convictions, and torture and other ill-treatment.

In light of the demonstrable failings of the anti-drug campaign, Amnesty International is calling for an urgent review of the Cambodian government's approach to drugs in order to bring it into line with international human rights standards, including by immediately and permanently closing all drug detention centres, rolling out evidence-based drug treatment services, and decriminalising the use and possession of drugs for personal use.