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ការពារយុត្តិធម៌កម្ពុជា

មេធាវីការពារសិទ្ធិកុមារតាមប្រព័ន្ធយុត្តិធម៌កម្ពុជា

PJJ's lawyer services for children in Cambodian justice system

កុមារក្នុងប្រព័ន្ធយុត្តិធម៌កម្ពុជា

CHILDREN IN CAMBODIAN

JUSTICE SYSTEM



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THE FUTURE OF CAMBODIA RESTS ON
THE WELFARE OF THE YOUNG GENERATION.



MAKE ALL THE DIFFERENCE FOR CHILDREN!



PREFACE

The publication of this book, “Children in the Cambodian Justice System ” is part of the activities of the Protection of Juvenile Justice (PJJ), a non-governmental Organization that was created to serve its three main goals and objectives:

1) Reach out to children in conflict with the law and provide free legal consultation and representation designed to meet the needs of child victims and children in conflict with the law and to protect their rights in the justice system of Cambodia;

2) Ensure that child offenders who have served their sentence and sexually abused children are provided with appropriate services such as education and vocational training; and

3) Educate law enforcers and the general public (including police, military police, prison officials, court officials, village chiefs, journalists and teachers) regarding the Convention on the Rights of the Child and relevant Cambodian laws in order to foster a culture of respect for the rights of children in Cambodia.

This book is intended to be a research document for readers wishing to have knowledge of children’s special protection within the justice system of Cambodia. It also aims to help improve the situation of Cambodian children by ensuring that they all enjoy the protection of their rights as given to them by the law and justice system of Cambodia. It is hoped, therefore, that the number of Cambodian children who become involved in crimes, as either offenders or victims, will gradually, yet significantly decrease. When our people in general and our competent officials in particular together uphold and protect the rights of children, Cambodia will become a safer place for everyone.

On behalf of the Protection of Juvenile Justice (PJJ), we would like to take this opportunity to express our most profound and sincere appreciation and gratitude to the following organizations for their generous financial support without which PJJ and its projects would not have been made possible: the United Nations



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I. INTRODUCTION

The Convention on the Rights of the Child and the United Nations' recommendations on the respect for and the implementation of children's rights in Cambodia encourage the country to establish a distinct justice system for children, both offenders and victims.

According to the law, a juvenile suspected of having committed a criminal offence shall have his/her rights protected in all steps of arrest, custody and detention; shall be free from false arrest, custody, detention and torture; and shall be segregated, if detained, from adult offenders. Incarcerating children in the same detention room with adults has become a major concern that requires taking immediate and effective measures. This is especially true when taking into consideration all possible dangerous occurrences in prison combined with the possible results when the children are released. Children are prone and quick to learn and imitate what they see and hear about ways and means of committing new offences they had never known or committed before. Such experiences take root in children's minds, providing negative reinforcement through examples set by long-term repeat offenders. Some young offenders revealed to us that prison is just a place for inflicting torture until they are forced to return to their offences. In this regard, our job is to make them understand that prison is designed as a place for their rehabilitation. It is better that all young prisoners, after serving their sentence, will change and return to society as good citizens. Sadly, however, most young lawbreakers come back unchanged after their term in prison. Worse still, the new wave of offences they commit are more frightening kinds of brutal and violent acts.

These new offences are so complicated and traceless as to make it more difficult for the competent authorities to find evidence for their arrest since these acts employ high-level techniques passed on by adult prisoners. In any event, children are vulnerable and need legal protection.



right to life, the right to education, the right to protection during wartime, and the right to be protected from sexual and economic exploitation, as well as any labor that is injurious to their welfare and educational opportunities.

2. Definition of Children

The Convention on the Rights of the Child defines children as those individuals aged less than 18 years. Age may be defined at a level less than this according to the laws of each country. The Convention encourages each state member to set the age of majority to be at least that of 18 years old.

Cambodia does not have a law defining the age bracket for children. However, there are laws providing for the responsibility of adults. Legal age, or the age of legal competence, is defined commencing at 18 years, as seen in Cambodia's Constitution regarding the age of having the right to vote, Military Law regarding the age of entering into the service, Immigration Law regarding the age of having the right to hold a passport, Citizenship Law regarding the age of bearing the right to give up Khmer nationality, Decree No. 38 regarding the age of entering into a legal contract, and Law on Marriage and Family regarding the age for lawful marriage. In Cambodia, therefore, children are generally those below 18 years of age.

3. The Four Principles of the Convention on the Rights of the Child

The Convention on the Rights of the Child comprises 54 articles, that can be classified into four major general principles, namely: a) non-discrimination of the child; b) the best interests of the child; c) the right to life, survival and development; and d) respect for the views of the child.

a) Non-discrimination of the Child: Article 2 of the Convention

Article 2 obliges all state members to abide by and guarantee the rights of the child without any discrimination based on the



them and gain nothing. Every decision to sentence a child shall take into consideration his/her actual circumstances and explicit offence(s) in order to determine whether or not his/her sentence is proportionate to the offence(s).

c) The Right to Life, Survival and Development: Article 6 of the Convention

This article requires Cambodia to guarantee all children a right to life, which shall never be denied. The State shall guarantee the living conditions and the upbringing of children to the highest possible level. This article also requires Cambodia to prepare its national plan by giving the highest priority to child development programs such as health care and education programs. The State shall also ensure the physical and mental safety and welfare of child victims and offenders, and protect against danger or loss of life while they are under State care. Article 32 of the Constitution guarantees that every Khmer citizen shall have the right to life, personal freedom, and security. Article 48 guarantees the rights of the child as set out in the Convention on the Rights of the Child, particularly the right to life, education, protection during wartime and protection from economic or sexual exploitation. Article 8 of the Abortion Law clearly stipulates that abortions can be performed only if the fetus is less than 12 weeks old.

d) Respect for the Views of the Child: Article 12 of the Convention

The last principle, respect for the views of the child, ensures that every child has the right and freedom to express their personal views on all matters concerning their life. Complaints by children or their representatives shall be heard and considered. Children's views shall be listened to and considered according to their age and maturity. Respect for children's views includes the rights to be listened to during hearings of child accused of criminal offences as well as child victims. Moreover, Article 41 of the Constitution of the Kingdom of Cambodia guarantees that Khmer citizens shall have freedom of expression; however, no one shall exercise this right to infringe upon the rights of others, to affect the good traditions of the society.



III. THE JUDICIAL SYSTEM OF CAMBODIA

As Cambodia does not yet have a separate court system exclusively designed for children, the court system for adults is applied to address cases of juveniles accused of crimes and victims. Obviously, there have been laws, decrees, declarations and directives adopted and promulgated; yet very few of these regulations contain articles dealing with children. It has become a common practice to apply the law designed for adults to children who have committed illegal acts. Despite the fact that some articles of the United Nation Transitional Authority in Cambodia (UNTAC) Criminal Law provide special favors to children—for example, a reduction of penalty is favorable to children, and the burden of responsibility is placed on adults committing an offence against children—those articles are not far-reaching enough to conform to the Convention on the Rights of the Child. Thus, a law dealing exclusively with children should be made and enacted soon in order to treat children’s cases differently from those involving only adults.

Proceedings to be applied to juvenile offenders and victims have been implemented in accordance with the general procedures of the judicial system of Cambodia, through which the prosecutor, investigating judge, trial court, appellate court and supreme court, along with judicial police officials shall work in collaboration to complete their common tasks. Officials in charge of penalties are responsible to punish all offenders, including children. Because the criminal offences they committed were severely condemned with no exception or leniency, it is hoped that convicts will not return to their crimes after having served their sentence. Both persons committing criminal and misdemeanor offences shall receive a lengthy prison sentence so that both adult and child offenders have the opportunity to become good citizens, as well as paying the social cost for their crime. This however depends entirely upon the prison system’s management and operation. For further understanding, some details of the Cambodian system of court tiers are included as follows:



3. Supreme Court

Like the Court of Appeals, there is only one Supreme Court, also located in Phnom Penh. It has authority over the entire country and has precedence over all tribunals. It can judge the first and second appeal brought up for hearing in this court by any party in the concerned case, who is not satisfied with the first and second judgments of the Court of Appeals. In judging the first appeal, the Supreme Court looks only to the substance of laws. If the Court has found and decided the first appeal to be just and fair, its judgment shall order a closure to the legal suit. If



Is it when everything concerning children is settled?

the court sets aside any or all points of the appellate court's first judgment, it will return the suit to the appellate court for review.

After the appellate court makes the second judgment of the suit, any party concerned who is not satisfied can bring it up to the Supreme Court for a second rehearing. The Supreme Court will review and judge the suit again, looking at both the substance of laws and facts; its judgment shall order a closure to the suit and shall take immediate effect.



record the verbal/telephone order in a note if a formal letter is not sent.

2. Authority of Judicial Police

Judicial police have the authority to handle criminal cases that take place within the boundaries of the city/province of which they work. Article 37 of the Criminal Procedure Law states that judicial police have the authority to perform their operation at places where an offender commits a crime, lives, or is found.

3. Investigation into the Scene and Custody of Evidence

Judicial police shall first notify the prosecutor of the case concerned, and then take immediate steps by examining the crime scene and writing down all useful and relevant information. To make it easy to fulfill their task, judicial police shall keep all by-standers off the scene, and shall keep things intact. They shall write a note of what they have seen, such as location, damage, marks, and other tangible objects. Additionally, the note can include a sketch, map, fingerprints, other related remarks, etc. Judicial police can confiscate objects of proof such as weapons and devices thought to have been used to commit the act at the scene.

4. Search of Premises

Judicial police are fully entitled to conduct a search of specified premises for any explicit specified offence. In general, a search of premises shall be conducted only between 6 a.m. and 6 p.m. in the presence of and with the signature of two witnesses and the house's owner. If any objects of proof, such as weaponry or various other devices, are found, they shall be confiscated and put in proper storage.

5. Forensics

In actual cases, judicial police have the right to recommend forensic testing. Specialists in forensic medicine, psychology,



the case of explicit crimes and misdemeanors can judicial police take offenders into custody. Judicial police can decide to hold a person in their custody for a maximum duration of 48 hours before handing the person over to a competent judge; they should dispatch the suspect to a court of law at the soonest possible time, can ask for a witness' account, conduct a search, confiscate objects of proof and arrest the suspect if there is enough evidence and legal grounds, beyond a reasonable doubt, to accuse.



After such a routine meeting, these child prisoners are going to be split up and detained in different rooms, each shared by adults.

9. Value of Memo

In principle, a memo is regarded as information only, not a basis for making an accusation. In other words, a memo is a report and does not require that a court of law adhere to it. However, a memo by judicial police shall be regarded as creating a burden of proof or as a legally admissible document until otherwise proven with contrasting evidence. In this regard, a court of law shall consider it to be true. Contrary evidence can be provided to a court of law through legal and other means. As



V. JUVENILE OFFENDER

In Cambodia, illegal acts committed both by and against children are growing to be a serious and alarming problem. The most frightening are such acts as thefts, robbery, mugging, rape, sexual exploitation, and murder. A great number of children are forcibly made to commit crimes by adults and gangs of 'big brothers'. Almost under no circumstances is a serious crime initiated or committed deliberately by children themselves.

All of these problems can be attributed to a number of factors including children's weakness, vulnerability to threats by adults, ignorance, poverty, loneliness, homelessness, orphan life, desire to be accepted in a certain crowd, peer-pressure to engage in drug consumption, gambling, etc. These are the factors that inspire them to take risks, to be able to act against their will in order to try to satisfy their dreams and imaginations. With such motivations, children become so excited about the pay-off of their acts that they think nothing of any future consequences. "Why am I punished?" is a question simply and often asked by many young offenders.

The principles of the justice system through the Convention on the Rights of the Child require equal protection of children's rights and freedom from discrimination, false arrest, detention and torture. Before accusing a child suspect of a wrongful act and taking him/her to trial, it is imperative to consider whether he/she really committed the very act of which he/she is accused.

A child suspect shall be freed after he/she has been found not guilty of a wrongful act. Only when an accused child has been found guilty of an explicit crime can he/she be sentenced. However, the Convention on the Rights of the Child requires that much attention and favor be given to the best interests of the child through a juvenile justice system. These principles are international rules and guidelines relating to the justice management system that focus on humane treatment of



punished by the criminal and criminal procedure laws. An attempt is an act done as a definite step towards the actual commission of a crime, having failed to stop it intentionally. Intentional commission of a crime is seen in three phases: 1) phase of thinking, 2) phase of preparation, and 3) phase of execution. Unless an act has been stopped before an actual crime takes place or before any harm or damage is done to individuals or society, giving up before committing the crime will not be considered intentional.

b) Legal, Objective and Subjective Elements

An act can be considered to be an offence only if it has all three of the following elements: i) the legal element, ii) the objective element, and iii) the subjective element. By example, consider the following case study. Note that an act unlawfully causing the death of another human being without premeditation or intent satisfies the requirement of an unintentional crime of murder.

Case Study: *A 15-year-old boy drove a motorbike through a red light at an intersection. His motorbike collided with a bicyclist who was thrown from her bicycle, suffering a bleeding nose and severe head trauma. The victim was taken to the hospital where she later died of her injuries.*

i) Legal Element: *The unintentional crime of murder (involuntary manslaughter) is stipulated and punished by Article 40 of the Criminal Law as acts of negligence, recklessness or lack of respect for rules and regulations that cause the death of another person without premeditated intent. In this case, the boy will be charged with a crime of involuntary manslaughter and if found guilty may be sentenced to 6 months to 1½ years in prison.*

ii) Objective Element: *Article 40 of the above Law provides for three critical points in which offenders have caused the death of a victim. In this respect, the objective element proves that the offender (the boy) committed his crime with negligence and recklessness, and with lack of respect for traffic regulations. One must also consider the means and devices used by the perpetrator to commit the crime, such as weapons, knives, and*



consider: arrest will affect his/her study and emotions. He/she will abandon study if found guilty of a crime due to the shame he/she feels. More importantly, waiting for the case to be settled legally will take a long period of time. A child should not be arrested for committing small offences such as stealing a car mirror in order to sell for money needed to buy medicine for his ailing mother at home, or to buy food to end his hunger. If such offences are determined to be so small that they do not qualify for an arrest, it will be ideal to give him a warning and have him return the stolen object to its owner. This is not meant to encourage a juvenile offender to continue to commit similar offences. Rather, it is just a way of balancing the type of offences committed with his legal responsibility and the particular circumstances of the case.

As for serious offences, police shall send the documents already assembled on a lawsuit against a child to the prosecutor, and conduct further investigations to ensure substantial evidence for an arrest according to the lawsuit. When arrested and if detained, the suspected child shall be temporarily confined in prison for a period of time not exceeding 48 hours prior to trial. (However, note international standards that encourage the release of the child pending trial.) When interrogated, the suspected child shall be given a chance to answer in the presence of his parents, guardians, or lawyer, and shall not be forced or tortured to extract answers. All forms of using force to extract answers are prohibited by law. The Constitution also provides that forced confessions made as a result of physical and mental torture shall not be admissible as evidence establishing criminality (Article 38).

If enough evidence suggests that a child did commit an offence, police can arrest him. The next step is for police to decide whether to temporarily detain the child. The purpose of the temporary detention is to allow for further investigations to see if he has really committed the alleged offence or not. This is also to ensure that the accused child will appear when the hearing is conducted. Only the judge shall have the right to confine the accused in prison, at the request of the prosecutor, when there is fear that he/she will escape or not appear for trial in the court.



5. Interviews with Children

Interviewing is crucial in obtaining answers and gathering information surrounding offences committed by children and should always be done by police. Interviewing should be a phase of genuinely intentional confession and surrender, completed in a way that is just and fair. Police by law should interview children using peaceful means rather than intimidation, force or torture. Interview questions shall be made simple and easy for children to understand and answer. Leading questions do not result in good answers worth taking note. (Leading questions are ones for which the interviewer asks a question that will result in the interviewee answering consistent with what the interviewer wants or according to their views). Interviewing a child shall be done in the presence of his or her parents, guardians or lawyer. Prior to an interview, a child shall be allowed to have a private discussion with his or her parents, guardians, and/or lawyer. The presence of a child's parents, relatives or lawyer reduces his or her fear in providing the right answer and curtails the interviewer's chances of intimidating the child. As a result, the information obtained through the interview can be used as effective evidence by the court. Cambodia may want to consider introducing the practice of having a social worker present during the interview, and who can transform the police's questions into a more child-friendly form.

6. Physical Scouring

According to Ministry of Interior instructions, physical scouring shall not be done in public or in the presence of police of the opposite sex of the child. Physical scouring can be done in the presence of only two police officers of the same sex as the accused child. After being physically scoured, a child shall be given back his or her clothes. Publicity of a child's nudity during scouring shall be avoided since it is one of the gravest violations of his or her dignity as a human being.



of the best options for the police and the prosecutor is to give advice to the child's parents or guardians enabling them to educate their child not to commit offences again. In advanced countries, diverting child offenders from the prison system also results in the children being sent to rehabilitation programmes where they are provided with education in literature and skills from which they can have a career and earn a living. In Cambodia, there is one Youth Rehabilitation Center (called "Chom Chao") located in Phnom Penh, created by a Prakas in November 2000. Its purpose is to receive, administer, educate and train children between 7 and 18 years of age who have committed illegal activities and are drug addicted. Practically speaking any children who are 18 years of age and under and who live on the street, are suspected of committing criminal offences (crimes/misdemeanours) or abuse drugs are accepted by this open Center.

8. Right to Counsel

According to the law, every child offender is entitled to legal counsel and defense by a lawyer. The court chief shall appoint a lawyer to represent and defend the rights of the child if the child does not already have a lawyer. The lawyer can conduct research to uncover the truth and gather evidence for an acquittal or may seek pardon for the child accused through legal procedures. The lawyer has the duty to always defend the interests of the accused. The lawyer has the right to object to accusations against his/her client. The lawyer has the right to ask for a pre-trial release of a suspected child temporarily detained by the court, and has the right to communicate with the child in prison at all times.

9. Trial of Juvenile Offender

The court has the authority to try a criminal case of any accused against whom a charge has been made and the case sent to the trial court by the prosecutor, or through an order of dossier review made by the investigating judge. Like adults, all children have the fundamental right to a fair and just trial. The hearing shall take into account the age of child and the importance of the child's rehabilitation. For a child offender, attention should be



12. Rehabilitation

Child offenders living in the prison system shall be entitled to rehabilitation programs such as education, vocational training, and opportunities to learn new skills. A number of prisons in Cambodia have occupational training programs like carpentry, etc. Such rehabilitation programs are important activities for all prisoners. However, most provincial prisons in Cambodia do not serve as a place for children to learn and change.

13. Release from Prison

After serving his or her prison sentence, a child is required according to the Convention on the Rights of the Child, to return to his or her family and society. Primary responsibility should fall on non-governmental organizations (NGOs), social services, and the ministry of social affairs, vocational training and youth rehabilitation, through the support of international organizations where necessary. However, lack of quality relations and



Are you
coming back
here again?

"Hopefully,
never ever
again!"

collaboration among the staff of the prison system, civil society and ministries in follow-up results in a lack of knowledge in the social work sector of the child's case. Moreover, this lack of information on the child after his or her release from prison is also due to the fact that people pay less attention to, are indifferent to, or simply have the habit of overlooking such a problem. The child will have a better future if enough attention is given to his or her welfare.



2. Hearing of Complaint of Victimized Children

The complaint of a child shall be listened to carefully. After receiving such a complaint, police shall make an immediate investigation in accordance with the complaint. After receiving the complaint, the authority has the obligation to find the suspect accused of committing the offence(s) against the child, and to investigate whether the suspect did commit the offence. If the suspect is found to have committed an offence, police shall



A child legal case shall be carefully heard in a juvenile court that is presided over by specially trained judges; and sentencing a child to prison shall be the last resort.

make a charge and send him or her to the court for trial. If the accused is found guilty, this will enable the child victim to receive a remedy and the offender will be punished. Witnesses play an integral role in this matter of finding justice and punishing offenders. The authorities shall reserve to the child victim the right to have his or her case dealt with secretly as requested by him/her or his/her representative as far as reputation and dignity is concerned. The best interests of the child would dictate that any case involving a child victim (or child accused of an offence) be held in closed court. In any case, the press may not publish information, photos or drawings which may make it possible for readers to identify any children (under the age of 18 years) in any civil or criminal case (Article 15.2, Law on the Press, 1995).



VII. PROCEDURES FOR LEGAL COMPLAINT

A legal complaint can take many forms and modes according to the administrative formality, guides or experiences of individuals. Despite its variety and diversity in forms and modes, every legal complaint has elements containing wording that explains the purpose of the complaint. A complaint can be made to competent officials either verbally or in writing. In principle, plaintiffs shall make a written complaint specifying the personality and identification of the offender or defendant, and giving important information necessary for identifying physical marks and features of the offender or defendant. Most important in writing a complaint is showing its object and essence—complaining about what and suing whom if a civil or criminal suit is to be made.

A complaint should provide descriptions of the facts and causes of the conflict in a manner that is simple, precise and easy to understand, including evidence or relevant documents to support it. In the request portion of a complaint, requests can be made that the offender and accomplices be punished, or that victim be given a remedy or compensation, etc. Throughout, the complaint should use polite and respectful language; a date, signature or thumb print is also necessary. For better understanding about complaints, look at the following two most frequently used models, which might be helpful.



A participatory discussion is officially held to find best solution for children.



Seizing that opportunity, he succeeded in raping my second daughter. As she experienced great pain, she began to cry so loudly that her older sister, planting crops in the farm in the backyard, heard the attack and came to investigate. Our oldest daughter saw that the same individual who had raped her the other day had returned. The perpetrator pushed her aside and ran away. Unable to bear the suffering of her young sister, she decided to tell her parents everything that had happened.

In response to the above incident, we are seeking your help in intervening in this matter and finding justice for my family and my two daughters.

Made in village..., date ...

Plaintiff's thumbprint

Plaintiff's name



Child victims and their family arrive at the office of the Protection of Juvenile Justice to seek legal support.



Regarding this matter, I have already lodged a complaint with the police in Khan soon after the incident took place. As a result, the police invited the perpetrator's father and me to meet and find a compromise for this case. However, I am not satisfied that the defendant's side agrees to pay only 1,500,000 Riels (one million five hundred thousand Riels) in compensation for the injury. I am seeking a total amount of 3,000,000 Riels (three million Riels).

Therefore, I am humbly writing to you, the Prosecutor, with the purpose of finding justice as follows:

- *I request that the perpetrator be punished by law*
- *I request that a total amount of 3,000,000 Riels (three million Riels) in compensation be paid to my side, in that:*
 - *2,000,000 Riels (two million Riels) is for medical treatment,*
 - *500,000 Riels (five hundred thousand Riels) is for damages, and*
 - *500,000 Riels (five hundred thousand Riels) is for loss of schooling, business and other regular activities.*

Please, the Prosecutor, be assured of my highest considerations.

Made in, date

Plaintiff's thumbprint

Plaintiff's name



Providing free legal service: PJJ's lawyer is defending victims in the



into family and community, and promote reconciliation between child and victim. Any diversion for a particular child shall meet the following minimal requirements: consent of child and his/her family, sufficient evidence to prosecute, and free will of the child to accept responsibility of wrongdoing. Diversion shall also include encouraging children to get involved in community based programs including those offered by NGOs, to attend school, and to be supervised or guided in all their acts. It is, however, necessary that an oral or written apology and repayment in money or in kind be made to the victim. With regard to the minimal safeguards in a diversion program, every child shall enjoy freedom from exploitation, appropriateness to the age of child, and non-interference with schooling if a child is of school age.

Children and police: *For minor offences, a child shall not be punished; it is better to use warning in such offences and for first-time offenders. Warnings are very important. In many cases, the child will not commit offences again if a warning is given.*

Pre-trial release: *Children should, if possible, be released into the custody of his/her parents pending attendance at court. If the parents are unable or unsuitable to supervise the child, another adult in the extended family, or another suitable adult in the community, should be considered. Pre-trial detention should be the last resort.*

Court system: *The prosecutor may consider a case of an accused child a 'file case' (without formal prosecution), where not enough evidence is provided to satisfy the requirement of a criminal offence, or may give him/her a formal caution in cases of minor offence and a first-time offender. A caution is usually written and involves the parents. Children may be diverted from judicial procedures, if his/her offence, punishable by law, is less than one year. The investigating judge can forward the file to the prosecutor for making a charge or issue a non-suit order if there is insufficient evidence.*



be the last resort and for the minimal amount of time.

It is hoped that in the near future there will be a distinct juvenile justice system in Cambodia. Recommendations should be based on international standards, but also be suitable and applicable in the Cambodian context.

IX. REFERENCES

For further information and understanding about child-related issues, it would be useful to read the following: The Convention on the Rights of the Child; Criminal Law; Criminal Procedures Law; Law on Mitigating Circumstances; Law on Suppression of Kidnapping, Trafficking and Exploitation of Human Persons; Comparative Study on the Cambodian Law and the Convention on the Rights of the Child; and Protecting the Rights of Children in the Cambodian Justice System.



*In spite of everything, children can always be changed
and made to become good citizens.*



BACKGROUND

Protection of Juvenile Justice (PJJ) was established, and officially recognized on 5 May 2001 by the Council of Ministers of the Kingdom of Cambodia as a non-profit, non-partisan, Khmer-administered, local non-governmental organization. PJJ is staffed by a professional team of Cambodian lawyers with specialties in child-related issues and legal training. Mr. Souyong SIM, Director of PJJ, also a lawyer, is an expert in child rights issues and leads the PJJ team. He previously served as Director of NGO Committee for the Rights of the Child (NGOCRC) for four years. He volunteered to start and run PJJ in 2001 with support from a team of volunteer lawyers who are dedicated to servicing children in Cambodia free of charge so that they will receive fair and proper treatment in both criminal and civil matters. The initial work of PJJ was gratefully done on a voluntary basis. Until now PJJ has not yet had secure funding for its daily core operations. Its activities and achievements have been made possible with only project-based budget funding from the United Nations Cambodia Office of the High Commissioner for Human Rights (UNCOHCHR), United Nations Voluntary Trust Fund on Contemporary Forms of Slavery-Geneva and Stichting Kinderpostzegels Nederland (SKN).

PJJ has two permanent offices in Phnom Penh and Battambang, and its activities cover the provinces of Kandal, Pursat, Banteay Mean Chey, Kampong Cham, Kampong Speu, Svay Rieng, Pery Veng, Taeko, Sihanouk Ville, Stung Treng, and Rattanakiri. As PJJ continues to exist and grow when funding is possible, it intends to expand its activities on a nationwide basis.

PJJ works closely with municipal and provincial courts of all levels. It receives active support from the Royal Government of Cambodia, and various other local and international organizations. Moreover, it is member of NGOCRC, ECPAT, COSECAM and Child Welfare Group.



THE NEEDS

Future Project and Plan

The needs of children for legal assistance in Cambodia are enormous. With no distinct juvenile justice system, there are few safeguards to protect and assist child victims and child offenders who come into conflict with the law. Though both Cambodian and international laws are designed to provide the legal needs and protect the best interests of children, these provisions are often not enforced in court. An organization such as PJJ is thus necessary to meet the growing challenge of providing adequate legal representation for children in Cambodia.

In order to meet the growing needs of children for legal assistance now and in the future, PJJ aims to focus on the following long-term priority projects:

1. Protecting Child Victims and Diverting Child Offenders from the Court System: *PJJ aims to extend its scope of work by providing more effective child defense services to cover all provinces throughout the country. For this purpose, PJJ plans to serve as a permanent legal center for providing lawyer and defense services to Cambodian children to ensure respect for and protection of the rights of child offenders and victims within the justice system.*

2. Seminar on Children in the Justice System of Cambodia:

This project is intended to conduct seminars in the remaining 18 provinces of Cambodia with an attempt to educate police, military police, prison officials, court officials, village chiefs, journalists and teachers regarding the Convention on the Rights of the Child and relevant Cambodian laws in order to foster a culture of respect for children's rights in Cambodia.



AUTHORS' BIOGRAPHIES



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- *2001-Present: Attorney-at-law, Director of the Protection of Juvenile Justice (PJJ)*
- *1998-2001: Chairman of NGO Committee on the Rights of the Child (NGOCRC)*
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LAST WORDS

For every child in conflict with the law, three things are a must: 1) their cases must be heard in juvenile courts; 2) their punishment must be the last resort; and 3) their best interest must be considered the first priority.

"As a lawyer representing and defending child victims as well as child offenders in provincial courts throughout the country through the justice system of Cambodia, I have come across many instances where the best interest of children have not been taken into serious consideration as far as punishment is concerned. It appears that acts committed by children have been viewed as merely something that can never be pardoned. Rarely was sentencing a child offender to prison done as the last resort. Such a case is evident that a 15-year-old boy was sentenced to 15 years in prison, charged with rape where his act in fact was only a case of sexual harassment. When the court announced his verdict, the boy's mother burst into tears and cried herself almost crazy from sadness and disappointment. I think it would be ideal that every judgement be made by first and foremost taking into account the best interest of children. For any reason, punishing and imprisoning children should not be taken as revenge for their offences."

--Sim Souyong

"Challenging changes for children...! I think that the time is always right to make things better for children by simply starting from changing attitudes and behaviors relating to children at homes, schools, police stations, courtrooms, and above all, just about everywhere, for it is wrong to think that the job of caring about and protecting children is the parents' responsibilities alone, rather it is everybody's. That is, in order for changes to matter and improvements to last, individuals, families and communities must be all involved. The better children, the better Cambodia to address child-related issues."

--Lay Putheara