

# PEOPLE'S COURT

PREVENTING AND RESPONDING TO

# “POPULAR JUSTICE”

IN CAMBODIA



UNITED NATIONS



UNITED NATIONS  
**HUMAN RIGHTS**  
OFFICE OF THE HIGH COMMISSIONER  
*Cambodia*



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# TABLE OF CONTENTS

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<b>1. EXECUTIVE SUMMARY .....</b>	<b>1</b>
<b>2. INTRODUCTION .....</b>	<b>2</b>
<b>3. METHODOLOGY .....</b>	<b>5</b>
<b>4. ACTS OF “POPULAR JUSTICE” IN CAMBODIA .....</b>	<b>6</b>
<b>4.1. Manifestation of acts of immediate “popular justice” against people accused of robbery, crimes or resulting from street altercations .....</b>	<b>6</b>
4.1.1. Instances of mob violence .....	6
4.1.2. Reasons leading to acts of immediate “popular justice” .....	7
<b>4.2. Manifestation of acts of “popular justice” against people accused of witchcraft .....</b>	<b>9</b>
4.2.1. Witchcraft accusation and persecution .....	9
4.2.2. An overview of the phenomenon of attacks against people accused of witchcraft .....	10
4.2.3. Reasons leading to the witchcraft accusation and persecution .....	12
<b>5. STATE OBLIGATIONS TO PREVENT AND PROTECT AGAINST “POPULAR JUSTICE” .....</b>	<b>14</b>
<b>6. RESPONSE BY THE AUTHORITIES .....</b>	<b>16</b>
<b>6.1. Protective legal and policy framework in Cambodia 16</b>	
<b>6.2. Prevention .....</b>	<b>17</b>
<b>6.3. Investigation and prosecution .....</b>	<b>19</b>
<b>6.4. Remedies and reparations .....</b>	<b>22</b>
<b>7. CONCLUSIONS .....</b>	<b>23</b>
<b>8. RECOMMENDATIONS TO THE ROYAL GOVERNMENT OF CAMBODIA .....</b>	<b>24</b>



## I. EXECUTIVE SUMMARY

Violent acts of so-called “popular justice”, or *tolakar prachechun* (people’s court) in Khmer, such as killings or beatings of people having allegedly committed a variety of offences, continue to be reported in the Kingdom of Cambodia. The term “popular justice” refers to an act of people taking the law into their own hands, generally involving violence, often in retaliation to an alleged crime, sometimes in response to a perceived threat. In Cambodia, it can be the sudden reaction of a crowd immediately following an incident, or a premeditated murder organized by one or several people, resulting sometimes from years of fear and bitterness. The latter is particularly the case of the killings, beatings, harassment and/ or eviction of people accused of practicing witchcraft. People identified as witches or sorcerers become scapegoats for a variety of problems in a village. These include suspicious misfortune, pain, sickness and death. In all cases, the perpetrators feel that what they are doing is right and that others will endorse their actions.

In 2016, OHCHR resumed the work undertaken on “popular justice” in the early 2000’s and began to document cases of mob killings in order to understand the context in which they take place and to provide recommendations on how to address the situation. This report is also the first attempt to analyse the mechanisms leading to violence directed at people accused of witchcraft practices in Cambodia.

“Popular justice” in Cambodia, as in other countries around the world, thrives on long existing prejudices, accumulated tensions and frustration, based on a lack of trust in the rule of law and the justice system, discriminatory attitudes in society, poverty,

*In July 2017 in Phnom Penh, Leng<sup>1</sup>, a boy aged 15 was wandering around small houses where factory workers lived. One person accused him of wearing a tee shirt similar to one previously stolen in the area. Several people gathered and then caught Leng and shouted that they had caught a thief. They attached his hands in his back. More people came. Several people began to punch and to kick him. Other people threw cans of beer at his head. One witness reported that Leng was kneeling and begging for pardon. His tears were mixing with blood running from his head. Then, Leng tried to escape from the beatings and fell down in a pond serving as a dump. The people watch him drowning, without attempting to rescue him. Later on, when the police arrived, it was too late. His dead body, covered with bruises, was found the next morning. The police conducted an investigation and only concluded that the cause of the death was drowning. The prosecutor summoned some people to court but closed the case shortly after. The beatings leading to the drowning were never taken in consideration and investigated. Nobody was arrested. One man interviewed a few days later said: “This boy was a bad person. He was a trouble-maker. Now he is dead. There will not be any problems anymore.” (source: OHCHR Cambodia interviews).*

<sup>1</sup> All the names contained in this document have been changed to protect the privacy of individuals.

and lack of education, in particular human rights education. An incident or long-time rumour or scapegoating can be sufficient to ignite these tensions. The inability, and sometimes the unwillingness, of the authorities to respond to acts of "popular justice" can deny the whole range of human rights, including the right to a remedy for victims of such acts. It can also lead to impunity, possibly increasing in turn the likelihood of the perpetration of future acts of "popular justice".

The report concludes with a series of recommendations to the Royal Government on Cambodia relating to:

- Law and policy
- Investigation and prosecution of all criminal offences
- Strengthened judicial institutions
- Awareness of the public, the judiciary and the police officers

## 2. INTRODUCTION

Violent acts of so-called "popular justice" or *tolakar prachechun* (people's court) in Khmer, such as killings or beatings of people having allegedly committed a variety of offences, continue to be reported in the Kingdom of Cambodia. The perpetrators are usually ordinary people, who are generally perceived more as avengers than criminals. They are rarely investigated, arrested and prosecuted.

The term "popular justice" refers to an act of people taking the law into their own hands, generally involving violence, often in retaliation to an alleged crime. In Cambodia, it can be the sudden reaction of a crowd

immediately following an incident or a premeditated murder organized by one or several people, resulting sometimes from years of fear and bitterness. In all cases, the perpetrators feel that what they are doing is right and that others will endorse their actions.

Acts of so-called "popular justice" are criminal acts under Cambodian law. Under international human rights law, the State has obligations to protect individuals from these crimes and to investigate and prosecute perpetrators if such acts occur. If the State does not do so, it can lead to violations of the right to life, right not to be subjected to torture and inhumane, cruel and degrading treatment, the right to a fair trial and the presumption of innocence as well as the right to a remedy. It can also adversely affect the efforts to eliminate all forms of discrimination. The 1993 Constitution and the 2007 Cambodian Criminal Code recognize these obligations of the State, in line with international human rights treaties, in particular the International Covenant on Civil and Political Rights.<sup>2</sup>

From the early 2000s, United Nations human rights mechanisms began to raise concerns about "popular justice", in particular mob killings, and the lack of response of the Cambodian authorities to address them in successive statements and reports.

In a public report published in 2002,<sup>3</sup> the then Special Representative of the Secretary-General for Human Rights in Cambodia (SRSG) Peter Leuprecht, drew attention to a high number of street mob violence cases recorded in Cambodia from mid-1999 to mid-2002 and raised concerns about the lack of effective prevention and reaction from the police and the courts. In that period, there had been 65 mob assaults and killings, of which 50 had taken place in

<sup>2</sup> All the names contained in this document have been changed to protect the privacy of individuals.

<sup>3</sup> *Street retribution in Cambodia*, United Nations Special Representative of the Secretary General for Human Rights in Cambodia, June 2002. ([cambodia.ohchr.org/sites/default/files/Thematic-reports/Thematic\\_CMB06062002E.pdf](http://cambodia.ohchr.org/sites/default/files/Thematic-reports/Thematic_CMB06062002E.pdf)).

Phnom Penh. He noted that while the police had shown a willingness to intervene in some cases, in 'many' cases they did not intervene to protect people who were being beaten and had even participated in instigating mob violence. The SRSG appealed to the Royal Government to take all necessary measures to prevent such actions, including to consider establishing an independent board of inquiry comprised of responsible representatives from political parties, NGOs and religious organizations, to examine all acts of mob violence, why these attacks occurred, how to prevent them, and to scrutinize police and prosecutorial conduct in these attacks. In a 2005 report,<sup>4</sup> the SRSG reiterated his proposal to create a board of inquiry. Until now, no such board of inquiry has been established. The SRSG also stated that the improvement of law enforcement standards should be a "top priority." Since then, OHCHR has conducted numerous trainings and briefings on the prevention of torture, ill-treatment, protection of the rights upon arrest and excessive use of force with judicial police officers and gendarmes in full cooperation with the Royal Government of Cambodia.

According to data<sup>5</sup> collected by OHCHR and other sources,<sup>6</sup> the number of cases of mob violence decreased after the SRSG's 2005 report. Several contextual reasons can explain this decline. Cambodia emerged from decades of civil war and violence after the surrender of the last Khmer Rouge in 1998 followed by the demobilization of the armed forces. The Government also initiated a programme of destruction of small arms and light weapons in circulation and has increased its response to crime in general. These factors greatly helped to

reduce criminality. This period of peace also corresponded to the opening to a market economy and a surge in economic growth.

However, despite the decrease in acts of "popular justice" leading to extra-judicial killings, it remains an area of concern. Periodically, cases of mob killings or beatings of people accused of committing robberies are reported in the newspapers and videos are circulated on social networks.<sup>7</sup> In many cases, the judicial authorities still fail to conduct actions that lead to the perpetrators of such acts being brought to justice. This feeds a pattern of impunity, as it demonstrates to potential perpetrators that their actions will go unpunished and so encourages them to believe such acts are acceptable and repeatable. Therefore, sustained efforts are still required to uphold the rule of law, to protect victims from popular violence and to hold perpetrators accountable.

In 2016, OHCHR resumed the work undertaken on "popular justice" in the early 2000s and began to document cases of mob killings in order to understand the context in which they take place and to provide recommendations on how to address the situation.

While collecting data on street mob violence, as a form of "popular justice", a new type of case emerged, that of the beating of people who cause car accidents and then try to flee the scene, fearing retaliation from the surrounding people. Typically, a group of people stop the car, beat the driver and even destroy the car. These cases have generally been left unpunished.

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4 *Continuing patterns of impunity in Cambodia, Report of the Special representative for the Human Rights in Cambodia, October 2005.*

5 *Official statistics on mob violence are not available as cases are not always reported or recorded by the police.*

6 *The Cambodian League for the Promotion and Defense of Human Rights (LICADHO) listed 55 mob killings cases from 2004 to 2015.*

7 *Cyberspace is a new domain where images of violence are shared and commented. Some comments written on social media provide provocative feedback and comments.*

However, in March 2018,<sup>8</sup> following the severe beating of a professor who was allegedly involved in a hit and run car accident, the Prime Minister called for an end to mob justice and asked for an investigation to be conducted and the perpetrators to be arrested. The police arrested three suspects, who were convicted by a court for the crime of intentional acts of violence with aggravating circumstances and intentionally causing damage. They were sentenced to three years' imprisonment, later reduced to 18 months, and ordered to pay financial compensation to the victim. The compensation is yet to be paid. The Minister of Interior called for people not to use violence and gave orders to all police forces to report, investigate and bring to justice the perpetrators of such acts. In September 2018, a group of villagers in Svay Rieng province beat a taxi driver involved in an accident with a man driving a motorbike to death. The police conducted an investigation and arrested four people. These actions are encouraging and should open the path to more awareness on the rule of law and help people understand that "popular justice" cannot replace the formal justice system.

"Popular justice" does not limit itself to cases of street retaliation by an angry mob in response to an alleged commission of a crime. Another form of popular retribution that has received little attention is the killings, beatings, evictions and/or persecutions of people accused of practicing witchcraft. This kind of "popular justice" by individuals or groups of people, which was reported to be common in the 1980s and 1990s, still occurs in rural areas today.

Witchcraft accusation and persecution is an emerging human rights issue, not only in Cambodia.<sup>9</sup> A large number of cases have been reported in African countries, with a specific focus on albinos who are more specifically targeted as they are mutilated or killed in order to use parts of their bodies to transform into potions or amulets<sup>10</sup> that are believed "to produce wealth and confer good luck"<sup>11</sup>. In South East Asia and the Pacific, the acts of violence are directed against people accused of practising witchcraft. Cases have been documented in Papua New Guinea,<sup>12</sup>

8 See: <https://phnompenhpost.com/national/rare-call-end-mob-justice-after-brutal-beating-cpp-aligned-professor>, <http://en.freshnewsasia.com/index.php/en/8116-2018-03-21-08-43-22.html> and <https://www.khmertimeskh.com/50298772/sar-kheng-condemns-unjust-mob-violence>.

9 In Sept 2017, an international UN workshop dealing with Witchcraft and Human Rights opened the way to discussions on the violence associated with accusation of witchcraft. UN officials, experts, and academics shared information on cases around the world of people been discriminated, harmed, or killed as a consequence of witchcraft allegation practices. The expert workshop recommended using "witchcraft" as an umbrella definition at international level that covers the plurality of manifestations of witchcraft with a focus on harmful practices and State's obligations as defined by international human rights law". Witchcraft has therefore been identified as "a deeply rooted reality, engrained in societies that serve as a system of explanation as well as of exploitation of misfortune. It is fueled by misbeliefs in supernatural powers and misconception of public health issues", see <http://www.ohchr.org/EN/Issues/Albinism/Pages/Witchcraft.aspx>.

10 Bones, skin, and hair of Albinos are believed to bring fortune and good luck. In her 2016 report to the General Assembly focusing on the aspect of witchcraft relating to the ritual killing of persons with albinism for the use of body parts, the Independent Expert on the enjoyment of human rights by persons with albinism noted that all 26 countries where attacks against persons with albinism had been reported to date, were in sub-Saharan Africa, Report of the Independent Expert on the enjoyment of human rights by persons with albinism, A/71/255, para 37. See also Gettleman, Jeffrey. Albinos, Long Shunned, Face Threat in Tanzania, N.Y. Times (June 8, 2008), available at <http://www.nytimes.com/2008/06/08/world/africa/08albino.html>; Obulutsa, George. Albinos live in fear after body part murders, The Guardian (Nov. 4, 2008), available at <http://www.guardian.co.uk/world/2008/nov/04/tanzania-albinos-murder-witchcraft>; The ritual murders of people with albinism in Malawi (February 2, 2017) available at <https://www.amnesty.org.uk/ritual-murders-people-albinism-malawi>.

11 Report on Witchcraft and the human rights of persons with albinism by the Independent Expert on the enjoyment of human rights by persons with albinism, A/HRC/34/59, 10 January 2017, para. 27.

12 Squires, Nick. Witchcraft brings murder to Pacific paradise: AIDS has revived black magic in Papua New Guinea, the Daily Telegraph 21 (Feb. 9, 2007), Amnesty International. Papua New Guinea: Violence against women: Not inevitable, never acceptable, ASA 34/002/2006 (Sept. 4, 2006), available at <http://www.amnesty.org/en/library/info/ASA34/002/2006>, Report on the Report of the Independent Expert on the enjoyment of human rights by persons with albinism, Human Rights Council, thirty-four session, January 2017, A/HRC/34/59. Amnesty International. Papua New Guinea, Women Human Rights Defender Anna Benny Appeal Case, ASA, 34/005/2006 (Sept. 4, 2006), available at <http://www.amnesty.org/en/library/asset/ASA34/005/2006/en/dom-ASA340052006en.pdf>.



Indonesia<sup>13</sup> and Thailand,<sup>14</sup> and published by the media in Cambodia.

In 2018, witchcraft-related killings, beatings, and harassment and their corollary impunity remained a matter of concern in some parts of Cambodia. They drew little public attention. The Royal Government of Cambodia and human rights defenders have hardly addressed them. Even academics have not been prolific on this topic.<sup>15</sup> This report is the first attempt to analyse the mechanisms leading to violence directed at people accused of witchcraft practices in Cambodia.

This report builds on the work and reports of the SRSR Peter Leuprecht and is aimed at combating discrimination and impunity and strengthening accountability and the rule of law. The report documents various situations from street mob violence to premeditated killings and the ways the authorities address them. It examines the phenomenon of mob killings, beatings, evicting and persecuting individuals suspected of witchcraft as well as the reaction by the authorities. It identifies some factors and structural causes leading to such acts and the profile of some victims. It highlights the human rights concerns regarding the phenomenon of "popular justice" in Cambodia and the State responsibilities to respond and to prevent it. The report provides recommendations to the Government to help prevent further violence and end impunity.

### 3. METHODOLOGY

This report is based on the field missions conducted in Cambodia between January 2017 and December 2018. The initial data came from the various media, including national and international newspapers, as well as social media between 2010 and 2018, from meetings with local police and court officials as well as from human rights NGOs based in the provinces.

Based on the information collected, OHCHR listed a total of 73 cases from 2010 to 2018. In 57 cases, people have been killed following accusations of social misconduct, theft or other infractions including traffic accidents (22 deaths), or following accusations of practicing witchcraft (35 deaths). In the remaining 16 cases, people were injured or harassed. The Ministry of Interior reported 16 cases mob violence and eight killings following accusations of practicing witchcraft between January 2017 and June 2019. The actual figures are most likely higher since no official comprehensive data on "popular justice" cases is available.

OHCHR conducted 39 field visits to the places where the incidents of "popular justice" occurred. Over 190 informal qualitative interviews were conducted with the victims, victims' families, neighbours, witnesses and alleged perpetrators.<sup>16</sup>

13 Ellen, Roy. *Anger, Anxiety, and Sorcery: An Analysis of Some Nuaulu Case Material from Seram, Eastern Indonesia, in Understanding Witchcraft and Sorcery in Southeast Asia* (Watson, C.W. and R.F. Ellen ed.), University of Hawaii Press (1993), at 11 and Herriman, Nicholas, *Fear and Uncertainty: Local Perceptions of the Sorcerer and the State in an Indonesian Witch-hunt*, 34 *Asian Journal of Social Science* 360 (2006), available at <http://arts.monash.edu.au/mai/staff/fearuncertainty.pdf> (last visited Dec. 13, 2008), abstract.

14 Golomb, Louis. *Supernaturalist Curers and Sorcery Accusations in Thailand*, 27 *Soc Sci Med* 437.

15 Publications focus on the practices of traditional healers (so-called white magic used to cure people) and only briefly report on allegations of so-called black magic practices. Social anthropologists point out that the practices are difficult to study as they are kept secret, that "the story only comes out when a sorcerer is killed", "It is virtually impossible to meet alive sorcerer" in Ovesen, Jan; Trankell, Ing-Britt, (2010), *Cambodians and their Doctors: a medical anthropology of colonial and post-colonial Cambodia*, NIAS Monographs, No. 117. For a general picture on traditional healers, see also: LECLERE, Adhémard, (1895), "La sorcellerie chez les Cambodgiens", in *Revue Scientifique, série 4, III*, pp.129-136, ANG Choulean, (1986), *Les êtres surnaturels dans la religion populaire khmère*, Paris, Cedorek, EISENBRUGH, Maurice, (1992), "The Ritual Space of Patients and Traditional Healers in Cambodia". In: *Bulletin de l'Ecole française d'Extrême-Orient. Tome 79 N°2*, pp. 283-316, BERTRAND Didier, (2000), "Les krou borame. Spécificité d'une pratique de possession dans le Cambodge contemporain", in Aigle D et alii, *La politique des esprits: chamanisme et religions universalistes. Presses Universitaires de Nanterre*, p 125-150.

16 Interviewees provided information on how and why acts of "popular justice" occurred, and how they understood and experienced them.

OHCHR also discussed the cases and raised awareness on combatting impunity and protection of victims with local authorities including village chiefs ("mephum") and commune chiefs ("mekhum"), as well as with judicial officers (police at commune, district and provincial levels and prosecutors and judges at the provincial courts). The summary of specific cases and direct quotations are used with the consent of those interviewed or are taken from open sources.

Due to the different nature of the victims involved and the various ways that local people and judicial officials understand and manage "popular justice" cases, the field results are presented in two different sub-sections: first, the mob killings and beatings of people accused of social misconduct or criminal offences including theft and hit-and-runs and, and second, the killings, beatings, evictions and harassment of people accused of witchcraft practices.

## 4. ACTS OF "POPULAR JUSTICE" IN CAMBODIA

### 4.1. MANIFESTATION OF ACTS OF IMMEDIATE "POPULAR JUSTICE" AGAINST PEOPLE ACCUSED OF ROBBERY, CRIMES OR RESULTING FROM STREET ALTERCATIONS

#### 4.1.1. INSTANCES OF MOB VIOLENCE

OHCHR listed and documented 22 cases of mob killings occurring between 2010 and 2018 taking place both in rural and in urban areas. In 14 cases, the victims of the mob killings were alleged thieves caught on the scene, two were accused of

committing a rape, one was caught after allegedly committing murder, three during a street altercation, one after causing a car accident and one following an allegation of child kidnapping on Facebook. A much larger number of people suffered severe beatings. All the victims of mob killings and beatings were male. Kicking in the head and lower back, punching in the abdomen, and beating with wooden sticks or stones are the most common ways to punish the people caught at the scene.

Based on the accounts of several mob killings of thieves monitored and investigated, a scenario emerges: a mob killing is an immediate reaction of a mob following an alleged criminal act, with victims given almost no opportunity to claim their innocence. People accused of theft are the most common victims. Simple accusations are sufficient to ignite a crowd into deadly violence. People who participate in the beatings are ordinary people, usually bystanders, mostly young men, who witness the incident, hear a vocal call "thief". Others receive a telephone call or message informing them of the incident. In the case of a robbery, the alleged thief is caught either immediately after the robbery or more frequently after a short manhunt. If the thief is not caught immediately and if he or she manages to escape, people who are present at the scene run after the thief yelling "thief, thief" asking for the help of bystanders to block their escape. Solidarity in hunting a thief is immediate and very high. Once caught, several people (some of whom did not even witness the incident) usually beat and kick repeatedly the suspect in such a way that several actors can be jointly responsible for the killing. In the case of street retribution, these actors in the vast majority of the cases often do not know each other. Ethnicity can also be an associated factor. The anti-Vietnamese sentiment prevalent in Cambodia for decades found a way to express itself in violent terms in the recent past, including in two cases of

popular justice documented by OHCHR.<sup>17</sup> There is concern that discrimination based on ethnicity and/or nationality could lead to acts of mob violence in the future. It will be important to monitor any acts of incitement to violence against such groups.

More people may join the crowd without participating in the beatings. They would instead take photos and videos and post them on social media,<sup>18</sup> potentially fueling the use of street violence to deal with petty crimes as people see others doing it. While watching these videos, it can be noted that the people who beat the suspect do not try to hide from the camera, as if they do not consider their action condemnable. The beating might stop at this stage, when a person attempts to control the crowd, protect the victim of the beatings and ask the police to handle the case; it can be a plain clothed police officer or an ordinary person. This person searches the thief's pockets for the stolen items and identification. However, if the level of anger is very high, the level of violence escalates in some instances until the person is killed. People continue to beat the thief even when they pray for mercy and are bleeding. Some people might also use whatever weapon they can find such as wooden sticks, helmets, bricks, plastic or metal pipes to beat the thief. The situation worsens when the victim falls on the ground. People then kick them repeatedly on the head<sup>19</sup> even if they are unconscious. In one case recorded on video and shared on social media, a man is seen throwing a large, heavy piece of concrete onto the head of a thief who is lying unconscious, with an apparent intention of killing him. To explain these violent acts, people explain that the

anger submerges them: "when we catch a thief, we are so angry that we cannot control ourselves."

During field visits to places where mob killings of thieves happened, OHCHR asked local people how they perceived the people who participated in the beatings. The people interviewed either refused to answer or eluded the answer by explaining that the criminals are thieves who cause suffering to people. The ones participating in the beatings leading to the death of the thieves are therefore not perceived as murderers, but more as crime fighters or vigilantes who help to get rid of criminals and restore security and peace in the village. From the interviews conducted at places where mob killings or beatings happened, it appeared that it is commonly understood, even by some police officers interviewed, that such people have restored security and should not be treated as criminals. However, some people express "pity" (*aneth koat*) for the people who are beaten to death during street mob violence. An encouraging trend seen from the most recent videos posted on Facebook is the intervention of bystanders who ask to stop the beatings by saying, "it is enough" (*ban hay*).

#### 4.1.2. REASONS LEADING TO ACTS OF IMMEDIATE "POPULAR JUSTICE"

Based on OHCHR's findings, there appear to be several factors contributing to "popular justice" carried out against individuals alleged to have committed a crime. As noted in the methodology section, OHCHR has not been able to do an exhaustive

<sup>17</sup> Due to a long and complex historical and political relationship between Vietnam and Cambodia, the resentment towards the ethnic Vietnamese minority living in Cambodia has led to discriminations, persecutions, violence and large displacements of people leading to their virtual elimination especially during the Lon Nol regime and the Khmer rouge regime in the 70's. In the 1980s ethnic Vietnamese returned to Cambodia. In the recent past, some opposition political parties have displayed anti-Vietnamese rhetoric against ethnic Vietnamese living in Cambodia.

<sup>18</sup> Live videos of mob beatings/killings of thieves taken by bystanders are circulating on social media.

<sup>19</sup> In Cambodian culture, the head is considered to be the highest, purest and the most sacred part of the human body. It is believed that the soul resides there. Touching someone's head is taboo. Thus, kicking someone in the head is extremely violent culturally, by touching the head with the feet, considered the most impure part of the body, and physically, having the will to « destroy » or kill the person.

review of all cases of "popular justice" given the lack of official data. The following analysis is therefore based on the qualitative interviews OHCHR undertook in the cases covered by the study and does not attempt to be comprehensive or quantitative. However, it does indicate the perceptions of those interviewed, providing greater understanding of the reasons leading to "popular justice".

Many interviewees indicated a lack of trust in the police, court and prison system. For example, some interviewees indicated that they felt insecure as a result of a perceived lack of action from the police. People reported their impression that the police was unable or unwilling to protect the population from robberies and violent assaults that take place in their daily life. As a result, they believed they were entitled to defend and protect themselves by resorting to violent acts of 'instant justice' when they caught the alleged perpetrators. Some interviewees indicated that the court system was costly, long, complicated and uncertain, making "popular justice" a preferable option to deal with alleged everyday crimes.

Interviewees also highlighted perceptions of corruption as a driver of acts of "popular justice". Some interviewees stated that if they apprehended thieves and handed them over to the police, they believed the police would release the thieves two or three days later because they would bribe their way out. If the case went to the court, the people also believed that the thieves would be freed after bribing court officials. Some therefore thought that handing over the alleged perpetrators to the police would not lead to justice being served.

In a similar vein, some interviewees expressed the view that the police and the

justice system did not operate as a public service, with equal treatment and exemption of service fees for all, but more as a person-to-person system where complainants pay the police and the courts to get results, and where perpetrators can also pay their way out. Poorer and less "connected" people were therefore less likely to use the judicial system and instead resort to other means such as "popular justice".

Indeed, many of those interviewed, including local people and judicial officers, stated that when a complainant filed a case, the complainant ought to give some money for the police or court for "investigation expenditures".<sup>20</sup>

Interviewees indicated their lack of trust in the courts to provide a punishment that was suitably harsh to those committing crimes. A large number of people interviewed understood that even if a court found a thief guilty and sentenced him, the punishment would be too light compared to the loss they suffered. They wanted tougher action from the police and from the court. Many of the people interviewed explained that criminals received a short prison sentence, which they believed would not prevent them from repeating the crime upon their release.

Interviewees also expressed their lack of trust in the prison system as a means to reform people convicted of criminal acts. A popular belief is that reform by spending some time in prison is not possible as illustrated by a Khmer proverb: *Chikae kantouy kwien, now tae kwien* (when the tail of the dog is bent, it will remain bent).

Some people said that they feared that the people who have spent some time in prison might be willing to take revenge against their accusers and the witnesses. Therefore, for

<sup>20</sup> Judicial officers formulate it as: "it is difficult to conduct an investigation as I do not have money for the gasoline, transport and food expenditures." When a case evolves well for the complainant, he might then give more money to express their "gratitude" (Loi Sakun).

some people, the physical elimination<sup>21</sup> of the ones perturbing the social order was the only way to restore security and peace in a long term.

At least part of this perceived lack of trust in the police, courts and prisons can be explained by the fact that the knowledge of the law, the rule of law and human rights is weak. People engaged in "popular justice" do not understand that everyone has the right to a fair trial and to the presumption of innocence. Nor do they understand that the people who participate in a mob killing commit a murder that is punishable by the law.

Further, they are not aware that Cambodia abolished the death penalty in 1989 or they do not agree with its abolishment.<sup>22</sup> On the contrary, some interviewees believed that applying an immediate death sentence (extra-judicial killing) to a criminal caught in *flagrante delicto* was acceptable to local people and even to the police, specifically for thieves. From the interviews conducted at places where mob killing had occurred, the avengers were generally considered more as benefactors than as criminals.

Another reason that appears to drive "popular justice" is poverty. In a country like Cambodia, where many people have only themselves to rely on to deal with the contingencies of life, the loss of money or their motorcycle can have disastrous effects on their daily lives. The people interviewed expressed strong feelings of hate towards thieves. When catching a thief, the accumulated anger and frustration find an outlet in beating them, sometimes to death.

As a result, punishment through "popular justice" can be entirely disproportional to the act in question. Someone might be lynched by a crowd for what is qualified as a petty crime by the law.<sup>23</sup>

## 4.2. MANIFESTATION OF ACTS OF "POPULAR JUSTICE" AGAINST PEOPLE ACCUSED OF WITCHCRAFT

### 4.2.1. WITCHCRAFT ACCUSATION AND PERSECUTION<sup>24</sup>

Another type of "popular justice", not well explored in Cambodia from a human rights perspective, is the killings, beatings, harassment and/or eviction of people accused of practicing witchcraft.

The belief in supernatural forces used by some people either to do good or bad is common in Cambodia and has an important impact in public and private life. Buddhist monks or laymen (masters of religious ceremony called *Acar*) who have special knowledge of "white magic", perform rituals, make objects or draw special shapes on pieces of cloth or on the body (tattoos) to protect the person against alleged bad supernatural influences coming from the outside. Conversely, certain people are suspected to have access to malevolent forces or "black magic" that they use to harm others.

The killings, beatings, harassment or eviction of people accused of practicing "black magic" or witchcraft is not uncommon in Cambodia, where people identified as witches become scapegoats

21 *Vay tchoal*, the Khmer expression used for killing by a street mob is composed of two actions: *vay* (beating) and *tchoal* (throw away).

22 Cambodia abolished the death penalty in 1989. The Constitution of the Kingdom of Cambodia (1993) at Art. 32 states: "All people have the right to life, freedom and personal security. There shall be no capital punishment." In 1995, the Prime Minister Prince Ranariddh proposed to amend the Constitution and restore the death penalty for murderers and drug traffickers, but his proposal was rejected. (<http://www.phnompenhpost.com/national/why-capital-punishment-bad-idea-cambodia>).

23 In 2013, a group of bystanders in Phnom Penh beat one young thief to death, after he stole 20 USD from a tourist's pocket.

24 Term defined by the Witchcraft and Human Rights Information Network (WHRIN), WHRIN report presented at the 25th session of the UN Human Rights Council, March 2014, <http://www.whrin.org/whrin-publications/>.

for a variety of problems in a village. These include suspicious misfortune, pain, sickness and death. In a world perceived as threatening, where people in lack of a social safety net can feel helpless when facing the vicissitudes of daily life, looking for someone to blame can be an answer to help people overcome their own fears.

There are no precise statistics on the number of incidents of witchcraft-related violence in Cambodia. However, based on information received from the police at the local level and from the provincial court authorities, the number of killings of people accused of witchcraft were significant in the recent past.<sup>25</sup> Presently, the number of witchcraft-related human rights violations is reported to have decreased but remains an area of concern in some remote areas in Cambodia. Between 2012 and 2018, OHCHR documented 49 witchcraft-related cases among which 35 involved killings and 14 attempted killings or harassment cases.

Witchcraft in Cambodia, more than an observed practice, exists primarily in the form of an allegation made towards some people.<sup>26</sup> From the interviews conducted with people accused of being sorcerers and with family members of those killed based on such accusations, very little evidence, if any, was found to support the idea that these people were actually practicing any kind of rituals. However, the accusations themselves are real, and they lead to the stigmatization of the person by other villagers.

#### 4.2.2 AN OVERVIEW OF THE PHENOMENON OF ATTACKS AGAINST PEOPLE ACCUSED OF WITCHCRAFT

There are some recurrent elements in the chain of events leading to an accusation against someone of being a sorcerer. It usually begins with a rumour. When a situation is potentially threatening, the affected people try to find an explanation and look for those responsible. In the Cambodian countryside, this usually starts with a series of diseases, misfortunes and deaths perceived as suspicious happening in one place. If there is no clear explanation, people might consider the possible intervention of the supernatural.

When someone is sick, it is usual to first turn towards western-type medicine to find a fast remedy to a health problem. In cases where people do not feel better because doctors cannot cure them, the person might go see a traditional healer called *Kru Khmer* (Khmer master/doctor) or *Kru sdhoh* (master/doctor), who may explain the problem as caused by malevolent spirits<sup>27</sup> or humans (sorcerers).

25 Several provincial judges and police officers who served in the 1980s and 1990s reported that these crimes were numerous in the past, although there are no official statistics. One police officer in Kompong Speu province reported that in the 1990s the police did not investigate any sorcery-related crimes as they were too numerous.

26 The traditional healers who "repair" the harms caused by supernatural entities, ghosts or sorcerers practice openly at home or in a Buddhist monastery. On the contrary, nobody would openly say they practice black magic.

27 Mediums called *rup* can be asked to perform a religious ceremony (trance) to identify the name of the angry spirit and ask him why he caused the sickness. Usually, he will explain that the person has broken a social rule such as throwing waste on one's land, or building a house contrary to the traditional spatial orientations. Rituals are performed to appease them. The bad influence contained in the sick body is transferred in a figurine made of rice paste and abandoned outside the village. The bad spirit will "eat" this substitute body and will leave the sick person at peace. A parallel between this ritual of exorcism can be made with the killing of a person supposedly having bad behaviour (people accused of robberies, bad social conduct, etc.) or bringing bad influence (people accused of witchcraft).

In 2017, several people died from various diseases in a short period of time in a village in Kompong Speu province. Unusual events also happened, such as thunder hitting houses. People visited a fortune-teller and Buddhist monks to find an explanation for these perturbing events. The monks attributed them to an "evil" presence in the village and recommended organizing a religious ceremony to get rid of it. Rumours had been circulating that the "evil" presence could be a man called Phiek Phiek, a traditional medicine healer who visited the village occasionally to see his second wife. A fortune-teller living in the area confirmed that it was him. Accusations of Phiek being a sorcerer extended back over a long time, when people began to question a change in attitude of his second wife, Sophany, who had reportedly begun drinking, speaking badly to people and even cursing them making reference to "magic" after she met him. She was reportedly different, being the only one in the village to have converted to Christianity and have her children educated in a Christian orphanage. Phiek was reported to be a nice man, but the fact that he knew how to use medicinal plants, magical formulas, and how to fabricate protection amulets for children, increased the suspicions. Phiek was living in a nearby village, but he taught Sophany the use of medicinal plants that she then sold to villagers. Violence against Phiek burst in March 2017, when a religious ceremony was organized in the village to get rid of the bad influences (exorcism) and restore harmony. A sacred area was set-up. Eight head monks of eight monasteries were placed around the village at the eight cardinal points and intermediaries. A cotton thread surrounded the village and a renowned chief monk from the area was placed at the center of the village. All monks recited prayers while holding the thread in their hands. Phiek arrived during the ceremony, when it was forbidden to enter or leave the village. It was reported that he deliberately destroyed a wooden stick supporting the ceremonial cotton thread to enter the village. The disturbance was perceived by the villagers as clear evidence that Phiek was the sorcerer harming the villagers. Immediately after, a few hundred angry villagers headed by the village chief rushed to Sophany's house. There, they were stopped for some time by a fence surrounding the house. As the crowd grew bigger and more aggressive, the commune police asked the district and provincial police for backup. Phiek and Sophany's family (eight people) were rescued by the police who took them to the district police office. (source: OHCHR Cambodia interviews).

In some difficult or incurable cases, the *kru* might say that he cannot cure the person as the sickness is coming from a sorcerer who has "powerful black magic energies" (*mien monakum klang*). He might then vaguely identify somebody by giving indications such as, "the person who harmed you is living north of your house" or "he is tall and has small fingers". Rarely do they give a precise name. In one case in Kompong

Cham province, a *kru* gave the precise name of a person suspected to be a sorcerer.<sup>28</sup> Following this accusation, the accused man was ostracized for years, attacked and wounded twice with an axe, and asked to leave the village.

A person accused of practicing witchcraft is said to "put spells" (*dah ampeu*) on people, causing them to be sick and even to die.

28 In the 19th century, some articles of the judicial codes dealt with the practice of sorcery that was punishable by death if proven. The traditional healer was tasked to identify and denounce sorcerers to the judicial officers. It was accepted that he could get the information from the spirits (LECLERE, *les Codes Cambodgiens*, vol 2, Paris, Ernest Ernest Leroux, 1898, p.41).

The alleged sorcerer is called a *thmop* if he is male and an *ap* if she is a female. Among the 35 documented cases, only three were female.

The *thmop/ap* are usually reported to be people who know magical formulas kept in secret manuscripts (*Monakum om am*), or to have in their possession powerful magical objects<sup>29</sup> helping them harm other people. Other people are said to be intrinsically *thmop/ap*, having inherited it from their ancestors or obtained following a disease. The lineage accusation can lead to the killing of the children or even the spouse of a person accused of being witch-like. This is commonly known as "killing until the last seed" (*somlap teang pouch*).

Once someone is identified as a sorcerer, rumours about his or her alleged specific bad actions become viral.<sup>30</sup> In many cases, accusations of witchcraft are at first activated by just a few people, mainly relatives. They later spread to the whole village and in some cases to several villages. The rumours help to create a collective solidarity, which allows for the denunciation and sacrifice of an expiatory victim. The rumour is fed with distorted stories assembled together to form inculpatory charges. At first, the person is ostracized,<sup>31</sup> and even asked to leave the village.<sup>32</sup> After many stories and anger has accumulated, the slightest incident can lead to an explosion of widespread communal violence.

The perpetrators might be a mob

comprising a whole village or in the case of a premeditated murder, a small group of people, very often the relatives of the victim. The killing of people accused of witchcraft is usually carried out with sticks, knives, machetes or guns. Women are reported to participate too. Some victims have been found beheaded. People argue that this is a measure to prevent the police from finding the perpetrator, as they believe that the image of the person who killed the sorcerer is registered on the pupils of the dead person.

#### 4.2.3. REASONS LEADING TO THE WITCHCRAFT ACCUSATION AND PERSECUTION

Witchcraft-related violence typically tends to be premeditated and targets the most vulnerable and marginalized in communities, including persons with physical or mental disability.

Interviewees often described the persons deemed to be sorcerers as behaving differently or having a different demeanour, meaning they "do strange things" (*tve ovey plaek plaek*). This might be evidenced through their speech, or way of eating and even walking.<sup>33</sup> They are usually reported not to have good social interactions with others. Some are described as having a "bad temper", "cursing people" or "threatening them" (when drunk) and being willing to "live separately from the others. Some are quieter but they "do not look straight in the eyes", "have red eyes" or "cannot face the light of the sun". Several have birth disabilities or special birthmarks that traditionally signal

<sup>29</sup> Religious statues, amulets, or a powerful rhizome known as *Protiel*.

<sup>30</sup> In one case, the alleged sorcerer had reportedly put his hand on the gate of a man who died the next day. In another case, he was said to have touched the leg of a young girl. In Kompong Speu, several people reported that they heard that the alleged sorcerer transformed a plate of pork meat into moving worms. The story is transmitted from one person to another and gets distorted through time.

<sup>31</sup> In Kompong Cham province, life has been difficult for a man accused of being a sorcerer. For many years, people did not want to sit close to him or to speak to him as they were afraid that he might cast a spell on them. In Kandieng district, Pursat province, one woman told us that since her childhood, people had been saying that her mother was a sorcerer, causing her psychological suffering.

<sup>32</sup> Several cases of alleged sorcerers being expelled from their villages have been reported in Ratanakiri province. In 2013 and in 2015, two ethnic Jaray had to run away from their village, fearing for their lives.

<sup>33</sup> They speak with different intonations meaning that they might originate from a different place or are possessed by supernatural entities. Some are also reported to drink fresh blood.



*On 26 April 2014, in Kompong Speu province, a group of 600 people armed with wooden sticks and stones came to Chek's house accusing him of witchcraft. After being stoned and beaten by several people, he died from numerous injuries. Chek was a kru Khmer (traditional healer). He reportedly tried to get new clients by telling people who were already sick that if they did not come to see him for an appropriate treatment, they would die soon. Several people died of illnesses that police and 'educated' people describe as AIDS, cancer or diabetes. But for the common people of the village, as well as the surrounding villages, these people died because of Chek's curses. As several people died within a few months, villagers began to fear Chek and accused him of practicing witchcraft. After the suspicious death of one man, a kru tiey ("fortune teller") indirectly designated Chek as the one responsible. The information was circulated widely in the area within a few hours. People began to say that it was time to get rid of Chek. Beginning in the early afternoon, more and more people converged in front of Chek's house until they numbered around 500. Chek stayed in his house, afraid to go out. The angry crowd began to throw stones on the roof and on the walls of the thatched house. Around 15-20 police officers from the surrounding districts arrived on the scene. They tried to evacuate Chek in their cars but the angry mob stopped them. Then, a group of people entered the house and tossed Chek out. People threw stones, beat and kicked him until he died. The police conducted an investigation and a prosecutor from the Takeo provincial court issued arrest warrants for 11 men. Only one suspect was arrested and then released by court order. The remaining suspects are reported to have run away and have not been arrested. (source: OHCHR Cambodia interviews)*

the karmic result of bad actions carried out in a former life (e.g. one alleged sorcerer is a hunchback, one was born with one eye). Some of them also have physical specificities that could be connected to supernatural entities (e.g. one alleged sorcerer had a tuft of matted hair behind his head).

Further, there might also be a question of expectations of adherence to certain cultural norms. A sign indicating that a person could be a sorcerer is their "non-attendance to Buddhist ceremonies" allegedly as they "cannot enter inside the sacred area of the pagoda" as their bad energy would be challenged by "the positive sacred force" (*baromey*) embodied there. Strange lights are sometimes reported to move at night around their house<sup>34</sup>. In the majority of cases investigated, the alleged sorcerer was born

in another village.

Accusations of witchcraft are also directed at those who "wander off the well-trodden path"<sup>35</sup>. Changes in the course of one's daily life can create jealousy and/or be considered as disturbances that are potentially dangerous for the local villagers. Respecting the social norms and "staying quiet" (*nowe sniem*) are traditionally more valued than developing new ideas that might disturb the social equilibrium.

In addition to discrimination and expectation of conformity to cultural norms, research indicates some other factors that overlap with the reasons driving spontaneous acts of "popular justice", outlined in the previous section. First, interviewees highlighted the fact that the judicial system still lacks the

<sup>34</sup> Lights in big trees at night signal the presence of ghouls and ghosts.

<sup>35</sup> Source: OHCHR-Cambodia interviews.

financial and human resources to protect people which pushes people to seek justice for themselves. Second, relatively low levels of human rights education mean that perpetrators do not question their acts, even if they lead to discrimination and exclusion.

There might also be links to poverty and exclusion. Cases happen more in specific geographical locations linked to a lower level of economic and social development or that are less accessible. For example, there are a higher number of cases in specific districts in Takeo, Kompong Speu and Pursat provinces that remain difficult to access. In these remote areas, the poverty rate remains high. According to two German researchers, economic hardships play an important role in witch-hunts. They observed that around the world, the accusation by a group of people towards one person of being a witch leading to an execution increases with the economic problems.<sup>36</sup> Additionally, secondary school enrolment is low, with 55.7% enrolment in lower secondary school, and 25.1% enrolment in upper secondary school.<sup>37</sup> For many years, the inhabitants of these villages lacked good roads, schools and health centres. The rate of alcoholism appears also to be rather high in these areas.

## 5. STATE OBLIGATIONS TO PREVENT AND PROTECT AGAINST "POPULAR JUSTICE"

The previous section demonstrates how acts of "popular justice", as a result of alleged criminal acts or witchcraft, can raise a series of concerns for human rights. "Popular justice" leading to killing violates the right to life if the State does not act to prevent or provide an appropriate remedy. Acts of "popular justice" affect other rights as well including freedom from torture and ill-treatment. The State has an obligation to protect everyone against such treatment, "whether inflicted by people acting in their official capacity, outside their official capacity or in a private capacity."<sup>38</sup>

The act of members of a group taking justice into their own hands violates an individual's right to a fair and public hearing by a competent, independent and impartial tribunal established by law, to equality before the law and before courts and tribunals, and to the presumption of innocence. Importantly, the presumption of innocence "imposes on the prosecution the burden of proving the charge, guarantees that no guilt can be presumed until the charge has been proved beyond reasonable doubt, and ensures that the accused has the benefit of doubt."<sup>39</sup>

In addition, the accusation and persecution of witchcraft highlights concerns of discrimination, singling out those who are "different", feared or disliked<sup>40</sup>. The Special Rapporteur on extrajudicial, summary or arbitrary executions has reported that the response to witchcraft in many countries frequently involves serious and systematic forms of discrimination, especially on the grounds of gender, age and disability.<sup>41</sup>

36 Baten, Jörg, and Ulrich Woitek, (2001), "Economic Determinants of Witch Hunting." Baumes, Jeff, Mark Goldberg, Malik Magdon-Ismail, and William Al Wallace. 2004.

37 Public Education Statistics & Indicators 2015-2016. Ministry of Education, Youth and Sport. March 2017, p. 41.

38 General Comment No. 20 (2007) on Article 7 (Prohibition of torture, or other cruel, inhuman or degrading treatment or punishment), CCPR/C/GC/20, para. 2.

39 General Comment No. 32 (2007) on Article 14: Right to equality before courts and tribunals and to a fair trial, CCPR/C/GC/32, para. 30.

40 See section 3.1.3. Reasons leading to the witchcraft accusation and persecution above.

41 A/HRC/11/2, para. 51.

Under international human rights law, all branches of government and other authorities, including those at the local level, must not only refrain from committing violations of these rights, but also adopt measures, such as legislative, judicial, administrative, educational and others, to protect and fulfil human rights.<sup>42</sup>

These obligations extend to acts, including acts of "popular justice" that are committed by non-State actors, such as individuals reacting to a possible criminal act or persecuting someone for alleged witchcraft. Situations where the Government permits or fails to take appropriate measures or to exercise due diligence to prevent, punish, investigate or redress the harm caused by private persons or entities may therefore amount to human rights violations.<sup>43</sup> Such a failure might also lead to impunity, as the perpetrators of human rights violations are not brought to account nor do they make reparations to their victims.<sup>44</sup> Indeed, impunity for human rights violations is also an important contributing element to the recurrence of violations.<sup>45</sup>

More specifically, international human rights law provides the following framework to understand State obligations in this field.

First, the State must enact a **protective legal framework**, including effective criminal prohibitions on all manifestations of violence or incitement to violence that are likely to result in a deprivation of life<sup>46</sup> or could lead to torture or ill-treatment. Legal protections must apply equally to all

individuals and provide effective guarantees against all forms of discrimination.<sup>47</sup> Such a framework should introduce special protection measures for persons in situations of vulnerability, whose lives are at particular risk, including persons suspected of witchcraft.<sup>48</sup> The legal framework should also establish competent, independent and impartial tribunals that uphold the right to a fair and public hearing and the presumption of innocence.

Second, the State must also exercise due diligence to **prevent** acts of "popular justice" from occurring and, in so doing, to protect the lives of individuals from deprivations caused by persons whose conduct is not attributable to the State.<sup>49</sup> One way is by raising the awareness of the public at the local level about human rights principles and the rule of law, in particular the illegality of acts of "popular justice", as well as the right of everyone to a fair trial and the presumption of innocence.

Third, where preventive measures to stop "popular justice" are not successful, the State must carry out **investigations and prosecutions** in cases that may amount to unlawful deprivations of life, torture, or ill-treatment. These must be aimed at ensuring that those responsible are brought to justice, at promoting accountability, preventing impunity and avoiding denial of justice, and at drawing lessons to avoid repeated violations.<sup>50</sup> Investigations must be "independent, impartial, prompt, thorough, effective, credible and transparent..."<sup>51</sup>

42 General Comment No. 31 [80] on the Nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add. 13, para. 7.

43 General Comment No. 31 [80], para. 8.

44 Updated Set of principles for the protection and promotion of human rights through action to combat impunity, E/CN.4/2005/102/Add.1, p.6.

45 General Comment No. 31 [80], paras. 15, 18.

46 General Comment No. 36 on article 6 of the International Covenant on Civil and Political Rights, on the right to life, CCPR/C/GC/36, para. 20.

47 General Comment No. 36, para. 61.

48 General Comment No. 36, para. 23.

49 General Comment No. 36, para. 7.

50 General Comment No. 36, para. 27.

51 General Comment No. 36, para.27.

Finally, the State must provide an effective **remedy** to any victim of a human rights violation. Remedies should be adapted to take into account the vulnerability of certain categories of persons. Reparation can involve restitution, rehabilitation and measures of satisfaction, such as guarantees of non-repetition and changes in relevant laws and practices, and bringing perpetrators to justice.<sup>52</sup>

## 6. RESPONSE BY THE AUTHORITIES

### 6.1. PROTECTIVE LEGAL AND POLICY FRAMEWORK IN CAMBODIA

The Constitution of the Kingdom of Cambodia includes a chapter on the rights and duties of Khmer citizens, which recognizes and respects human rights as enshrined in the Universal Declaration of Human Rights and all international human rights treaties.<sup>53</sup> It specifically recognizes certain rights, such as equality before the law; the prohibition of non-discrimination; the right to life, liberty and security; the prohibition of any physical abuse against any individual; the right to be presumed innocent and the right to legal defence. The Code of Criminal Procedure further lays out a series of rights regarding due process. The Criminal Code includes all crimes involved in acts of "popular justice" including homicide, torture and acts of cruelty, intentional acts of violence and threats, although these are not all in full compliance with international standards (for instance, regarding such crimes as the crime of torture). It also defines perpetrators, co-

*Han Hanwas, a 50 year old woman was accused for many years of practicing witchcraft in Pursat province. The situation worsened in 2015 when five people from Seanchey village died from the so-called tich teuk decease. One traditional healer said that Han had cursed them. One night, at 11.30 pm, two or three men tried to break down the door to Han's house to kill her. Following this attempt, Han's daughter filed a complaint with the chief of commune police, the village chief and the district police office. In November 2015, the village chief organized an oath swearing ceremony, inviting Han and all the villagers from the village to attend. According to the village chief, the situation calmed down after Han swore that she was not a sorcerer. Still, Han decided to leave the village. According to her daughter, she is now working in a pepper plantation in Ratanakiri. The three men who tried to break into Han's house have not been summoned by the police (source: OHCHR Cambodia interviews).*

perpetrators, instigators and accomplices of criminal offences. Despite the constitutional protection from discrimination, and some provisions in the Criminal Code outlawing discrimination, there is no comprehensive anti-discrimination legislation in Cambodia.

One of the four strategic goals of the Government's political platform, the Rectangular Strategy—Phase IV, is strengthening the capacity and governance of public institutions, both at national and sub-national levels, to ensure an effective and efficient delivery of public services

<sup>52</sup> General Comment No. 31 [80] on the Nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add. 13, para. 16.

<sup>53</sup> Constitution of the Kingdom of Cambodia, Chapter III.

aimed at better serving the people.<sup>54</sup> At the core of the Rectangular Strategy—Phase IV is accelerating the governance reform, with the objective of having institutions that are inclusive, equitable and just. The Government also seeks to strengthen awareness on the prevention and crackdown on corruption activities; strengthening and expanding public dissemination of information related to public services and legal instruments; and enhancing the implementation mechanisms for receiving feedback and handling complaints from public service users.<sup>55</sup> Additionally, the Government seeks to enhance judicial services by improving work effectiveness, strengthening public confidence in the judicial system, and combatting all kinds of abuses and violations in the society.<sup>56</sup>

Other measures include reinforcing the rule of law and respect for human rights and dignity, as well as undertaking preventive measures and other actions to suppress all kinds of criminal activities.<sup>57</sup>

The laws in force in Cambodia provide a solid base to prevent impunity for cases of "popular justice". However, in preparation of this report OHCHR was unable to identify any specific policies in place to address acts of "popular justice", aside from the above-mentioned order from the Ministry of Interior to all police forces to report, investigate and bring to justice the perpetrators of such acts. In reality there appears to be a very limited preventive work by the police and other local authorities, while the prompt and efficient investigations, prosecutions and punishment, particularly in cases concerning mob violence, are lacking in most cases. The lack of prevention and the

degree of impunity enjoyed by perpetrators become factors for cases of "popular justice" to continue to be reported.

## 6.2 PREVENTION

The report finds that the main obstacle for the authorities to prevent acts of "popular justice" appears to be the strongly held view among perpetrators that "popular justice" is fully justified and legitimate. Only one police officer interviewed reported that people do not rely on the police's ability to deal efficiently with thieves because they understand that based on the law, it is forbidden to "treat thieves as they deserve to be treated", meaning subjecting them to ill-treatment. In such cases, perpetrators actively avoid the authorities. Research demonstrated that in some cases this belief is so strongly held that police officers feel threatened by the mob if they intervene. Indeed, some police officers indicated that they do not try to stop a mob killing when they are present at the scene as the situation could be dangerous for them too. In some cases where the police tried to prevent violence, people turned on them.<sup>58</sup>

Further, research indicated that even some individual representatives of the authorities did not view "popular justice" as a human rights violation. In some of the cases OHCHR examined, police officers openly expressed support for those who take justice into their own hands. Asked about police action in a 2018 killing of a motorbike thief by a mob, one police officer stated: "People wanted the thief to be killed. I also wanted him to be killed. I am happy with that. What more do you want?"

<sup>54</sup> *Rectangular Strategy—Phase IV*, page 14.

<sup>55</sup> *Rectangular Strategy—Phase IV*, page 20.

<sup>56</sup> *Rectangular Strategy—Phase IV*, page 21.

<sup>57</sup> *Rectangular Strategy—Phase IV*, page 24.

<sup>58</sup> In a district of Kompong Speu province, police officers recalled one former case when they caught two thieves and brought them to the police station. Hundreds of people gathered there, asking the police officers to give up the two thieves. The police officers remained locked up in the police station with the two thieves, refusing to open the door. The angry mob tried to break the door and the fragile wooden walls until a truck from the district police office safely took the two thieves away.

This strongly held view among perpetrators that their acts are legitimate applies also to witchcraft-related cases. When interviewed, many police officers reported that the situation was difficult to deal with. One of the main issues they faced was when people ask for help from the police and filed a complaint accusing someone of witchcraft practices. As witchcraft practices are not considered an offence under Cambodian law, the police cannot answer their initial demand. This perceived lack of reaction from the police creates frustration, fueling more anger among the population. This highlights the need to encourage greater awareness of human rights among the population and greater respect for the principles and institutions of the rule of law.

However, research also identified that in some cases the authorities were able to intervene and on several occasions the police and local authorities have played an important role in preventing further violence. When the level of anger has been high, threatening further violence, the police and local authorities have used traditional conciliation practices (somrohsomruel) to calm the situation. They have listened to both parties and asked them to meet and thumbprint an agreement letter stating that both parties would stop their actions - the accuser would swear to stop spreading accusations of witchcraft, while the accused would swear to stop using "bad words" against people.

If this does not ease tension, the next step is an oath-swearing ceremony. The person accused of being a sorcerer is asked to swear that they are not a sorcerer. This oath-swearing ceremony can be held at the police or communal office or in front of statues of Buddha or divinities such as neakta. According to tradition, the alleged sorcerer might die immediately or suffer intensely

*A woman living in Ratanakiri province had been sick for a long time. In 2015, a traditional healer in Vietnam identified her sickness as the result of a spell. Another villager consulted a healer for his sick grandchild, who also said that a sorcerer had made the child sick. Although the child recovered, people began to spread rumours that a local man by the name of Pithou was the sorcerer, because he had asked "Is your grandson better?" just before the child's health worsened. The villagers asked for his eviction from the village. The commune chief tried to find a compromise by asking Pithou to participate in a traditional swearing ceremony three times, which he refused. Pithou filed a complaint in court against five people for defamation. The court summoned them but they did not appear. The situation quieted down for fear of being taken to court, but in 2017, people still express their hatred of Pithou (source: OHCHR Cambodia interviews).*

in the future if they lie. Nevertheless, while oath-swearing ceremonies might appease tensions for a while, the accusations can resume and lead to harassment. Sometimes, the only way out is to leave the village, which can result in the affectation of several rights, as people are forced to leave their homes, families and work behind.

In some cases, local people ask for the eviction of the alleged sorcerer from the village. In the cases reviewed, the local authorities have not responded to such demands, but in cases where the risk of violence has remained high, they have

proposed a temporary solution such as an outside shelter. However, in a case in Ratanakiri province, what was supposed to be a temporary relocation became permanent. The Bokeo district police has been sheltering a man and his family (10 people) inside the police station since 2015. The district authorities have tried to look for an alternative place where they could settle, but the reputation of the alleged sorcerer preceded him, making his move difficult.

In Ratanakiri province, the local authorities found a subterfuge to reintegrate a man accused of witchcraft into the village. In 2015, a man was evicted from his village by a mob of around 400 people on accusations of practising witchcraft. The police used the opportunity of the visit of a high-ranking government official in the area to help him reintegrate into his village. The local villagers did not dare to oppose the will of the high ranking person and accepted his return to the village. In some cases, however, the alleged sorcerer does not want to follow the advice of the police and local authorities.

### 6.3. INVESTIGATION AND PROSECUTION

Among the 22 mob killings cases documented, only two were followed up with an effective investigation into the incident of mob violence leading to the arrest of the perpetrator(s). In all 14 cases of theft followed by the mob killing of the alleged thief, the police only investigated the theft, but not the killing. In provincial police commissariats, the police unit in charge of the "minor crimes unit" managed these cases,<sup>59</sup> meaning that only the theft was taken into consideration, and not the homicide. When raising the issue with

several police officers, it appeared that the mob killing of a thief was often not even understood as being a homicide liable for punishment. The Ministry of Interior reported that 14 people had been arrested in relation to four cases of mob violence; six were later released. In the case of killings of persons accused of witchcraft practices, six people were arrested in five cases. These statistics are from January 2017 to June 2019.

In one case documented by OHCHR-Cambodia, police intervention allowed a man to survive a beating by a mob, although he now has a mental disability as a result of the beating. He was convicted and sentenced to three years in prison for the crime he committed, but no one was arrested in relation to the beating. In a separate case documented by the Office, a man who had spread information that led to a beating was arrested and released after issuing an apology. The case was then closed. In yet a third case<sup>60</sup> documented by OHCHR-Cambodia, and the only one that went to trial, three people were convicted of intentional acts of violence and with intentionally causing damage, both with aggravating circumstances, and sentenced to three years' imprisonment. They were given suspended sentences of 18 months and ordered to pay approximately USD 125,000 in damages and compensation. In another case, the police arrested three suspects and placed them in pre-trial detention. However, they were released as the case was allegedly settled financially with the victim's family. No further action was taken by the court.

59 At provincial and district level, the work of the criminal police is divided into two units: the "Serious Crime unit" also referred to as a 'Felony' with four categories: Robbery, Murder, Terrorism and Sexual Offences; and a 'Minor Crime unit' also referred to as a 'Misdemeanor' with five categories: Theft, Fraud/Breach of Trust, Battery With Injury, Use Of Illegal Weapon and Others.

60 <https://www.phnompenhpost.com/national/violence-begets-violence>.

*"We will not arrest or question any villagers, because there were about 500 and that's simply too many. We cannot question them all. We are afraid the villagers would react angrily if we investigated."*<sup>61</sup>

*"I just gave a small kick to punish him. Other people also kicked him. Nobody in specific killed him. It is normal to give a lesson to this kind of people. If he died, it means that it was his Ansa day".*<sup>62</sup> (source: OHCHR Cambodia interviews).

In cases of mob violence against of alleged thieves, it was reported that the victim and/or the family of the alleged thief rarely filed a complaint with the police or court.<sup>63</sup> First, they felt ashamed of being associated with a case of theft. Second, they feared retaliation from the people who were robbed, from the ones who participated in the mob killing or even from other local villagers. Third, they believed that the police would ask for money for the investigation that would in any case be unlikely to lead to any arrest, since the police might be reluctant to create a bad relationship with a whole village.

One of the main problems the authorities face in investigating cases of mob violence is the difficulty in identifying individual responsibility due to the large number of potential perpetrators, which can reach hundreds. Although each participant might take part in the violence, the degree of individual responsibility might be difficult to identify. Additionally, and especially in cases where the number of people involved is high, the police feel overburdened and

incapable of questioning all those involved. Some police officers indicated that they feared people would turn against them if they began an investigation.

An additional problem with accountability for cases of "popular justice" is the reported lack of cooperation between the police and the courts. According to the Code of Criminal Procedure, the judicial police is meant to function under the prosecutor in the courts of first instance. In practice, however, police does not take some all to court. In some cases, the police might mediate or resolve the underlying dispute. But in other cases, the police indicated their concern that if the people accused of having committed some crimes (robberies, killings, rape, causing an accident) were released by the courts and not sent to detention, the population might turn against the police, accusing them of corruption or of not doing their job properly. From their side, court officials complain about the lack of evidence provided by the police to charge a suspect. Some of the

*In 2015, three young people beat and slaughtered their uncle Virith, accusing him of using witchcraft to make their relatives sick. Virith had a bad reputation in the village. He used to drink rice wine and beat his wife over accusations of her sleeping with other men. When the police arrested the three perpetrators, around 200 people thumbprinted a petition asking the police to release them. In 2016, the three people were tried and sentenced to 30 years imprisonment each (source: OHCHR Cambodia interviews).*

<sup>61</sup> According to the Cambodian culture influenced by Buddhism, a person who has committed bad things will pay for it either in his next life or in the present life (karma; cycle of incarnations). This violent death means that it is their karmic predestination or fate. They have reached the day of their death 'Dal thnay ansa hay' – "It is the day of their death". It is therefore understood that it is destiny and no one can be held responsible.

<sup>62</sup> See footnote 8.

<sup>63</sup> In some cases, the identity of the dead alleged thief is not even found.



underlying reasons for this is the lack of funds, skills and capacity to conduct full investigations, low salaries and the lack of training on judicial procedures.

Linked to this, low salaries among the police can also explain to some extent the hesitance to undertake proper investigations into cases of "popular justice". Indeed, as the police receive low salaries, they reportedly rely on investigations to earn more money. Investigating a motorbike robbery can be very lucrative as the motorbike owner gives a reward to the police when they get their motorbike back. One deputy district police inspector explained that the police would not investigate a beating by an angry mob because the family would not file a complaint due to shame and fear of reprisals. He added that if he conducted an investigation into the mob killing, he would "lose time and not gain any money." Additionally, he believed that people would not understand why someone who helped catch a thief would be arrested, as punishing the thief was the right thing to do.

Based on the information gathered, it is evident that the police is generally more responsive in investigating and arresting people involved in witchcraft-related violence than in cases of "popular justice" against people accused of a criminal act or believed to have caused traffic accidents. In some places, the police is very active in raising awareness of the local population and in trying to protect the suspected sorcerers based on traditional conciliation practices.

However, even if the police is more active in conducting an investigation in witchcraft-related killings, the number of reported cases left unpunished is reportedly still high, although official statistics are unavailable. The police and the local authorities reported that investigating a witchcraft-related killing can be difficult, as the local people are more

willing to protect the alleged perpetrator(s) than to help investigate the case and arrest them. Finding witnesses can also be a difficult challenge, especially in the absence of strong evidence leading to an alleged perpetrator.

Usually, the local population is reluctant to provide the police with any information leading to the arrest of those believed to have killed a person suspected of witchcraft. In some cases, they might even act collectively in favour of the suspects. In 2016, the beheaded body of Mr Veasna was found in a plantation in Kompong Speu province. The police conducted an investigation and arrested two women who confessed to having committed the crime. The older one explained that Veasna had caused the death of one of their relatives some years back. An illness suffered by another relative was attributed to him by the locals. Later, they alleged that the police extorted the confession under pressure, and 188 people living in the village where the killing happened filed a petition with the provincial police asking that the two women be released. The court released the two women, stating that there was insufficient evidence to maintain the charges. In this context also, the local villagers ostracized and threatened the wife of the man who was killed, accusing her of filing a complaint leading to the arrest of the two women. She withdrew her complaint and the police did not conduct any further investigation.

The fact that mob killings are rarely investigated and that perpetrators go unpunished amounts to an implicit acceptance of this practice by state authorities. As a result, people could feel encouraged to continue this practice. The State has an obligation under international law to provide security for all its citizens, including those who are suspected of crimes.

## 6.4. REMEDIES AND REPARATIONS

From the cases investigated, it appears that the right to remedy and reparations for victims is rarely fulfilled, partly because very few cases reach the court as explained above, also because most victims would not dare asking for compensation, due to stigma and shame.

Out of 22 mob killing cases documented by OHCHR since 2010, only five led to the arrest of suspects, and reparations were granted to the victim's family in only one case. Two of the five are recent cases (2018-2019). This slight improvement in investigating and bringing the perpetrators to justice is most likely attributable to the call from the Prime Minister to end mob violence in 2018.<sup>64</sup> Such actions and additional preventive work should be encouraged and echoed by more public statements by the authorities at different levels.

Out of 35 cases of witchcraft-related violence documented by OHCHR, 10 led to the arrest of suspects. In five of them, one or several perpetrators were sent to prison. Two suspects were released from pre-trial detention after a financial conciliation was set up between the victim's family and the alleged perpetrator. In three other cases, one or several suspects were charged but remain at large, depriving the families from the moral reparation of seeing the killers of their relative face justice. With no effective access to justice for victims and little or no adequate, effective or prompt reparations for the harm suffered, most of the victims are not able to exercise their right to remedy.

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<sup>64</sup> See footnote 8.

## 7. CONCLUSIONS

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"Popular justice" in Cambodia, as in other countries around the world, thrives on long existing prejudices and accumulated tensions and frustration, based on a lack of trust in the rule of law and the justice system, discriminatory attitudes in society, poverty, and lack of education, in particular human rights education. An incident or long-time rumour or scapegoating can be sufficient to ignite these tensions. The inability, and sometimes the unwillingness, of the authorities to respond to acts of "popular justice" can deny the whole range of human rights, including the right to a remedy for victims of such acts. It can also lead to impunity and, as a result, the increased likelihood of the perpetration of future acts of "popular justice".

The former SRSR for the situation of human rights in Cambodia, Peter Leuprecht highlighted concerns of "popular justice" almost twenty years ago. Although cases of "popular justice" have decreased compared to the early 2000s, it is a social and legal issue that continues to be a matter of concern in Cambodia at present. The 2018 statements of the Prime Minister and the Minister of Interior have been important signals that "popular justice" is not acceptable in a society based on the rule of law and human rights. Concerted action is necessary to build on these statements. This should involve awareness-raising of human rights principles and the rule of law, which are important to counter the belief that members of the community can take justice into their own hands, including by killing someone, in denying of the right to a fair trial and the presumption of innocence.

This report has also identified that some of the underlying factors leading to accusation and persecution of witchcraft relate to norms and stereotypes of persons with physical and mental disabilities, which can act as significant barriers to the full participation in society of these people, on an equal basis with others. Human rights education should also raise awareness of the freedom from discrimination, in particular on the basis of disability, cultural rights and the principle of inclusion of all persons in society, even if the majority perceive them as different or not complying with certain cultural and social norms and traditions.

Creating trust in the rule of law in Cambodia and its institutions is equally important. On one hand, this involves increasing the technical and financial capacity of the police and the judicial system to prevent and respond to acts of "popular justice". In particular, more resources are necessary to ensure prompt investigation, prosecution and punishment in all cases. On the other, efforts to stamp out perceived or actual corruption should be instrumental in building stronger and more trusted judicial institutions.

It is evident that preventing and combating "popular justice" is a complicated and long process that requires the full engagement of different stakeholders such as the Government, judiciary, police, civil society organizations, but also the local communities and people themselves. The international community may provide support in this regard.

## 8. RECOMMENDATIONS TO THE ROYAL GOVERNMENT OF CAMBODIA

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### Law and policy

- Devise a policy to address acts of "popular justice" and revise existing guidelines or directives for police intervention in cases of mob violence.

### Investigation and prosecution of all criminal offences

- The highest authorities should publicly condemn all acts of "popular justice" whenever they occur.
- Ensure that all "popular justice" killings and violence are promptly investigated, prosecuted and sanctioned.
- Ensure that police forces have adequate human and financial resources to carry out prompt and effective investigations in cases of "popular justice".
- Develop official, comprehensive statistics on the occurrence of "popular justice", as well as the state of investigations and/or sanctions.
- At the local level, raise awareness among the police of the illegality of acts of "popular justice". This could be done during the police briefings that are organized regularly at the commune level by the police.
- Ensure that training of police and judicial officials include components addressing the obligation to investigate all serious crimes, whether or not a complaint is filed, and that all suspects who are victims of violent crimes have the right to due process in the criminal justice system.
- Ensure that law enforcement officers receive adequate training on investigating criminal acts.
- Consider establishing special task forces in relevant provinces that are responsible for investigating cases of "popular justice".

### Strengthened judicial institutions

- Undertake a survey of the presence of informal payments in the judicial system as a way of understanding the issue of corruption and building trust among communities
- Undertake the judicial integrity study as agreed in joint monitoring indicators of the Technical Working Group on Legal and Judicial Reform.

## **Awareness of the public and national stakeholders**

- At the national level, produce a public awareness campaign in different formats (social media, videos, billboards, radio jingles and PSA messages, TV spots, use of influencers etc.) highlighting that acts of "popular justice" are illegal, that everyone should benefit from the presumption of innocence and a fair trial, perpetrators of acts of "popular justice" will be investigated, prosecuted and sanctioned.
- At the local level, raise awareness of the population public about discriminatory social norms, human rights principles and the rule of law, in particular the illegality of acts of "popular justice", as well as the right of everyone to a fair trial and the presumption of innocence.
- At the local level, raise awareness about the rights of persons with physical and mental disabilities and their right to be included and participate fully in society without discrimination.
- Hold a national conference or dialogue involving relevant Government authorities, civil society organizations, local communities, religious leaders and traditional actors such as healers, to raise awareness of witchcraft-related violence and ways to address such violence as well as its underlying causes.





