

**Report of the Office of the High  
Commissioner for Human Rights Mission  
to Assess the Current Situation of Criminal  
Justice in the Kingdom of Cambodia**

**(10 to 22 May 1999)**

**Summary of Issues and Recommendations**

## CONTENTS

1. Introduction	p.2
2. Terms of Reference	p.2
3. Issues and Problems raised	p.2
4. Recommendations	p.8
5. Conclusion	p.15
6. Annex A: Persons met during the mission	p.17
7. Annex B: Proposed Contents of Police Code	p.19
8. Annex C: Organisation chart of the Ministry of Interior	p.21
9. Annex D: Organisation chart of the National Police Municipal Structure in Phnom Penh	p.22
10. Annex E: Organisation chart of Kampot Judicial Police	p.23

## **1. Introduction**

The Cambodia Office of the United Nations High Commissioner for Human Rights (COHCHR) has been working since 1993 with the Royal Government of Cambodia to improve the human rights situation in the country. Establishment of the rule of law is fundamental to ensuring that the fundamental human rights of citizens are protected. In the recent past, the COHCHR has taken a number of initiatives in consultation with the Royal Government of Cambodia (RGC) directed towards improvements in the judicial system. The mission on which this report is based is a part of those initiatives of the COHCHR and consisted of Mr. Arun Bhagat, former director of the Indian Bureau of Investigation, and Mr. Eduardo Vetere, from the UN Drug Control and Crime Prevention Branch in Vienna.

During their mission to Cambodia, the UN experts had a series of meetings with officials of the RGC at the ministerial, departmental and field levels. They also held discussions with representatives of NGOs, diplomats, members of the public and officials of sister agencies of the United Nations. They also visited the court in Kandal and the Phnom Penh Municipal Court. In addition to that, they met Mr. Thomas Hammarberg, the Special Representative of the UN Secretary-General for Human Rights in Cambodia, and had discussions with the staff of the COHCHR. A list of persons met is attached in Annex "A".

## **2. Terms of Reference**

The experts' terms of reference for their mission were to: -

- (a) determine the rules, responsibilities and mandates of the Police
- (b) clarify the relationship between the Police, the Judiciary and the Gendarmerie
- (c) evaluate the need for legislation and regulations to define the authorities and powers of the Police
- (d) determine responsibility for supervision, inspection and control of the Police
- (e) explore the training needs of the Police

## **3. Issues and Problems raised**

In the course of the discussions and meetings the experts held with various organisations and individuals, a number of important issues and problems were raised (the sources who raised these issues and problems are cited in brackets).

### **3.1. Implementation of existing laws**

There are a large number of law enforcement agencies which pay scant respect to the rights of the citizens. The major causes of this are ignorance of the law, inadequate experience and training of law enforcers and judges as well as incorrect and bad practices. [NGOs]

Rules and procedures of arrest are not followed. Many persons who are arrested complain that they thought they had been kidnapped. Intimidation of witnesses, arrests without warrant, denial of visitation rights to lawyers during the first 48 hours of detention and denial of their presence during interrogation are frequent occurrences. As, according to a leading NGO, 92% of convictions are based on confessions, there is a tendency to resort to torture to extract them. The public is reluctant to complain about these abuses for fear of repercussions. Senior echelons of the law enforcement agencies do not themselves respect the law. In such a situation it is difficult to expect their subordinates to do so. [NGOs]

"Reconciliation" of a crime is common. The police prevail upon complainants to withdraw their complaint. Even in cases of murder and manslaughter some accused are released on bail. Cases are terminated by the police themselves without orders of the prosecutor or by the judge dismissing offences. It was pointed out that there is no legal authority for the police to dismiss cases. [NGOs]

In the people's perception, the judicial system is corrupt and susceptible to influence of the rich and the politically powerful. Allegedly, only the poor are punished. Moreover, government officials, including high-ranking officials, may be involved in crimes, such as large-scale pernicious traffic in women, including minor girls. [NGOs]

The impunity which public servants enjoyed was raised. Government officials actively take part in politics, which affects their objectivity and neutrality. [NGOs]

The service of summons and execution of warrants is not effective enough and this impedes the speed of trials. Court orders are sometimes not implemented by the police and local authorities. [Courts, NGOs]

Another difficulty being experienced is in dealing with personnel of the Armed Forces involved in criminal offences. Summons cannot be served on them nor warrants of arrest executed. Thus, instances of successful prosecution of members of armed forces who commit crimes are negligible. [Prosecutors]

The public perception is that justice is ineffective as punishments under the UNTAC law are very light. This perception has led to an increase in the number of lynchings of those suspected of crimes by the public. [Courts]

The security of judges and prosecutors is often threatened which impinges on their independence. [Courts]

### **3.2. Shortcomings of Existing Laws**

Old laws existing prior to 1983 still continue to be in force and have not been replaced. There is still no Penal Code, Code of Criminal Procedure or Evidence Act. A new code of Code of Criminal Procedure is being drafted but it has to be examined as to whether it is suitable and adequate. [NGOs, Government].

Cambodia has progressed over the years after long turmoil and the time is now appropriate to perfect the system and its working. There is difficulty in printing and circulating laws. Translating the laws into Khmer is proving difficult as well. [Government]

Both Cambodian criminal and civil law need to be restructured. Judicial reform is a full-time job and requires the complete attention of the Ministry of Justice. The Government has decided to frame new laws in a transparent manner and sought comments from the public. [Government]

In the absence of a well-based policy on land, encroachment and grabbing of land takes place with the help of Government officers. The number of land disputes has also multiplied. [NGOs]

### **3.3. Definition of roles of different law enforcement agencies**

Comprehensive rules are required to clarify the role, functions and responsibility of the National Police and the Gendarmerie. There should be no confusion or overlap. Organic laws should be introduced and responsibilities clearly fixed. [Donors]

More than 800 proclamations (called Prakas and akin to standing orders) on the police, have been issued since 1992 by the Government. These orders have not been widely disseminated. [Donors]

Prosecutors feel handicapped in conducting verification of the investigations which require police assistance. The prosecutors do not exercise supervisory control over either the Judicial Police, or the Gendarmerie, or the Military Police. Even routine assistance for conducting searches on legal search warrants is rendered difficult. The law enforcement agencies function under their own commanders, independent of the prosecutors. Article 36 of the 1993 Criminal Procedure Code requires that the prosecutor should direct the police investigation. However, this is not being adhered to. [Prosecutors]

It is still not clear whether it is the police or the prosecutor who may order an investigation into a crime. For proper implementation of the laws, these basic

issues should be resolved, otherwise imperfections will persist. Another important issue is control of the prosecutor over the police, without which the prosecutors cannot function effectively. [Government]

The fullest cooperation and understanding between the Prosecutors' Branch and the police is necessary. However, the degree and level of such co-operation leaves much room for improvement. This is partially due to the lack of knowledge of each other's roles. [Government]

The Gendarmerie alone has jurisdiction over the military and is the only military police. [Government]

The Gendarmerie has to perform a dual role, viz. a civil and a military function. The Gendarmerie was created to fill the gaps in the authority of the State which then existed. State authority had been absent or ineffective in many places. As the country progresses, crime is likely to increase and become more complex. The role of the Gendarmerie in countering these likely trends in crime will become important. Their spread and strength may have to be increased so that they may fully discharge their responsibilities. The force might grow to 10,000 or 12,000 in five years and may not be affected by retrenchment. [Donors]

### **3.4. Organisation of Police and Gendarmerie**

The designations of police ranks are a mix of both military and police terminology with the balance tilting in favour of the former. The badges of rank also follow the army pattern. Thus the Director-General of the National Police is equivalent to a three-star general in the army. The provincial head of the National Police is designated a Commissioner, as is also the head of the Judicial Police in the country. The designations of Deputy Commissioner and Inspector also exist. There are sixteen ranks in the National Police with the Director-General (three stars) being at the head and Privates occupying the lowest rung. After Private there is the Staff Sergeant, the Warrant Officer, Lieutenant, Captain, Major, Lt. Colonel and Colonel. [Police]

The Royal Government of Cambodia has drawn up a five-year plan to reform the police and make it more effective. The strength of the National Police will be reduced from 64,165 to 40,000 by the year 2003. This year 6,041 personnel will be retrenched. Discussions have been held with the Directorate of Personnel in the Ministry of Interior to determine and finalise the rehabilitation measures. It is estimated that a sum of US\$1,200 would be required per person to provide housing and seed money for self-employment. Many requests have been received from private security agencies to start operations in Cambodia. The Government is considering if permission to set up these agencies could stipulate that employment be given to retrenched policemen. Donor countries will be approached for assistance to rehabilitate the retrenched employees. [Police]



The Government has made a decision to reduce the size of the army by about 55,000. Ghost names are being identified and they will be removed from the rolls. All wings of the Armed Forces will be subject to retrenchment. [Government]

The recruitment process for police is faulty and the best candidates are not being appointed. [NGOs] The Reconciliation Policy, which came into effect in 1991 under the auspices of UNTAC, caused the induction of former soldiers and members of political parties into the police in large numbers. [Police]

The number of women in the police is only 200 (out of a strength of about 65,000) and they are generally entrusted with administrative work. [NGOs]

Recruitment rules specifying the education, age and other conditions for different ranks are being prepared. Rules for pension, gratuity, leave, disability etc. are also being formulated. It was proposed to introduce an evaluation sheet for each employee in which annual remarks about the quality of his performance and conduct would be recorded. This would enable proper assessment to be made for promotions and posting. [Police]

Many police officers are engaged in private employment, which result in their not being present on duty particularly between 12 noon and 2:30 P.M and from 5 P.M to 8 A.M. [NGOs]

Powerful weapons, including hand grenades, are issued to the police and they have been used in Phnom Penh. No mechanism exists for inquiries into incidents of injury and death in police custody. Those who suffered in those incidents were taken for treatment to the Police Hospital and it was alleged that the treatment there was inadequate and indifferent. Discipline and control of the police is weak. [NGOs]

### **3.5. Shortage of Facilities/ Funds**

As democracy is new to Cambodia, the country was short of everything and welcomed assistance to improve its conditions. [Government]

Working conditions, especially salaries, need to be improved. The low salaries of police, judges, prosecutors and gendarmes is a serious issue, affecting morale and efficiency of law enforcement personnel. [Government, Police, Gendarmerie]

Prisons need to be upgraded and police facilities improved. [Donors, Courts]

The police are short of transportation, so much that prisoners have to be taken on motorcycles to and from the courts and to and from prisons. There is an acute shortage of funds for travelling allowances for the personnel and

for miscellaneous expenditures. This adversely affects the functioning of the Judicial Police and is the major reason that suspects wanted since 1993 are still at large. When suspects run away to other provinces the police do not have the resources to depute personnel to go and search for them. Similar difficulty is experienced in executing warrants of arrest. [Police]

Due to shortage of judges they function both as Trial and Investigative Judges, though judges should perform only one function. They also try civil and criminal cases. There is need for separation of these functions. The other factor which delays the progress of trials is the lack of proper medico-legal and forensic support. The investigative agencies, viz. the Judicial Police and the Gendarmerie, should have access to these facilities so that they can carry out investigations properly. The Courts are also constrained in their functioning because of shortage of funds for different types of expenditure. [Courts]

There is a need to ensure the security of the judges and prosecutors. Many of them feel threatened. [Courts]

There is also an acute shortage of courtrooms, which adversely affects the work of the courts. [Courts]

### **3.6. Police Training and Expertise**

The police need better training. Many of the personnel are illiterate and do not know their duties and functions. [NGOs]. Case files put up by the police are frequently incomplete and suffer from other shortcomings. There is a need to impart better training to the police so that they fully understand and adhere to the laws. Even in the simple matter of use of handcuffs, many policemen are ignorant of the legal requirements. [Courts]

No training could be imparted to police recruited as a result of the Reconciliation Policy in 1993. A three-month training course was organised by UNTAC for the Judicial Police, however it was largely for personnel of the Phnom Penh Municipal Police. After 1993, through the auspices of the French Government under the Service de Coopération Technique Internationale de Police [SCTIP], members of the Judicial Police have been trained. Training has also been given to the chiefs of the District Police and Provincial Commissioners. About 1,000 personnel have been trained so far. The training covers preparation of court documents, human rights and arrest procedures. Under SCTIP, training has been imparted to the cultural and heritage wings as well as units earmarked for drug enforcement. [Police]

There is shortage of qualified police trainers, their current number is 22 only. Training programmes are not comprehensive and the quality of training needs to be improved. The Training Directorate has drawn up a plan to conduct training of 60 trainers during 1999. A comprehensive syllabus is also



being prepared. However, they need the help of experts to advise them in the preparation of training materials and in the conduct of training. The infrastructure of the four centres needs to be upgraded and modern equipment and teaching aids provided. There is dire need for external assistance in this area. [Police]

The Judicial Police suffer from inadequate training. This is the reason for the large number of complaints about human rights violations. The Judicial Police need to be fully trained in order to improve their investigative skills. The wherewithal to impart training is lacking. Most of the convictions are obtained through confessions. The use of scientific aids for investigation is minimal and needs to be increased. [Police]

The standards of education in the Judicial Police vary considerably. Though the operational Manual formulated by the Cambodian Criminal Justice Assistance Project is for the Judicial Police, the Director-General of the National Police wants it to be adopted by the whole Directorate. A Police Statute is under preparation by the Cambodian Government. There is a shortage of training facilities in the country. The Kandal centre could accommodate 120 trainees at one time, but there are only six classrooms. The infrastructure of the training schools needs to be augmented both in Kandal and Phnom Penh. Attention is needed to improve their organisation as well as technical expertise. Reorganisation is perhaps necessary to make the functioning of the police more effective. [Donors]

The Gendarmerie Training College is facing many difficulties. Funds are not being received in time. Salary and ration money, which is 1900 riels per diem, were also received late. There is shortage of space. Three barracks are being used to accommodate the trainers and six by the trainees. There is no power line and the use of the generator is restricted to about eight hours a day. Supply of potable water is also scarce. There is no common training programme for the Judicial Police and the Gendarmerie. [Gendarmerie]

Judges, prosecutors and officers working in the Ministry of Justice should be exposed to current and modern thought by attending and participating in international symposiums, seminars and conferences. Cambodia is now a member of ASEAN. It is therefore necessary that their laws, rules and regulations conform to the pattern obtaining in other member countries. Cambodian laws are largely based on French law, while other ASEAN countries follow the common law or the Anglo-Saxon system. [Government]

#### **4. Recommendations**

Based on their discussions and field visits, the experts made a number of recommendations. These are grouped below according to the headings in the experts' terms of reference (page 2 of this report).

#### **4.1. Rules, Responsibilities and Mandates of the Police**

- A. Salaries have been stagnant. Pay is fixed without a running scale or increments. There is no provision for inflation or increases in living costs. This is a major de-motivating factor. It has also given rise to a host of malpractices including alternate employment, engaging in trade and business and hiring out services as security guards and musclemen. This in turn harms the image of the National Police and undermines the confidence of the people in them as their protectors. This problem needs to be addressed as a priority by improving the salaries of the members of the National Police.
- B. A conscious effort has to be made to increase the number of women, particularly in the senior ranks. Presence of women police should be made mandatory when dealing with women and juveniles.
- C. Though the Police Directorate is not likely to take up recruitment on any major scale in the near future in view of the large excess in its strength and the scheme of retrenchment, it may perhaps go in for recruitment of specialists. It is therefore necessary that Recruitment Rules for direct appointment should be framed, laying down the age, physical and medical norms, and educational qualifications for each rank. Recruitment could also be restricted to three levels in the ranks of Junior Police Officer, Non-Commissioned and Police Officers. It would be advisable to restrict the direct entry to the lowest ranks in these categories. Percentages would necessarily have to be fixed to keep open promotion avenues. At the lowest level 100% intake would be by direct recruitment. For non-commissioned officers and second lieutenants perhaps 50% of the sanctioned posts could be by promotion and 50% by direct recruitment.
- D. It is necessary to ensure that the recruitment process is fair and the best candidates are selected. Independent Recruitment Boards would ensure this. The Government would have to lay down the procedure for the recruitment e.g. written and physical tests, and leave the rest to the Boards. Confidentiality in the examination and selection process cannot be overstressed. Statutory boards would go a long way in instilling confidence in the populace in the fairness and objectivity of the selection process which is lacking at present.
- E. Criteria for the retrenchment process should certainly take into consideration the educational level of the incumbents. We would urge that this should be strictly adhered to and those who do not possess the basic levels of education stipulated for a particular rank should not be retained in the National Police.
- F. Dealing with civilians, their problems and concerns, working with and for the community, the police have to be accessible and approachable. There is considerable merit in the argument that the existing police designations

and the military pattern and structure inhibits the public from approaching them. Designations and ranks also shape the attitudes of the incumbents. In most democratic countries, police designations differ from those of the armed forces. It is therefore suggested that the designations in the National Police should be reviewed. The designations could perhaps be on the following lines:

- (1) Chief Commissioner of Police (DG)
- (2) Special/Additional Commissioner of Police (Deputy DGs)
- (3) Commissioner of Police
- (4) Deputy Commissioner of Police
- (5) Assistant Commissioner of Police
- (6) Inspector of Police
- (7) Deputy Inspector of Police
- (8) Assistant Inspector of Police
- (9) Head Constable
- (10) Constable

Re-designating the posts could also be a means of rationalising the rank structure, which has 16 rungs at present, and reducing it to 10. This would shrink the long line of command and make it compact and more effective.

#### **4.2. The Relationship between the Police, the Judiciary and the Gendarmerie**

- A. Grave concern was expressed about the overlap of functions of the Judicial Police and the Gendarmerie. Both have concurrent jurisdiction and responsibilities. Duality in any form is not a good administrative practice. Parallel competing organisations covering the same turf to conduct criminal investigations of crime dissipates responsibilities and accountability. Functions like crime prevention in this situation tend to suffer neglect. Therefore, a central agency to investigate complex and grave crimes might be required.

A specialised agency with higher skills and expertise for complicated investigations, similar to the Federal Bureau of Investigation of the United States of America, could have powers to investigate criminal cases all over the country. Once this agency is set up, the Government would need to consider whether there still is a need for the Gendarmerie to perform judicial police functions. Being a para-military organisation it could usefully serve as a reserve to assist the National Police and the Provincial Governors/Mayors during emergency situations. Proper guidelines and safeguards should be issued so that its use is restricted to that of an aid to civil power in order to ensure public order. Its discipline and military organisation would be useful in assisting the civil authorities in facing natural calamities like floods, earthquakes, fires, etc.

- B. A central statistical unit to compile and disseminate the statistics of the incidence of crime is a requirement. This unit could be autonomous or located within the central Directorate of the Justice Police. Apart from maintaining up-to-date statistics of cognisable crime the unit could also function as a Central Record Office for stolen property. To begin with, it could maintain a record of stolen motor vehicles, arms and other identifiable stolen property. Later, as required, its areas of coverage could be enlarged to include lists of absconders, habitual criminals and the like. Crime registered by all units should be reported to the Central Record Office. Authentic figures are necessary to develop crime prosecution strategies.
- C. The administration of justice will be considerably strengthened if measures are taken to clarify without ambiguity that the Prosecution is in charge of all criminal investigations as contemplated in the Constitution of Cambodia. The constitution of a separate, independent and autonomous Directorate of Prosecution appears essential to translate into reality the provisions on criminal justice administration incorporated in the Constitution of the country. The Supreme Council of the Magistracy must also commence performing its constitutional role.

#### **4.3. Need for Legislation and Regulations to Define Authorities and Powers of the Police**

- A. The absence of comprehensive basic laws which are the foundation of a sound criminal justice system is gravely felt. There is a need for early enactment of a Code of Criminal Procedure, an Evidence Act and a Penal Code. Presently the UNTAC law and the 1993 State of Cambodia Law on Criminal Procedure are being relied upon. Like the UNTAC law, this SOC legislation was also introduced to tide the country over for a short period within which more comprehensive bills could be drafted and legislated upon. A draft Code of Criminal Procedure is being prepared. There is also a need for proper translation of the laws, their publication and dissemination. Priority needs to be given to enact these basic laws, the absence of which is a serious handicap for the proper working of the judicial system.
- B. Presently the National Police does not have a statute or Act to guide it. The working of the Directorate is guided by the Prakas (decrees) and circular orders. While a draft Law on General Statute of National Police Personnel has been prepared which covers, among other things, the role, objectives, salaries, ranks, designations, recruitment, promotion, retirement and punishment of police officers, it is felt that the scope of this statute needs to be enlarged.

A Police Act normally does not only cover the organisational aspects but lays down the law on the powers of the police to regulate assemblies,



traffic, maintain public order in public places, regulate places of entertainment, markets, burials and cremations. The Act should authorise the police to exercise magisterial powers of prohibition, direction, seizure of unclaimed property, grant licenses for eating houses, music halls, cinemas and theatres. Control and regulation of firearms is another area of responsibility.

As the basic groundwork has been accomplished, it would be appropriate at this stage to make the proposed Police Statute more comprehensive. A separate article to include definitions of terms used in the Statute will ensure better understanding and clarity and is recommended. Provision in the Act should also be made for the Government to make Rules under the Act. The Police Rules would supplement the Operational Manual which has been adopted to lay down in black and white all aspects of police working and organisation. A detailed proposal is attached in Annex B of this report.

#### **4.4. Responsibility for Supervision, Inspection and Control of the Police**

- A. The Police Directorate would increase its credibility by regularly releasing to the public and the press the details of the action taken by it against delinquent personnel. At the same time, responsibility devolves on the senior ranks of the police and other enforcement agencies to take note of all infringements and deal with them expeditiously and sternly.
- B. The high incidence of deaths in police custody and during the process of arrest is of grave concern. The police and other law enforcement agencies need to initiate a programme to educate their personnel to eliminate the use of force while making arrests. A related issue is the type of weapons issued to police and other agencies. Lethal automatic weapons and even grenades are apparently standard issue for the National Police. As the Judicial and Law and Order Police would be making the largest number of arrests, automatic weapons and grenades should not be issued to them. Only low calibre handguns of limited range and intensity should be issued.
- C. To reduce reliance on confessions, the initiative has to be taken by senior officers. During their inspections and visits (see 4.4.H below) the investigating staff should be encouraged to collect other type of evidence. Contemporaneous instructions and advice during the course of investigations should stress this. If prosecutors and investigative judges adopt similar attitudes and insist on collateral and corroborative evidence, the message will be carried home.
- D. A review of arrest procedures is also called for. A measure which could be introduced is a mandatory inquiry by senior officers of the Directorate into all instances of injury, with the report being submitted to the Head of the

Directorate. For deaths while in police custody or during the process of effecting arrest, a mandatory inquiry by a judge should be provided for in the Rules. In most countries this procedure has been adopted. It was heartening to note that the present Commander of the Royal Gendarmerie, taking cognisance of this malpractice, has issued an order for the use only of handguns and clubs by his troops when dealing with the public.

- E. There are no detailed rules for the conduct of directoral inquiries or the conduct of disciplinary proceedings laid down in the *prakas*. The procedures laid down for Directoral Proceedings of the Law on the General Statutes of the Civil Service need to be clearer and simpler. The authorities competent to initiate the process and hold the Directoral proceedings and impose the punishment need to be specified. In a uniformed and disciplined force misconduct has to be dealt with speedily. Procedures have to be simple so that, while the rights of the individual are protected, the inquiry can proceed with dispatch. It would therefore be advisable to de-link the directoral action procedures of the police from those of other civil servants and formulate rules exclusively for the National Police in the form of National Police Punishment and Appeal Rules.
- F. In the organisation and structure of the National Police there is no Directorate or branch which deals exclusively with integrity issues. Such a wing under a senior officer is necessary to respond to public grievances and complaints. The Public Grievance and Integrity wing could be a Central Directorate reporting directly to the Director-General. This directorate would work closely with the Directorate of Political Administration and Police Affairs (PAPA) and undertake educational programmes on integrity and corruption issues.
- G. There is need for openness and transparency and a regular flow of information to the public of the steps and action being taken by the Government against public servants. The annual reports of the PAPA and the National Police, if placed before the National Assembly and debated therein or considered by a consultative committee, would receive publicity. The public would be informed of the measures being taken by the Government. This would instill the much-needed faith and trust in the public that their complaints and grievances are being and would be addressed.
- H. Rules 19 and 20 of Chapter 5 of the newly-introduced National Police Procedures Manual provide for formal and informal inspections by senior Police officers. Apart from inspections by deputy commissioners, judicial and Khan inspectors, it is suggested inspections should be conducted by the provincial and municipal commissioners. The officers of the Provincial and Municipal Commissioners of Police should also be inspected by the directors of the five central directorates. Other senior officers could be



designated by the Director-General of Police to carry out inspections on his behalf. Systematic and regular inspections as a means of assessing the quality of output, efficiency, meeting targets, goals and objectives, cannot be over-stressed. Regular inspections would impact on the standards of performance and accountability.

#### **4.5. The Training Needs of the Police**

- A. Everyone was unanimous that a concerted campaign has to commence to train the personnel of the police. The task is colossal. It is estimated that, even if the present capacity is increased five-fold, it will be possible to impart a modicum of training of three-months' duration to only about 6,000 personnel in a year.

A basic literacy education programme for police personnel in collaboration with the Ministry of Education, NGOs and universities needs to be actively considered. An educated, committed, well-trained police alone can meet the aspirations of the people.

- B. For basic training and in-service training of police skills, the number of trainers has to be increased. A target of 150 should be set for mid-2000. It will not be possible to train the total of about 40,000 personnel in the existing four training schools, and therefore training will have to be imparted in the districts and respective units. A detailed plan should be drawn up by the National Police to train all their personnel within three to four years. An increase in the training budget is necessary, and the Government will need to make adequate provisions if this task is to be accomplished. To place training on a sound footing, a Training Manual should be prepared. Apart from basic courses for new entrants to the National Police in different ranks, the Manual should include refresher, promotion and specialised courses. The detailed syllabi, instruction programs, designated periods for outdoor and indoor classes should be included. Course material also needs to be prepared for dissemination to the trainees.
- C. The facilities in the four training schools in the country are apparently adequate. However, training aids are woefully short. Without international assistance in the form of equipment, training material, training of trainers, transport, barracks and buildings, the National Police is unlikely to make positive headway. Investment made in training would give early and rich dividends in improving the operations and reducing incidents of infringements of human rights, giving a better deal to citizens of the country.
- D. The Cambodia Office of the High Commissioner for Human Rights has prepared a curriculum and handbook for instructors and participants on Human Rights, as well as a Police Pocket Guide for all police. The National

Police and Judicial Police Procedures Manual prepared under the Cambodia Criminal Justice Assistance Project also stress the protection of human rights. The COHCHR effort in imparting this training needs to be continued. It would be advisable to enlarge the scope and coverage under this programme.

- E. To improve investigative skills, short courses can be organised for personnel performing judicial police functions. An excellent base is now available in the Judicial Police Procedures Manual (prepared by the Australian-aided Cambodian Criminal Justice Assistance Project) which succinctly and in simple language lays down the steps to be followed for successful investigation of criminal offences. The need to collect evidence other than confessions is emphasised. Now that this manual has been adopted, and as its usage and reliance on it increases, there should be a perceptible improvement in the quality of investigations, reducing reliance on confessions. The Judicial Police wing of the Gendarmerie would do well to adopt this manual with suitable changes in nomenclature, designations etc.
- F. The definite advance which the Manual promises would need to be supplemented by significant improvements in forensic support to the investigators and training of personnel in scientific aids to investigation. The National Police has a Science and Technical Directorate with a Forensic Laboratory in Phnom Penh. Three out of the six offices in the rest of the country are functional. Funds from the Government of Cambodia should be provided to equip these facilities. Donors ought to step forward if the facilities are to be improved significantly. As the cost is not likely to be heavy, donors should come forward to assist Cambodia in providing new equipment and training to make at least the Phnom Penh forensic facility function properly. The National Police and the Gendarmerie can commence short courses to introduce and impart elementary training in scientific aids to investigation.

## **5. Conclusion**

The experts found that a common feature of their meetings with the officials of all departments of the Royal Government of Cambodia was the expression of a desire to improve the working systems. Many initiatives were brought to their notice. The experts feel that the ground is well prepared for a thrust to effect significant improvements in the criminal justice system. The extent of success and how quickly it could be achieved would depend on the speed and sincerity with which the three basic laws, viz. the new Penal Code, the Criminal Procedure Code and the Evidence Act are introduced. This should be accompanied with the passage of the Police Act and framing of comprehensive Police Rules, raising levels of education and training.

Acquisition of better investigating skills, increased forensic support and more stringent scrutiny of performance and methods would result in the Police rendering a better service to the people. A separate, independent and autonomous Directorate of Prosecution as envisioned in the Cambodian Constitution must be established. This is crucial to the success of the working of the criminal justice system to usher in the Rule of Law in this young democracy.

Phnom Penh, July 1999

## **Annex A: Persons met during the Mission**

### **A) Police**

Gen. Hok Lundy, Director General, National Police  
Brig. Gen. Mao Chandara, Deputy Director General, National Police  
Brig. Gen. Thong Lim, Director of Judicial Police  
Brig. Gen. Mao Bunnarin, Director of Personnel  
Brig. Gen. Hin Hek, Director of Training  
Brig. Gen. Sok Phal Khun, Director of Administration  
Colonel Prak Kuy Leng, Deputy Director of Personnel  
Colonel Sophana Meach, Deputy Director, Immigration Police  
Colonel Samsen Komsot  
Gen. Pol Lim, Deputy Director General, Department of Inspection of Administration and Police

### **B) Gendarmerie**

Gen. Sao Sokha, Commander, Royal Gendarmerie  
Major Khlot Sam Khan  
Gen. Teng Chheoun  
Major Chouk Than, Deputy Director of the Institute  
Major Touch Dara, Chief of Training Office  
Col. Jean-Louis Wintrebert, Military Attaché, French Embassy  
Lt. Col. Robert Papin, Adviser to the Commandant of the Royal Gendarmerie of Cambodia

### **C) Government**

H.E. Om Yenteng, President of the Cambodian Human Rights Committee (also adviser to the Prime Minister)  
H.E. Ouk Vannarith, Member, Cambodian Human Rights Committee  
H.E. Suy Nou, Secretary of State, Ministry of Justice  
H.E. Maj. Gen. Chum Sambath, Secretary of State, Ministry of National Defence

### **C) Courts**

H.E. Henrot Raken, General Prosecutor, Court of Appeals  
Judge Nup Sophon, Vice President, Phnom Penh Municipal Court  
Judge Kong Seth, Phnom Penh Municipal Court  
Judge Ham Mengse, Phnom Penh Municipal Court  
Judge Thaong Ol, Phnom Penh Municipal Court  
Judge Ya Sokhan, Phnom Penh Municipal Court  
Judge Sok Sethamony, Phnom Penh Municipal Court  
Judge Bunninh Bunnary, Phnom Penh Municipal Court  
Deputy Prosecutor Chhin Chiva, Phnom Penh Municipal Court  
Deputy Chief Judge Madame Kong Kuoy, Kandal Provincial Court  
Judge Kron Sakal, Kandal Provincial Court  
Chief Prosecutor Chheng Phath, Kandal Provincial Court

Deputy Police Commissioner (for Judiciary Police) Tom Vai, Kandal Province

Deputy Commandant, Gendarmerie, Meas Sovann (investigation office), Kandal Province

Dr. Oum Thorn, Provincial Health Department, Kandal Province

D) Diplomatic and international personnel

\* H.E. Mr. George Edgar, British Ambassador

\* Mr. Kazuhiro Nakai, First Secretary, Japanese Embassy

Mr. Yves Bertin, French Embassy

\* Mr. Joseph Clough, USAID

# Ms. Yolande Jemai, UNDP, Public Administration Reform

\* Ms. Kaarina Immonen, UNDP

\* Mr. Bunleng Men, Canadian Embassy

\* Mr. Dararith Kim Yeat, European Union

\* Mr. André Miñana, Police Attaché, SCTIP

# Mr. Robert Bradley, Project Coordinator, Cambodia Criminal Justice Assistance Project (CCJAP-AusAID)

# Mr. Steve Woodall, Police Adviser, CCJAP-AusAID

# Mr. Doug Byers, Prisons Adviser, CCJAP-AusAID

# Mr. Kevin McGuire, Courts Adviser, CCJAP-AusAID

# Ms. Lydia Bezeruk, 2<sup>nd</sup> Secretary, Australian Embassy (Development Cooperation)

Mr. Vijaya Samaraweera, Judicial Mentor, Judicial Mentor Programme, Phnom Penh Municipal Court

Mr. Ross Vanna, Judicial Mentor's Assistant, Judicial Mentor Programme, Phnom Penh Municipal Court

E) NGOs

Mr. Ang Eng Thong, President, Bar Association of the Kingdom of Cambodia

Ms. Lean Chinda, Vice-Director, Legal Aid of Cambodia

Mr. Sok Sam Oeun, Director, International Human Rights Law Group-Cambodia Project

Ms. Eva Galabru, Director, LICADHO (Cambodian League for the Promotion and Defence of Human Rights)

Mr. Phoung Sith, Director, Vigilance

Mr. Tuch Tom, Vigilance

Mr. Chan Savet, ADHOC (Cambodian Human Rights and Development Association)

Mr. Mom Sarin, KKKHRA (Khmer Kampuchea Krom Human Rights Association)

\* attended donor meeting

# individual meeting with Consultants

## **Annex B: Proposed Contents of Police Code**

The format of the Rules should be as follows:-

- (1) Directorate organisation covering constitution, general Police and district division, duties and powers of each rank.
- (2) Relationship with Judiciary, Prosecutors, Gendarmerie, other Directorates.
- (3) Establishment
- (4) General Rules – buildings, repairs, works, rents, house arrests, tariffs
- (5) Uniform – specifications, usage, kit, inspections, purchase, repairs.
- (6) Equipment – patterns, marking and stamps, replacement , purchases, repairs.
- (7) Arms and Ammunition – sanction, scale , maintenance, repairs, safe custody, procurement, distribution, accounting, condemnation
- (8) Leave and Pension- Pay and Allowances, gratuity
- (9) Accounts – Responsibilities of officers, controls and checks, expenditure returns, procedures, records, cash book, credit
- (10) Revenue: custody of cash, receipts, deposits, receipt books, returns, deposits, receipt books, returns
- (11) Miscellaneous Contingent charges
- (12) Working of Police Offices: budget, loss of Government property, new proposals
- (13) Stationery and Forms
- (14) Gazette and publications
- (15) Discipline and Conduct
- (16) Rewards and Punishment, Promotions
- (17) Guards and Escorts
- (18) Training and Examination



- (19) Inspection and Supervision
- (20) Preventive and Detective organisation

The list is not exhaustive. Comprehensive rules covering every aspect would not only serve to regulate and control the workings of the Directorate but make possible accountability and monitoring of performance. It would enable the subordinate ranks to understand and carry out their functions and duties and enable the supervisory officers to exercise closer watch, detect deviations and improve discipline and performance.

# MINISTRY OF INTERIOR

CABINET

DIRECTION GENERAL OF ADMINISTRATION

DIRECTION GENERAL OF NATIONAL POLICE

INSPECTION OF ADMINISTRATION AND POLICE

PLANNING AND FINANCE DEPARTMENT

RADIO COMMUNICATION DEPARTMENT

CIPHER DEPARTMENT

CONSTRUCTION DEPARTMENT

PROPAGANDA AND EDUCATION DEPARTMENT

PUBLIC HEALTH DEPARTMENT

STAFF HEAD QUARTERS

INTERNATIONAL POLICE

ANTI-NARCOTICS DIVISION

INTERVENTION DIVISION

LAWS DEPARTMENT

CENTRAL DEPARTMENT  
OF SECURITY

GENERAL INFORMATION  
DEPARTMENT

ANTI-TERRORISM  
DEPARTMENT

BODYGUARD  
DEPARTMENT

FOREIGNERS  
DEPARTMENT

CENTRAL DEPARTMENT  
OF JUDICIAL POLICE

CRIMINAL POLICE  
DEPARTMENT

ECONOMICS POLICE  
DEPARTMENT

TECHNIQUE AND SCIENCE  
POLICE DEPARTMENT

CENTRAL DEPARTMENT OF  
PUBLIC ORDERS

ADMINISTRATION  
DEPARTMENT

ORDERS DEPARTMENT

SOCIAL SECURITY  
DEPARTMENT

PROTECTION POLICE  
DEPARTMENT

CENTRAL DEPARTMENT  
OF LAND BORDER

LAND BORDER  
DEPARTMENT

NAVAL POLICE  
DEPARTMENT

TECHNIQUE DEPARTMENT

CENTRAL DEPARTMENT  
OF MEANS

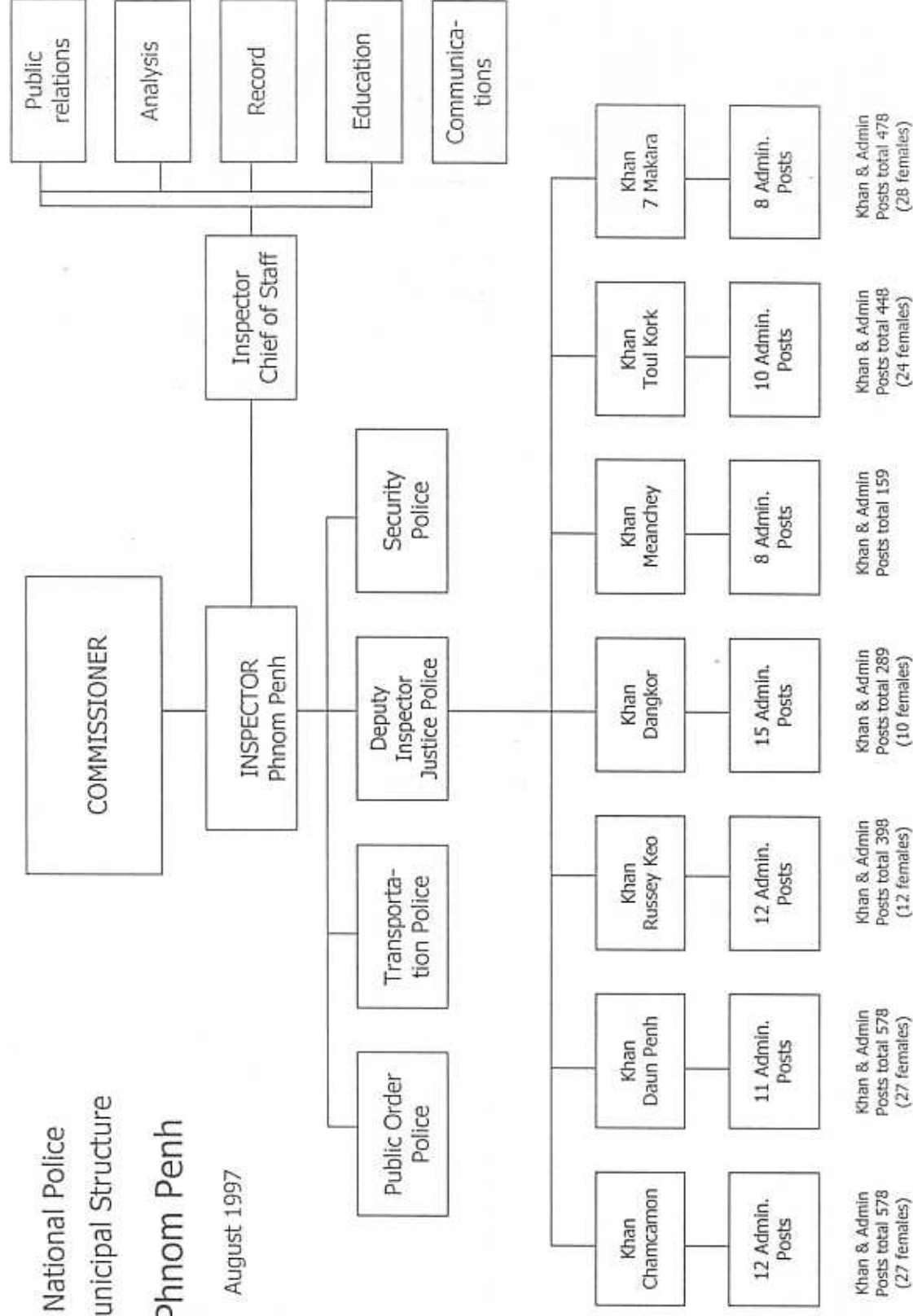
PERSONNEL  
DEPARTMENT

POLICE TRAINING  
DEPARTMENT

LOGISTICS DEPARTMENT

# National Police Municipal Structure Phnom Penh

August 1997



# KAMPOT

## POLICE STRUCTURES

### JUDICIAL POLICE

August 1997

