

WORKSHOP

**PROMOTING COOPERATION BETWEEN
COURTS, PROSECUTORS AND PRISONS
AND
THE PROTECTION OF CHILDREN’S RIGHTS IN THE JUSTICE SYSTEM**

**ORGANISED BY THE COURT OF APPEAL
WITH SUPPORT FROM OHCHR AND UNICEF**

5 – 7 SEPTEMBER 2012

SUNWAY HOTEL, PHNOM PENH

Opening remarks

James Heenan, Representative a.i.

I would like to pay my respect to:

- H.E. Kong Srim, Deputy President of the Supreme Court, who has kindly agreed to open this important meeting,
- H.E. You Bunleng, President of the Court of Appeal for organizing the meeting,
- H.E Ouk Savuth, Prosecutor General attached to the Court of Appeal
- H.E. Kuy Bunson, Director of the General Department of Prisons
- H.E. Suy Mong Leang, Secretary-General of the Council for Legal and Judicial Reform
- H.E. Hy Sophea, Secretary of State, Ministry of Justice]
- H.E. Chiv Song Hak, President of the Bar Association of the Kingdom of Cambodia

I would like to welcome all participants who have come from all provinces of Cambodia. It is a great pleasure for the Office of the UN High Commissioner for Human Rights to support this workshop organised by the Court of Appeal

This Workshop focuses on the appeals process within the Cambodian criminal justice system. Under human rights law, prisoners have a right to have their

case dealt with in a reasonable amount of time, whether at first instance or at the appeal stage. And they should not see their time in prison increase just because they are waiting for an appeal. At the same time, with more than 15,000 prisoners in Cambodia's prisons, prison overcrowding is becoming a problem in Cambodia. This is why our Office has been very committed to the project of expanding the capacity of the Court of Appeal. For several years, we have been concerned about cases of excessive detention since many accused people, whether convicted or acquitted, have been waiting long periods for their appeals to be heard.

As a direct result of a donor meeting that OHCHR organized in 2010, funding was found to build courtrooms and additional office space in order to increase capacity to hear appeals in a timely manner. Our Office has also provided equipment to the new Court. Cooperation between our Office and the Court of Appeal is still ongoing. Our colleagues have continued to work closely with the Court to update the appeal census conducted last year with a view to identify priority cases to be heard on appeal, including long-pending cases.

We are pleased to have already noticed some progress at the Court of Appeal. In the last few years, the backlog of pending cases has stopped growing. New measures are being put in place to improve case management, including the introduction of a new database. We hope that similar measures will be put in place in courts of first instance throughout the country. Let me take this opportunity to thank HE You Bunleng, President of the Court of Appeal, for his leadership in this area, and for the excellent cooperation he has extended to OHCHR over many years

Today's meeting is an important part of this process of improving the judicial process and in particular cooperation between courts, prosecutors and prisons.

As far as I know, this meeting is really the first of its kind, gathering all prison directors, court presidents and chief prosecutors in order to discuss increased information-sharing and cooperation. We have also invited lawyers working on appeal cases, as well as representatives from the Ministry of Justice and the Council on Legal and Judicial Reform.

The meeting offers a unique opportunity to identify and discuss the current challenges you face in your daily work and explore possible solutions topic by topic. Improving the judicial process requires a concerted effort on the part of all the actors who are present today. You all have your respective responsibilities, but it is not enough to just focus on your own tasks – you might also want to consider how you can work better with your partners in order to ensure that the judicial process runs as smoothly as possible. It is important to remember that you are all accountable to each other.

A starting-point for improving the judicial process is to improve case management in courts of first instance. Case files should be in order and up-to-date at all times. After verdicts are pronounced, it is imperative that full judgments are drafted promptly and shared with prosecutors, prisons and the Court of Appeal. This is of course the responsibility of judges, but prisons should systematically identify prisoners without final judgments and prosecutors should request missing judgments.

When appeals are lodged, case files should be sent to the Court of Appeal as quickly as possible so that the Court can process appeal cases in a timely manner.

Cooperation requires the sharing of information between all relevant actors. Hence the importance of organizing regular meetings between the relevant agencies in the criminal justice sector, as required by Instruction no.1360 of the Ministry of Justice.

Information should be shared within courts of first instance, between the investigating judge, the prosecutor and the trial judge.

Where there are transfers of prisoners, information should be shared between prisons - such transfers should be documented in the registers of sending and receiving prisons and documents should be sent with the prisoners.

We know that a major challenge in Cambodia is to ensure that prisoners are present when their case is being heard, especially on appeal. We believe that it is imperative that everyone charged with a criminal offence shall have the right to be tried in his or her presence and to have legal representation. This is

a fundamental right protected under an international human rights treaty ratified by Cambodia.

I therefore hope that you will discuss ways to ensure better respect for such fair trial rights.

The third day of this Workshop is being organized by our colleagues at UNICEF and will focus on juvenile justice issues, including ensuring that the deprivation of children's liberty is a measure of last – not first – resort. Therefore you will focus on alternatives to detention for children before, during and after trial. As you know, Cambodia as a party to the Convention on the Rights of the Child and has an obligation to protect children from all forms of violence – as a matter of priority

You will be invited to work through a real life case scenario in order to find practical solutions to keep children safe from harm and to respect children's legal safeguards during justice processes

I know that some of you have come from very far to participate in this meeting and taken some time from your important work. I believe that this is testament of your individual commitment to improving the justice system in Cambodia.

We have high expectations for this meeting and I trust that you will make the most of this meeting by sharing generously on your experience and the challenges you face and by discussing possible ways of improving cooperation between your respective agencies.

I wish you a very good meeting and I look forward to hearing your recommendations tomorrow afternoon.

Thank you.