

International Human Rights Law Group

Cambodian Court Training Project
Final Report-Phase II & III

April 1996-December 1998

Prepared for
U.S.A.I.D.

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Executive Summary

In the early 1990s, Cambodia held a center stage in the global arena. One of the new transitional democracies and the focus of the largest United Nations mission ever. Cambodia had recently emerged from over a decade of socialism, years of civil war, and a radical genocidal regime that had eradicated the educated populace. With the intervention of the leading democratic nations both politically and financially, Cambodia appeared fertile ground for the transformation process from centralized socialism to functional democracy.

Rule of law is an integral part of political transformation. As a centralized socialist state, the judiciary had no experience with independence, and as a society decimated by a genocide regime that targeted intellectuals, human capital resources needed extensive investment to meet even minimal standards for a functional democracy. Contributing to the development of the Cambodian democracy matrix required not only addressing needs, but understanding the historical factors.

The International Human Rights Law Group, a leading international organization dedicated to the protecting human rights through promoting rule of law, had a unique understanding of the Cambodian historical context and the complicated process of transforming a judiciary. In partnership with the United States Agency for International Development, the Law Group had the opportunity to help establish rule of law in Cambodia. Active in Cambodia since shortly after the Paris Peace Accords, the Law Group had, in 1994, developed the Cambodian Defenders Project, the most successful legal aid provider in Cambodia, through a Cooperative Agreement with U.S.A.I.D.

Now the challenge of transforming a justice system into a transparent and independent administrator of the rule of law out of a hastily built socialist system became the work of the U.S.A.I.D.-funded Cambodian Court Training Project. The prior regime in Cambodia had relied on a judiciary consisting of lay people with no legal background, no understanding of judicial decision making powers, and no knowledge of the principles and practical implications of an independent judiciary.

The first step toward creating a state founded in rule of law is the fundamental understanding of an independent judiciary. The International Human Rights Law Group's Cambodia Court Training Project met the needs of Cambodia by training judges, prosecutors, court staff and judicial police in law and procedure, emphasizing human rights, fairness and impartiality in judicial decision making, and cooperation between the police, the courts and the prisons to promote a skilled and transparent justice system. Working directly with the individual judges, the exploration of independence and training in the basic tenets of jurisprudence began to create the intellectual space needed to conceptual justice. The Project strived to break the habituated styles of inaction and empower individuals to approach law as a tool to promote the society as a whole and the people of Cambodia.

Recent political upheavals have presented major challenges to Cambodia's path toward democracy especially to the rule of law. Despite these setbacks and U.S.A.I.D.'s decision to terminate further activities with the Cambodian judiciary, the Project opened the door to a different type of government, introduced the idea of judicial decision making, and began the slow process of transforming the judiciary from a branch that serves the state toward one which protects the people. Even with the recentralization of power, the exposure of the people to rule of law and judges to the role of the courts in the protection of rights cannot be destroyed. It will continue to exist, even if below the surface, and with time and the growth of civil society will be ready to meet the challenges of a nascent democratic society.

Program Summary

The Cambodian Court Training Project (CCTP) of the International Human Rights Law Group funded by the United States Agency for International Development from March 1995 until December 1997. CCTP completed Phases I and II. Phase III of the Project was suspended and terminated upon expiration of the grants following the political upheaval of July 1997.

Fifteen legal advisors and judicial assistants, and numerous pro bono experts conducted training in eighteen provinces and Phnom Penh. Court training staff represented more than eleven nations including the United States, Great Britain, France, Canada, Australia, Argentina, Germany, Ireland, Columbia, and Denmark.

In order to encourage adult participatory education in a hierarchical cultural setting, a variety of training methods were used. The most effective methods were mentoring, hypotheticals, role playing, and discussion and answer. Additionally traditional learning through lecture, hand outs and visual learning aids were employed.

The Cambodian legal system, while still problematic prior to July 1997, achieved notable improvements during Phase I and II of CCTP's work. Provincial courts which prior to CCTP's work had not recognized the legal right to counsel for the criminally accused, began to recognize **the right to counsel** and proactively sought assistance from local non-government organizations to help provide defense attorneys or defenders. Five courts began routinely requesting defenders for the criminally accused after placement of the provincial advisors.

The first ever **independent National Judicial Conference** was held under the auspices of the Cambodia Court Training Project and attended by more than 200 court representatives. The conference allowed the judges to explore the concept of an independent judiciary autonomously from the Ministry of Justice. The United Nations Special Rapporteur on Independence of Judges and Lawyers, Dato' Param Cumaraswamy, delivered the keynote address.

Respect for the **six-month limit to pre-trial detention** has gradually increased. The length of detention prior to trial decreased by 33 percent in the last year of data collection to an average of less than four months. Pretrial detention, a law routinely disregarded, had been one of the main focusses of CCTP.

Cambodian law requires that **within forty-eight hours of arrest the accused be interviewed by the investigating judge**. Since training and mentoring by CCTP staff this law is no longer flagrantly disregarded. Prior to the suspension, data showed that police officers regularly brought new arrestees for interviews with the investigating judges within the time limit. The court in Kratie, even began dismissing charges when the forty-eight-hour rule had been broken.

Cambodians are more aware of their legal rights. CCTP effectively introduced **advisement of rights cards** to police and court personnel for practical application and community education. All provincial courts received copies of the cards for distribution. Some prisons, inspected prior to the suspension, displayed CCTP produced signs listing an individual's rights. The attention to the rights of the accused has resulted in some instances in improved prison conditions.

The **courtroom layout** in certain courts has been reconstructed to give the defense council a comparable table to the prosecutor thereby, alleviating his status. Basic material improvements to the physical infrastructure of certain courts have improved.

Seven Provincial courts received significant **material assistance** in the form of construction or improvements to existing court structures. Repairs included roof repair, building of sanitary latrines, and basic structural repair. Additionally, at least ten courts received office equipment and supplies to enable to perform their duties more effectively.

On March 30, 1997, four grenades were thrown into a peaceful demonstration to protest the lack of independence of the Judiciary. At least 16 protestors were killed and more than 100 were injured in the attack. The government has failed to take action against the perpetrators of the attack despite international investigation assistance.

On July 5-6, fighting between rival government factions broke out in Phnom Penh and the second Prime Minister overthrew the first Prime Minister. At least forty people were summarily executed and hundreds were illegally detained. New evidence of additional extrajudicial killings continues to be discovered. No steps have been taken to apprehend the executioners.

Improvements instituted through the work of CCTP suffered significant set back due to the July 1997 coup and resultant recentralization of power. However, the ideas of independence and the individual educational advancements still exist in the conscious of the judiciary. Prior to the suspension, significant steps toward a Judicial Education

Committee had been undertaken in Phase II, and training of select judges and prosecutors who in turn would have trained their colleagues was underway. Both of these projects were halted immediately after the suspension.

Implementing rule of law is a long term process which requires political will, high level of resources both material and substantive, and community support. In less than three years, CCTP assisted the courts of Cambodia to improve their performance on the protection of fundamental rights and exposed a centralized judicial body to the principles of independence and rule of law, and the court's responsibility to the community. The courts' performance as an independent institution is essential to the democratic reconstruction of Cambodia. With the opportunities afforded by training, mentoring and professionalism, the courts are now better equipped to achieve the rule of law. Continued progress of the justice system is predicated on the court's ability to operate independently from the administrative and legislative branches, unfortunately since the coup this possibility is more remote than at any time since 1993.

Overview of Phase I March 1995-March 1996

The Cambodian Court Training Project was an outgrowth of the Cambodian Defenders Project. The Law Group's work with the Cambodian Defenders Project exposed fundamental needs within the Cambodian justice system, in particular the lack of training of court personnel and court resources.

Phase I began the Project and included all elements of initial development and was divided between training and material assistance.

Resident Legal Advisors and Cambodian personnel were deployed to five provincial capitals which served as the base of operations servicing between one and three neighboring provinces and Phnom Penh. Legal Advisors were distinguished on terms of experience with Senior Legal Advisors and more junior Judicial Assistants. Short term trainers were brought in to address specific needs.

A Court Administrator was employed to develop recommendations regarding judicial administration and to oversee the material assistance portion of the program.

More comprehensive details of Phase I are available in the Final Report-Phase I submitted on August 8, 1996. (See Appendix A.)

Overview of Phase II April 1996-June 1997

Phase II built on the work of Phase I. Training continued and the role of Legal Advisors as mentors increased. In September 1996, Cambodia received a Congressional waiver on the ban of U.S. aid to police training and CCTP began working on improving police skills.

CCTP organized and held the first independent National Judicial Conference. Preparations for impact sustainability included obtaining permission from the Minister of Justice for the formation of a Judicial Education Committee, the preparation of a bench book and training of selected judges and prosecutors as trainers.

The Minister of Justice accepted a proposed change to the physical layout of the court rooms allowing defense counsel a table at the same level with prosecutors. This structural change reflects the growing importance of defense counsel in the criminal justice process.

Basic physical infrastructure improvements occurred created more function space for the administration of justice. Improvements included rudimentary repairs, and the purchase of equipment such as furniture and file cabinets. Select courts also created new evidence storage spaces and restructured the routing of evidence.

Courts began respecting the right to an audience with the investigating judge within forty-eight hours of being detained on criminal charges. In one province, a case was dismissed for violation of the rule and police immediately responded by bringing forward criminally accused over the weekend when necessitated by the law.

Overview of Phase III July 1997-December 1997

Phase III was discontinued on July 7 due to the coup. USAID suspended CCTP activities. CCTP ceased all operations and remained suspended until the expiration of the Cooperative Agreement on December 31, 1997.

Project Background

A Cooperative Agreement between the International Human Rights Law Group (Law Group) and the United States Agency for International Development (USAID) (Provincial Court Reform Project, February 10, 1995, No. 442-0110-A-00-5501) for the Cambodian Court Training Project authorized \$2,487,427 and subsequently amended to \$2,644,878. [The first and second Cooperative Agreement also funded the Cambodian Defenders Project. Because of shared indirect costs and Washington, D.C. costs, it is difficult to break out specifically how much of the total grants supported CCTP, but it is roughly two thirds of the allocated sum.] The Agreement was based on a proposal submitted by the Law Group which identified the basic needs in the Cambodian justice system and set forth a general plan for meeting those needs. Phase I was completed under the first cooperative agreement in March 1996.

A second Cooperative Agreement (Cambodian Court Training Project, May 21, 1996, No. 493-A-00-96-00002-00) authorized the final two Phases, II and III, to be completed in December 1997 for \$3,000,000.

In addition, the Law Group supported the project with a counterparty contribution of \$829,142 for the first Cooperative Agreement and \$450,000 for the second Cooperative Agreement.

Cambodian Legal System

In 1975, the Khmer Rouge destroyed the Cambodian Legal System. Legislators, prosecutors, judges, lawyers and law professors were killed or forced to leave the country. Of the four to five hundred lawyers and legal experts in Cambodia prior to 1975, it is estimated that 80 percent were killed or died of starvation and disease. Only ten lawyers remained in the country in 1979 when the Khmer Rouge was overthrown. Law books were destroyed and court houses and law schools converted to other uses.

Resultant impact of these events on the Cambodian legal system has been catastrophic. Cambodia's civil society, destroyed by war and repression, faces a plethora of complications including an insufficient number of legally trained professionals. Many criminally accused have no proper representation at court or knowledge of their rights under Cambodian law. Judges, selected primarily from the ranks of school teachers, have no legal background, although they may have been acting in the judicial role for over a decade.

Several categories of problems and needs existed within the legal system, including: 1) systematic problems, 2) problems in the application of the law, and 3) administrative and material needs essential to the administration of justice.

Systematic Problems

The Cambodian Constitution, enacted in September 21, 1993, provides distinctly that the judiciary will be independent, and that judicial power may not be shared with the legislative or executive branches of the government. Article 51 of Chapter IV provides for the separation of the Legislative, Executive and Judicial branches of the government. Separation of powers has not been institutionalized at the national level. Article 115 establishes the Supreme Council of the Magistracy whose duties include assisting the King in insuring the independence of the magistracy and overseeing the discipline of judges and prosecutors. The Supreme Council of the Magistracy did not function at any time during the Cambodian Court Training Project's work period, and many "judicial" functions, including appointment and termination of judges and prosecutors, remained with the Ministry of Justice, an executive body. Judges depend on the Ministry to provide answers to questions of law and procedure which should appropriately come from within the judiciary.

This problem extends to the regional level, where under past regimes, governors exercised control both over the appointment of local court officials and actual decisions of the court. While this practice has officially ended, vestiges of this practice continue to

remain.

Implementing the separation of powers is a long term goal requiring new institutions, laws and mentalities. Individual judges and prosecutors cannot be expected to act independently unless they are insulated from retaliation.

The most immediate problem facing the rule of law in Cambodia is the severe shortage of trained legal personnel. Most of the country's trained legal practitioners were either killed or fled the country during the Khmer Rouge regime from 1975 to 1979. Throughout the 1980s, formal legal education and training were extremely limited. Most judges and prosecutors in place following the 1993 Paris Peace Accords had received only cursory legal training, and the authoritarian practices of the past two decades have limited the exercise of independent judgment.

Formal state sponsored judicial educational opportunity revolved primarily around the annual Judicial Conference. A month before the meeting, the Ministry of Justice distributes questionnaires to each provincial court for suggested topics, and during the meeting the Minister of Justice answers any questions revealed in the questionnaire.

Additionally, the role of the justice system in peoples' lives is not clearly understood. The traditional Khmer system of dispute resolution involves a sequence of mediation efforts at the local community level which heavily relies on inherent community power. Public lack of information about the law extends to the criminal process and to the basic rights of the accused.

Problems in the Application of the Law

Due to Cambodia's recent history, the legal system is a patchwork of different sources of law which are sometimes conflicting or incomplete, particularly with respect to criminal and civil procedure. The various bodies of law reflect the changing political powers which have instituted new laws, different training practices, or indeed the wholesale expunging of written law.

Owing to this complex history of rapid and sudden change, there is now an amalgam of law. Rules do exist to resolve some of the gaps or inconsistencies, the Constitution includes a supremacy clause, however, the power of judicial review of laws under the Constitution is assigned to the Constitutional Council which was not appointed during the Cambodian Court Training Project's tenure.

Under Cambodian law, a hybrid of civil and common law, there are clear distinctions between the roles of judges and prosecutors and the different skills required to perform those roles. In practical terms, each court has developed its own procedures for the division of tasks. Often, there is open collaboration between the prosecutor and the judge destroying the independence of the investigating judge.

Laws regarding pretrial detention are frequently disregarded. No transparent and enforceable system for arraignment exists.

Civil servants are exempt from legal prosecution including the military and the police allowing them to operate with impunity, regardless of the degree of human rights abuses they commit.

Investigation techniques are underdeveloped which has led to increase in the abuses of the rights of the accused and other methods destructive to the integrity of the court system. Confessions, obtained in 90 to 99 percent of all criminal cases, are one tangible result of the deficient investigation skills. The need for confessions to be sought by prosecutors and police arise, in part, from the lack of means for securing and analyzing physical evidence. Despite that the law requires independent evidence to corroborate a confession, cases are routinely prosecuted on the basis of a confession alone.

Witnesses rarely appear at trial. The costs of attending trials are often prohibitive and neither the courts nor the police have reliable transportation available. In lieu of witnesses, summary statements are often prepared by the clerks of the courts.

The population of Cambodia is approximately 65 percent women, primarily a result of the larger percentage of men who have died in recent wars. Women often are heads of households, but rarely active in government or the judicial system. Issues of discrimination and exclusion are common problems faced by Cambodian women.

The law, in general, is underdeveloped and misunderstood. Problems in particular fields of law create a need for special expertise or attention to sensitive circumstances of vulnerable sectors.

Administrative and Material Needs

The material needs of the courts are extreme. Needs range from supplies to equipment to court buildings. Few courts have the basic required office equipment to function such as filing cabinets, pens, paper, and copiers or mimeograph machines. Some courthouses need structural repairs and are uninhabitable in the rainy season. Electricity is often unavailable. The lack of transportation hinders investigations and leads to unsafe situations.

The lack of basic equipment and material impedes the efficient operation of the courts. Court furnishings, particularly for defense representatives, are needed in many provinces.

Additionally, administrative systems are in need of standardization. Uniform docketing, filing and calendaring systems are virtually nonexistent.

Personnel

Washington, D.C.

Gay J. McDougall, Executive Director, 3/95-12/97
Stephen Bowen, Program Director, 12/96-12/97
Peter Rosenblum, Program Director, 3/95-9/95
Ria Burghardt, Executive Officer, 4/95-12/97
Janet Wise, Executive Officer, 3/95
Jennifer Rasmussen, Cambodia Projects Coordinator, 7/97-12/97
Laura McGrew, Cambodia Projects Coordinator, 3/95-6/97
Jennifer Rasmussen, Program Associate, 8/96-6/97
Hilary Chapman, Program Assistant, 8/95-8/96
Susanne Riggaard Pedersen, Program Assistant, 4/95-7/95
Melissa Baron, Program Assistant, 3/95

Cambodia

Thierry Fagart, Director, 1/97-12/97, Acting Director, 7/96-12/96,
Eugene Murret, Director, 10/95-6/96
Judge Lawrence Pierce, Director, 3/1/95-10/95
Thierry Fagart, Deputy Director, 1/96-6/96
Camille Cameron, Deputy Director, 1/97-8/97
Christie Warren, Director Curriculum and Training, 3/95-6/96
Jenny Akers, Court Administrator, 7/95-3/96
Will Howard, Court Administrator, 12/96-5/97
Michael Runner, Bench Book Editor, 6/97-11/97

Legal Advisors

Judge Juanita Rice, Legal Advisor Kompot, 4/95-5/97
Ian Lloyd, Legal Advisor Battambang, 6/95-4/96
Camille Cameron, Legal Advisor Kratie, 4/96-12/96
Romina Piccolotti, Legal Advisor Prey Veng, 8/95-11/96
Joachim Bode, Legal Advisor Kompong Speu, 8/96-5/97
Dermot Groome, Legal Advisor Kratie, 2/97-6/97
Michael Karnavas, Legal Advisor Kampong Chnang, 4/95-3/96
Bernard Harbourne, Legal Advisor Kampong Cham, 5/95-3/96
Carmen Lopez-Vasquez, Legal Advisor Phnom Penh, 7/95-3/96
Tan Bieng, Legal Advisor Kendal, 8/95-1/96
Juan Pablo Ordonez, Legal Advisor, 1/96-4/96
Phyllis Cox, Legal Advisor Kampong Thom, 2/97-7/97

Judicial Assistants

Joshua Sondheimer. Judicial Assistant Kompot. 5/95-8/96
Kevin Landy, Judicial Assistant Kampong Cham. 5/95-6/96
Charlotte Oldham-Moore. Judicial Assistant Battambang. 6/95-4/96

Temporary Positions and Consultant Support

Mike Conway. Criminal Investigation Trainer. 11/96. 1/97-5/97
Livingston Armytage, Continuing Judicial Education Specialist
Jennifer Ehmann, Court Administration Specialist, 2/97

Administrative Personnel

Janet Wise, Financial/Procurement Officer, 4/95-9/97
Sophie Pinwill, Program Assistant, 4/95-12/97
Melissa Baron, Program Assistant/Liaison, 4/95-11/95
Susanne Pedersen, Administration/Liaison, 12/95-7/96

Brief Biographies-Washington

Law Group Executive Director **Gay McDougall** will have overall responsibility for the Project. Ms. McDougall is the former Director of the South Africa Project of the Lawyers' Committee for Civil Rights Under Law, and has degrees from Yale Law School and the London School of Economics. Ms. McDougall has spent nearly two decades promoting human rights in South Africa, Namibia and elsewhere, through which she has acquired extensive experience with empowering advocates and building civil societies in many countries. She implemented a successful, full-scale version of the partnership model based on on-site work in South Africa, including advocacy efforts at the international level and training local advocates to use both local and international strategies. She is a board member of CAREUSA and CARE International, and was a member of the 1997 mission responsible for evaluating CARE's work in former Yugoslavia. Under Ms. McDougall's supervision the Women's Rights Advocacy Program (WRAP) and the International Advocacy Program are integrated into the in-country work of the Law Group. She serves as an expert member of the United Nations Sub-Commission on the Prevention of Discrimination and the Protection of Minorities and as an expert member of the treaty body that oversees the International Convention on the Elimination of All Forms of Racial Discrimination (CERD). In addition, she regularly works with the UN Center for Human Rights in Geneva and with other organizations devoted to promoting greater justice and freedom for all people.

Program Director **Stephen Bowen** develops and manages the programmatic aspects of the Project. His past experience includes Human Rights Expert for the United Nations High Commissioner for Human Rights in the former Yugoslavia, Chief of Staff for the

United Nations Special Coordinator for Sarajevo and Human Rights Officer at the Gaza Centre for Rights and Law. As Program Director of the Law Group, Mr. Bowen is responsible for the planning and implementation of programs that build the capacity of local human rights nongovernmental organizations, including women's rights NGOs, in a number of countries as well as for international advocacy on behalf of victims of human rights abuses worldwide. Formerly an attorney specializing in international human rights, criminal and administrative law, Mr. Bowen received his LL.M. with Merit from the London School of Economics, a Diploma in Law from the Polytechnic of Central London, an M.A. with honors in Natural Sciences from Corpus Christi College and his B.A. from Salesian College.

Ria Burghardt, Executive Officer of the Law Group, is an attorney and non-profit accountant with extensive experience working in both the legal and administrative capacity in the nonprofit sector. She has over twenty year's experience administering and monitoring federal and private grants. Ms. Burghardt has been on the adjunct faculty of the University of San Francisco since 1993 where she teaches public budgeting and nonprofit financial management to non-governmental organizations.

Cambodia Projects Coordinator **Jennifer Rasmussen** organizes international assistance to the Project from Washington DC. She has a J.D. from American University, Washington College of Law where she concentrated on international human rights law. Prior to joining the Law Group, Ms. Rasmussen was an immigration attorney.

Laura McGrew, former Cambodia Projects Coordinator, has worked in the region as Provincial Human Rights Officer for the United Nations Transitional Authority in Cambodia. She has also worked for CARE International in Cambodia and the U.S.-Indochina Reconciliation Project. Ms. McGrew has her Masters Degree in International Public Policy from the Paul H. Nitze School of Advanced International Studies.

Brief Biographies-Cambodia

Thierry Fagart is a French lawyer. Mr. Fagart has more than 20 years of experience in immigration, criminal, human rights and press laws. He has served as a judicial observer for the International Federation of Human Rights Organization, the International Association of Catholic Advocates, and the International Association of Democratic Advocates. As an observer, he has surveyed Iran, Syria, Tunisia and Morocco.

Eugene Murret is an American lawyer. Mr. Eugene Murret has served on the Executive Counsel to the Governor of Louisiana. He has served for 18 years as member of Louisiana State Law Institute's Council and held governmental positions on the Council.

Camille Cameron is a Canadian lawyer. Ms. Cameron's principal area of practice has been civil litigation. She is a founding member of Nova Scotia Branch of Lawyers for Social Responsibility and has published numerous works such as, The Use and Abuse of Interlocutory Proceedings in Hong Kong. Ms. Cameron is experienced in training and consulting. She has taught law subjects such as Civil Procedure, Criminal Procedure, Legal Skills and Civil Trial Practice.

Christie Warren is an American lawyer with specialization in the death penalty and homicide laws. She has served as Public Defender for the Sacramento County Court. Ms. Warren has taught courses in Legal Writing and Research at the University of California, Hastings College of the Law.

Dermot Groome is an Irish-American lawyer with developmental experience in Jamaica. Mr. Groome is a former Manhattan District Attorney who worked extensively with the Sex Crimes Unit of the Attorney's office.

Juan Pablo Ordonez is a Columbian lawyer. Mr. Ordonez is the Founder and former Director of Proyecto Dignidad Por Los Derechos Humanos en Colombia (Project Dignity for Human Rights in Colombia), was a member of the Judicial Police in Colombia, and has extensive experience as a criminal trial attorney. Mr. Ordonez is the author of No Human being is Disposable: Social Cleansing, Human Rights and Sexual Orientation in Colombia.

Will Howard is a court administrator with more than fifteen years experience. Mr. Howard was the Chief Deputy for the Circuit Court for Baltimore City prior to being promoted to Administrator for the court.

Phyllis Cox is an American lawyer who specializes in areas of litigation, real estate, mortgage finance and family law. Ms. Cox is admitted to practice in the state and federal courts of Colorado and before the Court of Appeals of the District of Columbia. She is a member of Colorado, Denver and Colorado Women's Bar Associations and the District of Columbia Women's Bar Association.

Michael Conway is a member of the San Francisco Police Department and has worked extensively in the training and counseling of police service personnel. For more than ten years, Mr. Conway has worked with both the Department of State and the United Nations under contract to train police service personnel in various locations in South East Asia.

Joachim Bode is a German judge. His professional work has covered all fields of juridical proficiency: spheres of civil law, criminal law, and administrative law. Judge Bode has more than 20 years of experience and in 1974 passed the "1. Staatsexamen" at the School of Law at the Universities of Kiel, Mainz, Tubingen, and Marburg.

Romina Picolotti is an Argentine attorney. She has done election monitoring and human rights advisement in conjunction with the OAS in Haiti and Peru. She is fluent in Spanish, English, French, and Portuguese.

Juanita Rice is an American magistrate. Judge Rice has served as District Court Juvenile Magistrate in and for El Paso County, Colorado. She has practiced domestic, juvenile, probate, collections, real estate, criminal and traffic laws.

Michael Runner is a lawyer who specializes in judicial education and consulting. He is co-editor of *Domestic Violence & Children: Resolving Custody and Visitation Disputes, A National Judicial Curriculum*. Mr Runner has provided an editorial revision of curricula for the Family Violence Prevention Fund to educate judges, lawyers, and child protective services workers on domestic violence.

Livingston Armytage is an Australian lawyer who has served on the Judicial Commission of New South Wales. Mr. Armytage has published numerous articles and has served on the University of Western Sydney's advisory board. He is the founding editor of *The Judicial Review* and has also designed and conducted the inaugural *Australian Judicial Orientation Program* for new judges from all states of Australia and Papua New Guinea.

Counterparty Contribution

The International Human Rights Law Group contributed a total of more than \$1.3 million in counterparty contribution to the Cambodian Court Training Project and the Cambodia Defenders Project. During Phase II and III, the counterparty contribution consisted of pro bono training experts who traveled to Cambodia for periods up to five weeks to conduct training on their areas of expertise, and law firms which provided in-depth legal analysis of specific Cambodian laws.

The Law Group has an extensive network of international experts who are willing to provide their services to the Law Group's Projects at a reduced or no-cost rate. Drawing on the wealth of experience these talented individuals possess, the Law Group was able to meet all the training needs of the Project from criminal investigation to witness examination to corrections facilities.

During Phase II, considerable time was donated by law firms who researched Cambodian draft laws. Examinations included analyzing the law for conformance with international human rights standards, and predictions of the effects the law would have on the judicial system. Specifically the law firms researched the drug law, the anti-Khmer-Rouge law, and anti-corruption statutes in other countries.

Phase II April 1996-June 1997

Legal Advisors and Training Activities

Through training and mentoring activities, the courts have increased their legal knowledge and ability to apply the law. The improvement has been observed by advisors during training and mentoring, at trials and by community contacts such as local NGOs.

Legal advisors remain in the provincial courts for a long term period allowing partnerships to grow between the advisor and the court personnel. Training for their local court are developed around the curriculum prepared by the curriculum development team. Additionally, legal advisors often travel to neighboring provinces to conduct trainings on specific topics.

Legal advisors and their role as trainers and mentors to the courts is a key component to changing the legal system. Advisors are able to assess the court's needs and address them in sufficient time to create a substantive impact on the judicial system.

Criminal Investigation Training

Training on criminal investigation techniques took place in nine provinces and was led by Dermot Groome and Michael Conway. The trainings focussed on educating the police and court personnel about the proper methods of collecting evidence and investigating crimes. Currently, confessions are the most commonly produced evidence of criminal guilt and police rely on confessions and tactics for getting them, in part, because they lack the skills to collect any independent collaborating evidence. By increasing the investigation skills, the trainers hoped to alleviate or at least decrease police reliance on forced confessions. (See Appendix B and C.)

In addition to police and court personnel, the trainers taught the Human Rights Task Force, the Human Rights Investigators of the National Assembly, the staff of Legal Aid of Cambodia and Cambodian Defenders Project. These NGO workers and lawyers will use similar investigation techniques to help the criminally accused.

A corollary and important benefit of the training was to clarify the various roles of the different court personnel and judicial police. This clarification is essential to the basic understanding of an independent judiciary.

TRAINING

DATE	LOCATION	TRAINER/S	TOPIC
October 21-22, 1996	Kratie	Camille Cameron and Romina Picolotti	Elements of Crimes
October 27-28, 1996	Ratanakkiri	Romina Picolotti	Elements of Crimes
November 4-6, 1996	Prey Veng	Romina Picolotti	Elements of Crimes Evidence Management System
November 5, 1996	Kompong Chhnang	Mike Conway	Introduction to Investigation Techniques
November 14-15, 1996	Kampot	Juanita Rice	Investigation Techniques
November 18-19, 1996	Takeo	Juanita Rice	Investigation Techniques
November 21-22, 1996	Sihanoukville (and Koh Kong attending)	Juanita Rice	Investigation Techniques
January 15, 1997	Ministry of Justice Annual Conference	CCTP Team	<i>In Flagrante Delicto</i>
February 10-12, 1997	Kratie	Mike Conway, Dermot Groome, Juanita Rice	Investigation Techniques
February 15 and 17, 1997	Koh Kong	Mike Conway, Dermot Groome	Investigation Techniques
February 19-20, 1997	Sihanoukville	Mike Conway, Dermot Groome	Investigation Techniques
February 20, 1997	Kampong Thom	Phyllis Cox	Pre-trial Release and Rights of Accused
February 24, 1997	Cambodian Defenders Project	Mike Conway, Dermot Groome	Investigation Techniques
February 25-26, 1997	Takeo	Mike Conway, Dermot Groome, Juanita Rice	Investigation Techniques

DATE	LOCATION	TRAINER/S	TOPIC
March 4-5, 1997	Kampot	Mike Conway	Investigation Techniques
March 11-12, 1997	Kompong Speu	Mike Conway	Investigation Techniques
March 14, 1997	Kratie	Dermot Groome	Interviewing Witnesses
March 18-20, 1997	Kompong Chhnang	Mike Conway	Investigation Techniques
March 20-21, 1997	Kampong Thom	Phyllis Cox	<i>In Flagrante Delicto</i> and Elements of Crimes
March 25-26, 1997	Kompong Cham	Mike Conway	Investigation Techniques

(See Appendix D.)

Material Assistance

Resulting from the needs assessment of the courts conducted during Phase I, structural improvements were made and equipment and stationary supplies continued to be provided by CCTP.

During April, May, and June of 1996 construction projects already initiated in Kompong Chhnang, Kompong Thom, Kompong Cham, Kompong Som, Kratie and Phnom Penh Municipal court were completed. In August and September of 1996, plans were drawn, and construction commenced for improvements to Takeo court. Equipment, furniture and stationery supplies were provided to selected courts during July and August of 1996.

Kompong Chhnang

Construction of a new and separate Courthouse Administration Building in Kompong Chhnang commenced in March 1996 and was completed in July 1996. The building provided a much needed functional expansion of office space for judges and court personnel of the court.

Kompong Thom

Extensive remodeling of the court in Kompong Thom was begun in March 1996 and completed in May, 1996. Changes and improvements included the construction of

three clerks' offices on the ground floor; a prosecutor's office created in an unused section of the rear porch; the old bathroom removed and converted into an evidence storage room; new toilets built; and repairs were made to the existing roof, interior ceiling and walls.

Kratie

Remodeling of the Kratie court house commenced in March 1996 and was completed in June 1996. Improvements included building two raised concrete platforms in the main courtroom for the judge and prosecutor; installation of a new wooden front door and metal front gate; laying a new tile floor; adding concrete benches; and building latrines in the rear of the court house. New equipment and furniture were also provided including a photocopy machine, file cabinets and locking metal storage cabinets, a voltage regulator, and wall and ceiling-mounted fans. New courtroom furniture was built, a generator was purchased, and a shelter for the generator and motorcycles was constructed.

Improvements to the Kratie court also included:

1. Remodeling the courthouse by building two raised platforms in the main courtroom for the judge and the prosecutor;
2. Installing a new wooden front door and metal front gate;
3. Laying a new tile floor, adding concrete benches; and
4. Constructing latrines in the rear of the courthouse.

Kompong Cham

Repairs to the Kompong Cham court house were begun in March 1996 and completed in April 1996. A new fence was built, the roof, rain gutters, and interior ceilings were installed. Technical assistance included providing computer training for two court clerks.

Kampot

The Kampot court house received a wide range of interior and exterior furniture and signage. Other improvements include electrical repair and installation of fans; gravel was also provided for the driveway. Technical assistance included computer training for one court clerk.

Phnom Penh Municipal Court

Improvements to PNP Municipal court began in March 1996, and are due for completion in October 1996. New latrines were built in the rear of the court, a new sewage line installed and new bathrooms were added to the interior of the building.

Takeo

The Takeo courthouse was identified as the courthouse in greatest need of renovation. Although the Ministry of Justice plans to build a new courthouse in Takeo, the timing for the construction was uncertain. Because the courthouse was used daily under danger of roof collapse, CCTP enlisted a construction engineer to inspect the building and advise whether it could safely be repaired. After a positive opinion, the consulting specialist was asked to develop a plan and bids were solicited. A contract was finalized to totally renovate the existing structure and create two new offices by enclosing the front porch. Construction commenced in November 1996. The renovation included a new metal roof with internal support for the existing ceiling and complete repair and painting of the building exterior. Upon completion of the building's reconstruction, a photocopier was provided to the court.

Prey Veng

A new furniture and storage capabilities' system was designed and constructed.

Svay Rieng

New courtroom furniture was built and installed for the Svay Rieng court.

Stung Treng

During October and November 1997, Stung Treng court received:

1. Nine file cabinets;
2. Four steel storage cabinets;
3. Voltage regulator; and
4. Photocopy machine.

Other courts to receive new photocopy machines include Kompong Som and Stung Treng. The Supreme court in Phnom Penh received a shipment of photocopy paper, and a computer printer was repaired for the Battambang court.

Conferences

MINISTRY OF JUSTICE CONFERENCE

January 13-17, 1997

The annual Ministry of Justice Conference is attended by the Minister of Justice, Appellate Court Judges, provincial court personnel, and when relevant police, military, and forestry officials. CCTP was invited to present a number of topics during the conference, including the complex and important issue of *flagrante delicto*.

During the conference, judicial participants are encouraged to engage in debates over interpretations of the laws and circulars issued by the Ministry.

CCTP used the conference as an opportunity to distribute the Judicial Education Surveys designed by consultant Livingston Armytage. The Judicial Education Surveys were to have been used in the development of the Continuing Judicial Education Program.

**NATIONAL JUDICIAL CONFERENCE: INDEPENDENCE AND THE JUDICIAL PROCESS
June 23, 24 and 25, 1997**

The first national judicial conference held independently of the Ministry of Justice and fully sponsored and organized by CCTP. The theme of the conference was Independence and the Judicial Process. United Nations Special Rapporteur on Independence of Judges and Lawyers Dato' Param Cumaraswamy gave the keynote address. All judges and prosecutors were invited to attend. (See Appendix E.)

The conference provided the first ever opportunity for judges and prosecutors to convene outside of the auspices of the Ministry of Justice to discuss the independence of the judiciary. CCTP as conference administrators will facilitate the exchange of ideas and information between judges.

The conference focussed on judicial reasoning and decision making, evidence, case analysis and judicial reasoning, judges' associations, and the meaning of an independent judiciary. A variety of training methods were utilized including guided lectures, questions and answers, small group discussion, and hypothetical.

Court Administration

Court Administration progress continued throughout Phase II. A Code of Conduct was created by the Court Administrator based on international standards and was approved for distribution and training by the Ministry of Justice in March. A court docket system was in production, and an arraignment court model had been produced and instituted in select courts when the Court Administrator fell ill and had to be evacuated from the country. The Court Administrator's departure in conjunction with the suspension caused the Court Administration portion of Phase II work to be only partially completed. While the results were limited due to these factors, a process was begun that the Ministry of Justice could build on to create an effective and efficient system of justice.

Bench Book

The Bench Book was to provide the first comprehensive compendium of the application of Cambodian law. The Bench Book was to have assisted judges and prosecutors in performing their professional duties by providing an accessible and practical reference to important laws and procedures for their day to day work.

An advisory group of judges, prosecutors and international experts was created to oversee and direct the Bench Book project. Michael Runner was hired as the Bench Book Editor in May 1997 and arrived in the field in June. Prior to the suspension, Mr. Runner had organized the local NGO legal community, and the staff of CCTP to create the subject matter text divisions. By July, the majority of the text had been submitted and was in the process of being reviewed and edited for translation and compilation. (See Appendix F.)

Evaluation

Stephen Golub arrived in Phnom Penh on January 29 to conduct the field component of the CCTP evaluation, as required by USAID under the funding agreement. Mr. Golub stayed in-country for two weeks and interviewed several CCTP staff, visited one provincial office (Kampot) and other related agencies to assess the work of CCTP.

Mr. Golub's conclusions included:

- * According to Cambodian Human Rights NGOs and others, the legal system has improved.
- * Courts in some provinces not only respect the right to legal counsel but actively contact NGOs to implement it.
- * Evidence suggested that the six-month pre-trial detention limit is more widely respected than prior to CCTP training.
- * The rule requiring arrested persons to be brought before a court within 48 hours is more widely respected.
- * The presence of Project advisors in many provinces has given legal proceedings some accountability.
- * The skills and perspectives of participants in the legal system have been expanded to varying degrees.
- * CCTP has played a significant role in the positive changes that have taken place in the Cambodian justice system.

Investigations

During Phase II, courts and police were trained in proper evidence collection and investigations. Significant improvements in performing criminal investigations resulted from the intensive training on the subject. Historically, the police and courts have experienced tension working together, primarily because of confusion about

roles and responsibilities. The investigation trainings focussed on the functionary purpose of the investigations.

Curriculum and Workplan

Throughout Phase I, the curriculum development team surveyed the judges to determine the areas of greatest needs and then proceeded to develop a strategic plan to meet those needs. The curriculum underwent constant evaluation and reconfiguration to appropriately meet the needs of the audience. A variety of training techniques were used to convey the curriculum materials including hypotheticals, question and answers, visuals, discussion and lecture format. Attached is the original curriculum plan which was followed by provincial trainers. (See Appendix G.)

Phase III July 1997-December 1997

In early July, U.S.A.I.D. suspended the activities of the Cambodia Court Training Project. Due to the suspension, no progress was made on Phase III activities.

Results Framework

The Results Framework of CCTP is both a management tool and a guiding force behind CCTP activities. Data collection strategies and individual advisor reporting requirements are based on the strategic objectives, intermediate results and indicators.

As a working document, the Results Framework was subject to regular review and modification when necessary.

It is necessary to reassert that not all impacts of the Project are easily translated to empirical data. The Project has always approached the prospects of developing rule of law in Cambodia as a two-prong attack. The results framework comprises the impact observable in a relatively short-term project. A more realistic estimation of knowledge and skills transferred would be conducted in the future after the departure of the Project in an ideal study.

The second less ascertainable result of the Project's work is the exposure of a portion of the judicial administration system to the ideals of an independent judiciary, the lessons learned in promoting justice in a transitional society, and the ancillary benefit to other rule of law projects such as Cambodian Defenders Project. The Defenders Project benefited in two significant ways: from the enhanced legal knowledge the judges now possess and their ability to implement in cases presented to them by lawyers, and from the action material benefit of receiving the assets of the Court Training Project.

Strategic Objective: CAMBODIAN COURT PERSONNEL IMPROVE THEIR COMPLIANCE WITH LEGAL NORMS, PARTICULARLY IN THE AREA OF CRIMINAL JUSTICE.

Intermediate Result 1. Increased ability of court personnel to understand and apply existing legal principles, particularly in criminal law and procedure, including new laws if passed.

1.1 Increased knowledge of criminal laws and ability to apply them
INDICATORS:

1. Test results at the end of training segments compared to results reported at the beginning of training segments

Pre and Post-training test - Svay Rieng

Question	Correct-Pre-test	Correct - Post-test	Incorrect - pre-test	Incorrect - post-test
1	4	20	22	8
2	9	26	17	2
3	4	14	22	14
4	8	24	19	4
5	5	13	21	15
6	0	2	26	26

This method was used sparingly following problems encountered during the first three months of Phase II. Several advisors were instructed to test the procedure and the results were not good. Two primary problems exist. The first problem was participant reaction to the tests. The second problem was the changing audience over a training period, or inconsistency of samples.

Participants were reluctant, offended or insulted that they were being "tested." The critical tone of the trainings was emphasized by the testing. This was especially problematic with the pre-tests which tended, despite their confidentiality, to produce great performance stress in the individuals and jeopardized mutual trust and respect of trainer and trainee. This was especially problematic when the relationship also included a mentoring aspect. Reluctance based on fear of "losing face" amidst colleagues, fear of consequences of limited or incorrect knowledge, fear of written exams, concern about confidentiality, and anxiety about new non-traditional, participatory training style.

Secondly, because the attendants at a training had outside commitments, there was no-guarantee that the set of individuals taking the pre and the post tests remained consistent nor was information available on how much of the training an individual test taker had attended.

To avoid or minimize the problems discussed above, informal variations of the pre and post test including involved group discussions of relevant hypothetical scenarios, role playing, mock interviews, and individual discussions were used to evaluate the retention of the training materials. These methods have their own characteristic drawbacks but avoided the extremely damaging loss of trust caused by testing.

In Prey Veng, using alternative retention estimations determined that the most valuable indication of increased knowledge was when the trainees volunteered correct information to colleagues questions at the end of the session.

In Kratie, participants' critique of a deficient written pre-trial release application at the beginning of the session showed inconsistent and varied knowledge on the subject. However, at the end of the session, a role play of an interview of a detainee for a pre-trial release application with peer review showed that most participants had retained a substantial amount of the training material.

2. Observations of advisors through mentoring, training, trials and community contacts

TRIAL OBSERVATION BASED ON MENTORING

YEAR	LOCATION	CONFESSION	EVIDENCE OTHER THAN POLICE REPORTS
1994=20 cases	Prey Veng	17	14

YEAR	LOCATION	CONFESSION	EVIDENCE OTHER THAN POLICE REPORTS
1995=20 cases	Prey Veng	18	16
1996 trial observations=6 (criminal) cases	Prey Veng	3	4

YEAR	LOCATION	CONFESSION	EVIDENCE OTHER THAN POLICE REPORTS
1994	Kratie	18	15
1995	Kratie	N/A	N/A
1996 - based on 10 cases	Kratie	4	9
1997 - based on 5 cases	Kratie	3	7

YEAR	LOCATION	CONFESSION	EVIDENCE OTHER THAN POLICE REPORTS
1994	Kampot	N/A	N/A
1995=16 cases	Kampot	15	15
1996=4 cases	Kampot	4	0
1997=2 cases	Kampot	0	13

Mentoring

Phase I indicated the most successful method of increasing the understanding of legal principles and their application is mentoring. Mentoring is the process of individual, one on one exploration of legal issues primarily in the hypothetical context although, more often than not these hypotheticals are based on actual cases presently before the court. Mentors by being present daily and working on the premise on nonjudgmental assistance and guidance were more readily accepted by the judicial personnel in

Cambodia's hierarchical society. Mentoring is less obtrusive, especially to the community at large.

Mentoring also explores the ideals of jurisprudence rather than simply transferring laws. This step beyond facts into the realm of theoretical application is one of the leaps necessary to create an independent judiciary.

Additionally, mentoring has the added advantage of long term trust building which is more difficult in short term training, and makes the partners in the relationship more open to advice and guidance. Mentoring is, thus, more successful in resistant courts where the breakdown to the resistance is allowed time to occur.

Because of the nature of mentoring, it does not lend itself to empirical data easily. The Project throughout its life had 15 advisors in the mentoring capacity serving 10 provincial courts and Phnom Penh.

In Kratie, one judge dismissed a case because the judicial police breached the law regarding how long police are permitted to detain a suspect before bringing him or her to court. Breaches such as these usually go unchallenged. In this case, however, the judge sought the counsel and support of the resident advisor and subsequently made this unprecedented decision. It was clear that the judge was more concerned with correct legal procedure than the possible displeasure of the judicial police at the discharge of a suspect.

In Kompong Chhnang, a prisoner was arrested without a warrant and had not seen a judge. The relevant judge after discussions with the resident advisor decided to release the detained man.

In Kampot, the court's vice president approached the advisor about the topic of execution of judgments. He cited his research had discovered two identical provisions relation to civil procedure. He discussed the intricacies of the law with the advisor. Legal research prior to the advisor's placement did not occur.

A man killed by lightening in Kampot was being investigated as murder with a pending arrest. Through mentoring the advisor was able to suggest a medical exam which uncovered the cause of death.

Also in Kampot, a number of systems of investigation were developed through mentoring including a protocol for sex crime offenders, techniques for investigating and an investigation plan for a grenade attack which killed five people, and evidence preservation in robbery cases.

In Prey Veng, after a few months, mentoring took on "an ambiance of true legal discussion, laws in hand, theories and concepts freely exchanged, commented and

debated . . . the judges are finally looking at mentoring as an opportunity to develop their legal minds, and not simply to fill the gaps in their legal knowledge” (Prey Veng monthly report, Romina Picolotti.)

In general, the advisors reported more discussions of the law as their individual time progressed. It should be noted that the mentoring relationship was based on individual qualities and while a court that was familiar with the mentoring process took less time to accommodate a new advisor the process did not begin at the level it had previously been at. Consequently, the individual characteristics create or dispel the atmosphere necessary for influence and constructive legal growth. Finding successful mentors required looking for people aware of cultural differences, an understanding of the developmental model (less problematic in the court setting), and effective communicators.

Training Observations

All trainers noted improvements in training participants. The level of confidence in the increase of knowledge corresponded to the level of difficulty of the subject being taught. Attendants at the trainings on “Elements of Crime” and “Investigation Techniques” showed dramatic increases in understanding of the law. Trainings which were less readily assimilated into the trainees lexicons were often the subject of further trainings or individual mentoring. In one case, *In flagrante delicto*, the subject was explored in more detail during the annual judicial conference.

Trial Observation

The observation of trials is a valuable indicator showing whether any increases in applicable law have occurred. However empirical data on trial observations is limited by the number of trials observed, the impact of the observation on the court’s conduct and observer’s bias. For these reasons, trial observation statistics are less relevant than individual examples.

Monthly reports attempted to indicate, within the limits discussed above, whether the outcome of the trials were supported by the facts and the law, and whether the arguments presented were consistent with relevant laws. These categories seek to analyze both the Judges’ knowledge and ability to apply the law by looking at the outcome and the prosecutor’s and the defender’s knowledge and ability by analyzing the arguments.

Court cases presented by prosecutors and defenders often fail to make legal arguments and merely refer to the law. In these instances, trial observation presupposes the judge’s basis for making a decision. Because many judges are unfamiliar with legal reasoning, such presumptions by trained legal experts tend to err in favor of a reasoned decision. It is only when the facts and the law seem to be at odds that such a presumption is drawn into question. Keeping this in mind, the

outcomes of the majority of observed trials were supported by the facts and the law. However, at the same time, advisors noted that judges tended to impose the harshest sentence allowable under law.

Examples:

In Kratie:

The case involved a dispute over a house sale in which the plaintiff had borrowed money from the defendant many years ago and although some payments were made could not pay off the loan. The case was significant because it included in the court file and introduced as an exhibit at the trial the decision from the governor which resolved the matter in favor of the defendant. The judge disagreed in what I thought was a courageous act demonstrative of judicial independence, dismissed the governor's decision as non-binding and found for the plaintiff. I questioned him later about whether he feared possible ramifications from the governor and he said he was not sure but that he governor was clearly wrong and in any event the governor had exceeded his authority.

These statements by a Cambodian judge are in fact ground breaking and very significant. External pressures and the political climate in Cambodia make sure decisions risky. This case occurred toward the end of the Project's provincial work (March 1997) and evidenced a significant change from the attitudes of the same judges when the Project first started. It is only by long term presence and greater familiarity with the terms of the law and the authority of the courts that the judges dare to speak out. The Project's presence and visibility supporting the rule of law clearly fostered such actions.

In Kampong Thom, the prosecutor at a rape trial presented overwhelming evidence that a father had raped his daughter. The victim's mother wanted the accused husband freed to help look after the family. Although against the law, a decision in favor of the accused would have followed common practice under these circumstances. Despite the pressure from the family, the judge upheld the law and convicted the accused based on the evidence of witnesses' interviews at the time of the offence as well as expert medical testimony.

In Kompong Chhnang, the first dismissal of a criminal charge during the Project's tenure occurred.

In Prey Veng, the judge went beyond the immediate issues in a consensual rape case of a minor and applied invalidity of consent.

Community Contacts

Community contacts are often the least bias interpreters of progress, but often difficult to quantify or to put into a relational context. A customer survey which had

begun in late Phase II was to have been conducted during the last six months of the Project. Unfortunately, it was canceled due to the changing political situation in Cambodia. (See Appendix H.)

Increasingly throughout Phase II of the Project, community members and NGOs interviewed cited the courts were less corrupt than prior to the Project's arrival, and therefore more accessible. NGOs have stated that the Project's presence in the court ensured a fairer treatment of court users and facilitated the follow up of excessive pre-trial detention times, slow case investigations and access to legal representation. Additionally, the advisors strove to involve NGOs in the legal system and in turn to create a public pressure for rule of law, within the constraints of their duties as court advisors. Many NGOs contacted indicated that the court's image and physical appearance had significantly improved. Several NGOs expressed their disappointment when advisors ended their provincial stays.

1.2 Increased understanding of, and ability to apply techniques for investigating and preparing criminal cases

INDICATORS:

1. Test results at the end of training segments compared to test results reported at the beginning of training segments

As discussed above, pre and post testing did not occur on a regular basis because of the detrimental effect such testing had on the mentoring relationships of the trainers. However, visiting trainers employed the technique when possible. Mike Conway, Investigations Techniques Trainer, conducted both formal and informal pre and post training tests. Allowing for some statistical error and for the slight shift in the sample due to the absence and addition of trainees, the results showed that overall the rate of correct answers rose from 19 percent to 59 percent. Individual question results included a rise from 15 percent correct pre-training to 71 percent correct post-training.

Question	Pre-training Percentage Answering Correctly	Post-training Percentage Answering Correctly
1	15.3%	71.4%
2	34.6%	92.8%
3	15.3%	50%
4	30.7%	85.7%
5	19.2%	46.4%

Question	Pre-training Percentage Answering Correctly	Post-training Percentage Answering Correctly
6	0%	7.1%
Total	19%	59%

Trainer observations noted an increase, post-training, of correct preservation of evidence, including collection, storage, labeling and recording. Prior to training all trainees failed to correctly secure a crime scene. Observers were permitted to enter the crime scene and potentially destroy evidence. no one was designated to control access to the scene, the area was not sealed off, and evidence was moved before being photographed. After training, participants exhibited correct crime scene control techniques. Trainings also introduced crime scene sketching.

2. Existence of evidence other than police reports and confessions in representative samples of case files

Evidence outside of police reports and confessions examined include use of live witnesses, use of photographic evidence, implementation of an Evidence Management System, and use of other evidence.

Live Witness Testimony, 1994-97

YEAR	LOCATION	NUMBER OF LIVE WITNESSES
1994 Representative sample	Prey Veng	20
1995 Representative sample	Prey Veng	45
1996 Representative sample	Prey Veng	35*

*Trial observations included 17 trials in which 30 live witnesses gave testimony.

YEAR	LOCATION	NUMBER OF LIVE WITNESSES
1994 Representative sample	Kratie	52
1995 Representative sample	Kratie	N/A
1996 Trial Observations	Kratie	32*

YEAR	LOCATION	NUMBER OF LIVE WITNESSES
1997 Trial Observations	Kratie	25*

*Based on Representative sample of 10 instead of 20.

*Based on Trial observation of 5 cases.

YEAR	LOCATION	NUMBER OF LIVE WITNESSES
1994 Representative sample	Kampot	N/A
1995 Representative sample	Kampot	43
1996 Trial Observations	Kampot	51*
1997 Trial Observations	Kampot	6*

*Based on observations of 7 trials that included 18 live witnesses.

*Based on observations of 2 trials.

1.3 Increased adherence to laws regulating court procedures

INDICATORS:

1. Evidence of frequency of criminal cases in which the defendant is advised of rights during first appearance, as required by Cambodian law

Kampot Prison Interviews

Month	Met with court	Advised of charge	Advised of right to defender	Advised or right to suspend interview
July 1996	2 out of 5	2 out of 5	2 out of 5	2 out of 5
August 1996	11 out of 12	3 out of 12	4 out of 12	1 out of 12
October 1996	7 out of 7	3 out of 7	3 out of 7	1 out of 7
December 1996	2 out of 2	1 out of 2	1 out of 2	1 out of 2
January 1997	3 out of 3	3 out of 3	1 out of 3	0 out of 3
February 1997	3 out of 3	2 out of 3	3 out of 3	1 out of 3

Month	Met with court	Advised of charge	Advised of right to defender	Advised or right to suspend interview
March 1997	5 out of 5	1 out of 5	1 out of 5	1 out of 5

Kompong Chhnang Prison Interviews

Month	Met with court	Advised of charge	Advised of right to defender	Advised or right to suspend interview
October 1996	5 out of 5	3 out of 5	1 out of 5	0 out of 5
November 1996	4 out of 4	2 out of 4	1 out of 4	0 out of 4
January 1997	N/A	N/A	N/A	N/A
February 1997	1 out of 1	1 out of 1	0 out of 1	0 out of 1
March 1997	N/A	N/A	N/A	N/A

Prey Veng Prison Interviews

Month	Met with court	Advised of charge	Advised of right to defender	Advised or right to suspend interview
July 1996	7 out of 7	6 out of 7	1 out of 7	0 out of 7
August 1996	3 out of 3	2 out of 3	2 out of 3	2 out of 3

Kratie Prison Interviews

Month	Met with court	Advised of charge	Advised of right to defender	Advised or right to suspend interview
August 1996	4 out of 4	0 out of 4	0 out of 4	0 out of 4

Kampong Thom Prison Interviews

Month	Met with court	Advised of charge	Advised of right to defender	Advised or right to suspend interview
March 1997	3 out of 3	2 out of 3	2 out of 3	0 out of 3

1.4 Increased use of systematic sentencing practices

INDICATOR:

1. Observations of Advisors during trial observations.

Trial observations show that sentences are usually within the legal range for the offenses. However, advisors note that sometimes a charge is inappropriate, or harsh according to western standards of jurisprudence. In part this is due to problems of definition within the law and the judges' tendency to err on the side of conservatism and follow the letter of law with out regard to functional intent of the law. For example, Cambodian law requires that any theft be charged as robbery is there is more than one accused. The law does not explicitly instruct the judges to consider the seriousness or nature of the offense or even the extent of the second person's participation.

However, legal practice in Cambodia allows for the consideration of mitigating circumstances and judges are willing to listen to mitigating circumstances, if presented, however, the scarcity of defenders often prevents their presentation. Judges' seem unwilling to independently consider mitigating circumstances.

Additionally and more troubling is the increasingly compounding evidence that courts use the convict and suspension of sentences to release the accused from prison without addressing the legal facts of the case. This habit arises out of the accused having already served pre-trial detention time and the judge's decision that a ruling of innocence would present an inequity in the accused state pending trial. Mentors individually addressed this problem but with limited success.

Intermediate Result 2. Increased adherence to human rights principles

2.1 Decreased use of forced confessions as evidence

INDICATOR:

1. Court procedures for handling allegations of coerced confessions in identified ongoing cases

Three cases have been followed through Phase II:

Case 1. Kratie - The case in Kratie was complicated by the fact that the accused. While in pre trial detention, alleged police brutality to extract a confession. However, when he came before the court, he confessed again to both the prosecutor and the investigating judge. The case was tried on the basis of the court confession.

Case 2. Prey Veng - The accused in this case confessed to one robbery and stated at trial that the police beat him to extract confessions of two other robberies, of which the accused claimed he was innocent. The deciding judge convicted the accused of only one robbery, without any reference to the value of the allegations of forced confessions.

Case 3. Kampot- the advisor noted a case of alleged coerced confession in October 1996. In following up the case, it was discovered that the prosecutor released the accused from prison because no other evidence could be found during investigation to support the confession.

Additionally, the implementation of an evidence collection system and record have helped police develop and use alternative methods of determining guilt or innocence. (See Appendix 1.) Additionally, please see section on Criminal Investigation Training.

2.2 Increased understanding and recognition of rights of women and ethnic and religious minorities

INDICATORS:

1. Observations of Advisors during mentoring, trials and through dialogue with other NGOs

Advisors observed, through mentoring and community contacts, that there are significant problems with the treatment of women in divorce cases and domestic violence cases and that women generally receive unequitable treatment in the courts despite the general principles of equality embodied in the law. In divorce cases even when there is spousal violence, there remains a tendency to try to reconcile parties, particularly if the husband is contesting, or unwilling to accept a divorce. This is

indicative of the treatment of and attitudes toward women and the family in Cambodia. Project advisors strive during mentoring to increase the courts' awareness of the rights of women and children and the principles of equality before the law.

The Kampot provincial advisor also enlists the support of the Cambodian Defenders Project and the Asia Foundation's Project Against Domestic Violence in family violence cases, ensuring advocacy and support for the victims of violence during their trials and afterwards.

In Kampong Thom, the court approached the advisor to discuss a case in which a woman had killed her husband as a result of severe domestic violence. The court was very interested in learning about the psychology of women who commit these acts of violence, and how courts in other countries deal with the issue of women who kill in self defense. The court was glad to receive from the advisor some materials about the battered spouse syndrome.

Again, in the Kampong Thom case charging a father with the rape of his daughter, the court was aware of the discomfort of the rape victim and the desires of the mother for her convicted husband to be released. The court upheld the conviction but gave a shorter sentence (the minimum under the law) to the father. Observing the trial, the advisor noted that the deciding judge spoke to the victim very gently. This sensitivity in Cambodia is unusual, particularly when as in this case the victim has made the original complaint and then tried to withdraw it. This incident provides anecdotal evidence of an important change in attitude of at least one Cambodian judge. In contrast, many judges in Cambodia often speak disrespectfully to defendants, defenders and witnesses.

There was one case in Kratie of a Vietnamese Khmer Rouge soldier convicted and sentenced to 20 years, which is the minimum under the law. It is unknown if his ethnicity impacted on this case, it is an unusual one, so no conclusions can be drawn. The provincial advisors continue to look for evidence of mistreatment of ethnic and religious minorities, both in trial observations and through community contacts, in order to ascertain an increased understanding of the courts of the rights of women and ethnic and religious minorities.

There have been no complaints forwarded to the advisors regarding mistreatment of religious or ethnic minority group members. Although there is some evidence that investigations of complaints by minorities are not treated with the same amount of attention given to ethnic Cambodian's complaints, the advisors do not have sufficient evidence to document this.

2.3 Increased effectiveness of communication between the courts and the prisons

INDICATORS:

1. Extent of oversight of prisons by prosecutors

All courts report no problems with oversight of prisons by prosecutors. The Ministry of Justice issued a strict circular to the provincial prosecutors in October and November 1995, instructing regular reporting and oversight of prisons.

2. Extent of discrepancies between prison register and court register

All courts except Kompong Chhnang, reported no discrepancies between prison register and court register during the reporting period. Kompong Chhnang's court register was incomplete when inspected in March. Four prisoners were being held without an arrest warrant and therefore not recorded in both registers. When the advisor brought this to the prosecutor's attention, within 24 hours two prisoners had been released and two had been interviewed by the court and formally charged.

At the beginning of the project, however it was noted that there were indeed numerous differences between the prison and court registers which were indicative of poor communication between the two institutions. The advisors report that their efforts to improve communication and coordination between the various authorities are working, and that this improved relationship is reflected by the consistency of the registers.

Prey Veng court's registration procedure has become a model for other provinces. An U.S.A.I.D.-funded Criminal Justice Project is transferring the model. Prey Veng's advisor was instrumental in establishing the current working relationship between the prison and the court.

2.4 Decrease in excessive periods of detention before trial

INDICATORS:

1. Percentage of prisoners in pre-trial detention beyond legal time limit

During Phase II, 48 percent of surveyed prisoners were detained more than six months. This statistic is slightly misleading for a number of reasons. For instance, in one province, a courthouse demonstration destroyed files in December 1995 which caused a backlog of cases through 1996 and 1997. The court claimed that timely trials immediately following the demonstration were impossible because of the destroyed files. One province experienced extreme flooding which caused the courts to be closed for almost two months and created a backlog of cases. Additionally, the length of time more than six months was very short. In many cases only one day or two beyond the six-month period.

2 Average time held in detention without trial

As a result of the Project training on pre-trial detention, the average time prisoners were held in pretrial detention declined from 5.7 to 3.8 months, a 33% reduction in one year.

Pre trial detention statistics

Kampot

Reporting Period	Number Convicted to Prison	Number Detained Pretrial Over 6 months	Percentage Detained Pretrial Over 6 months	Average Pretrial Detention Time (All Convicted)
Before 1-95	23	8	34%	Not Available
1-95 to 7-95	7	3	42%	5.36 months
7-95 to 1-96	6	2	33%	5.1 months
1-96 to 7-96*	8	7*	87%*	9.4 months*

* Note: This statistic resulted primarily because of the Kampot courthouse demonstration in December 1995 when protesters destroyed case files and other property. The court claimed that timely trials during this reporting period were impossible because of the destroyed files.

Kompong Chhnang

Reporting Period	Number Convicted to Prison	Number Detained Pretrial Over 6 months	Percentage Detained Pretrial Over 6 months	Average Pretrial Detention Time (All Convicted)
Before 7-95	5	2	40%	6 months
7-95 to 1-96	15	1	6.6%	5.6 months
1-96 to 7-96	17	1	5.5%	3.8 months
7-96 to 1-97	20	2	10%	3.8 months

Kratie

Reporting Period	Number Convicted to Prison	Number Detained Pretrial Over 6 months	Percentage Detained Pretrial Over 6 months	Average Pretrial Detention Time (All Convicted)
Before 7-95	18	14	77%	7.5 months
7-95 to 1-96	11	4	36%	5.1 months
1-96 to 7-96	10	1	10%	4.2 months
7-96 to 1-97	17	5	29%	5 months

Kompong Thom

Reporting Period	Number Convicted to Prison	Number Detained Pretrial Over 6 months	Percentage Detained Pretrial Over 6 months	Average Pretrial Detention Time (All Convicted)
Before 7-95	27	18	66%	9.7 months
7-95 to 1-96	11	5	45%	6.3 months
1-96 to 7-96	5	3	60%	5.6 months
7-96 to 1-97	12	3	25%	5.3 month

Prey Veng

Reporting Period	Number Convicted to Prison	Number Detained Pretrial Over 6 months	Percentage Detained Pretrial Over 6 months	Average Pretrial Detention Time (All Convicted)
Before 11-95	unknown	unknown	39%	unknown
7-96 to 1-97	11	6	54%	5.2 months

Intermediate Result 3. Effective court management and administration

3.1 Improved personnel management

INDICATORS:

1. Observable performance of defined roles

During Phase II, Project staff focussing on court administration had the opportunity to visit a number of provincial courts and observe their performance. Additionally, all provincial advisors were cognizant of the performance of court administration duties.

In spite of limited resources, court personnel improved their performance during Phase II. For instance, the chief clerk in Kompong Chhnang wrote a job description for his post with the assistance of the chief judge which helps clarify his duties and improve his effectiveness.

Advisors noted that limitations in resources, lack of filing cabinets, paper, and other office equipment, often restricted the court personnel's performance. The problem of underpaid staff and corruption continues to negative influence the distribution of public services and prevents equal access to the courts

2. Code of conduct for court clerks introduced

A Code of Conduct was developed by the Court Administration Advisor in conjunction with court personnel and presented to the Ministry of Justice in March 1997. The ministry of Justice approved the Code of Conduct which was based on international standards and training was to have been implemented during Phase III.

(See Appendix J.)

3.2 Effective administration process and procedures

INDICATORS:

1. Observable improvements in service provided to court users at "model court(s)"

Three notable improvements in service have been created by the Project: the Evidence Management System, a uniform courtroom design, and the Advisement of Rights card.

The Evidence Management System was designed following detailed discussion with how the court handles evidence and took into account geographical and physical limitations. Using the results of these discussions and the existing court forms, the Evidence Management System was created to be an effective and simple method of preserving evidence for trial. The Kampot, Kompong Thom and Prey Veng courts have implemented the Evidence Management System, developed by the Prey Veng advisor. (See Appendix K.)

A uniform courtroom design approved by the Ministry of Justice is now being used by the CCTP and the UNCHR to change the existing courtroom dynamics. The new design, which includes a space for the accused's legal representative, is installed in courts in Kompong Speu, Kandal, and Phnom Penh, and was to have been installed in Kampot, Prey Veng, Kampong Thom and Kompong Chhnang.

Advisements of Rights cards, stating the rights of the criminally accused under Cambodian Law, have been developed by the Project. These cards were distributed to court personnel, prison officials, and police officers. The courts have been assigned the task of distributing the cards to the accused. The cards were tested in Kompong Thom. After a positive response, the cards were discussed and widely distributed to all courts at the National Judicial Conference. Unfortunately, it is unknown whether the cards are currently being distributed or whether any cards have been distributed since last July. (See Appendix L.)

2. Uniform calendaring system is in operation at "model court(s)"

Working toward a uniform calendaring system, an arraignment court was developed. The arraignment process is the criminally accused first contact with the judiciary and without a systematic calendaring of the court, violations of the Cambodian law and individual human rights are likely to occur. The process of creating a new calendaring system in a judiciary which has essentially functioned without such a system was a slow process.

Kandal court's arraignment system was chosen as the model for all courts. An arraignment court was developed at the court in Kompong Thom, based on the model.

The Kompong Thom advisor brought a number of court staff to Kandal to see how the arraignment system works and to facilitate discussions between the two courts. The initial discussions at Kompong Thom included the procedural aspects of the court. The judge presiding at the arraignment takes the following steps:

1. Informs the accused of the charges before her/him:
2. Formally appoints a defender:
3. Reads rights to the accused:
4. Stops the procedure to allow defender to talk to accused:
5. Entertains motion for bail or release on own recognizance: and
6. Sets court date or informs accused that she/he will be notified of pending court date through the court or defender

Procedural steps were based on the human rights principles based in Cambodian law.

3. Observable reduction in average time for processing cases and backlog of cases brought to trial at “model court(s)”

There has been an observable reduction in the backlog of cases brought to trial at Kompong Thom, the model court. This backlog has been reduced by the court’s decision to hold default trials. While this resolution is not ideal, especially considering the lack of systematic court management techniques, it does clear the current backlog.

As the backlog decreases, the average time for processing cases has also fallen. For the reasons stated above, this statistic is not a reliable indicator of a more effective or equitable justice system.

4. Administrative procedure manual developed and published

The Administrative procedure manual was not developed nor published due to the termination of the Project in Phase II and the subsequent failure to hire a new Court Administrator.

5. Computer assisted administration is functioning in select courts.

Six clerks attended computer training to develop skills to create computer administration systems for their courts. The clerks were from Kampot, Prey Veng, Kampot, and Kompong Cham. Because this training was the first time some of the clerks had ever used a computer, the training sessions were limited to basic computer skills. Clerks immediately began utilizing the basic word processing skills they had learned. Other computer usage was limited by the basic skills level at which the training began.

3.3 Improved system of data collection and reporting of court performance is developed.

This indicator was eliminated following consultation with the Ministry of Justice. The task of improving system of data collection and reporting on court performance was too time and labor intensive.

Intermediate Result 4. Improved ongoing training and development of court personnel

4.1 A model continuing judicial education system is developed

INDICATORS:

1. Appropriate Cambodian nationals to conduct ongoing training programs are identified

The Ministry of Justice and the CCTP agreed on a list of Cambodian judges and prosecutors who would have participated in a Train the Trainer program. (See Appendix M.) This program was to have trained Cambodian judges and prosecutors to become the future trainers of their colleagues. The CCTP conducted the first “train the trainer” session in May 1997. The plan was to work with and support this first group of trainers in the following ways:

- * Help them to plan and conduct one or more training sessions in their own or neighboring courts;
- * Invite them to participate as presenters and facilitators in the National Judicial Conference, and support them in this activity;
- * Ensure that they have a leadership role as organizers, presenters and facilitators in the Regional workshops, and support them as they plan and implement this role; and
- * Conduct a follow-up training session.

The Regional workshops scheduled for August 1997 were not held. The workshops were intended to build on the progress made during the National Conference. The themes were to have been: judicial independence, judges, associations and judicial reasoning.

Also scheduled for August and subsequently canceled, a second group of Cambodian judges and prosecutors was to have participated in a "Train the Trainer" session. They would have been supported by CCTP in the same manner as the first group.

2. Proposal outlining model Continuing Judicial Education programs is developed

A Judicial Education Committee was established. The Committee was to be a permanent body that would gradually assume control of the Continuing Judicial Education program. The Committee held two formal meetings, and CCTP has met informally on many occasions with the committee's Ministry of Justice representative.

At the first meeting of the Judicial Education Committee, CCTP presented its Continuing Judicial Education proposal, which included four principal activities: (1) the train the trainer program (discussed above), (2) Bench Book, (3) National Judicial Conference and (4) Regional workshops. The committee endorsed these activities, and implementation began. The Committee supervised the judicial education activities of the CCTP, and was to have eventually assumed responsibility for the continuation of these activities. Unfortunately, due to the suspension these activities were not completed.

3. Potential funding sources for training programs identified

This activity was to have been undertaken during Phase III.

4. Judicial and legal trainers trained

The first group of trainers was selected in May and began meeting. The trainers were also incorporated into the workshop components of the National Judicial Conference sponsored by CCTP in June.

Training halted following the suspension.

4.2 Training manual developed and published

The Bench Book was to have been the first standardized composite on the practical application of Cambodian law and was to have been distributed to all sitting judges and other court personnel. In May 1997, Michael Runner joined the CCTP team as the Bench Book editor. The NGO community worked together to gather the information for the Bench Book, and many of the chapters of the Bench Book were written.

Sixty percent of the Bench Book manuscript was finished prior to the suspension. Extensive revising and reediting had begun on three chapters: criminal investigation process, kidnaping and trafficking in humans, and family law. All chapters were undergoing extensive review and discussion by the CCTP legal team.

The book was to have been published in an easily updated format. Each chapter was to have been individually bound and then put into a notebook. User training was to have been incorporated with the distribution of the Bench Book.

The Law Group is currently exploring ways to expand the audience of the Bench Book to NGOs and criminal defenders and resume development of this practical tool for Cambodian legal workers and NGO workers.

Project Close Down

Following suspension in July, the Project did not reengage in activities. All staff, but core essential expatriate staff, were relieved of their positions in August 1997. Beginning in November 1997, close down of the Project began.

Physical plant close down included updating the inventories list of all Project assets and reassessing the fair market value, giving notice to local staff and the landlord, moving assets to the Cambodian Defenders Project, finalizing all accounts, and shipping materials to Washington. (See Appendix N.) Prior to the suspension all provincial offices and staff had been removed in anticipation of Phase III.

All statistical information, curriculum materials, and reports were transferred to Washington to be categorized. Prior to shipment, materials were reviewed to determine if copies of the materials should be transferred to CDP for training use by their staff. In most cases, this material had already been shared with CDP. A final internal review, debriefing and staff evaluation of the Project and their roles was instituted. The internal accounts system for the Project closed officially in February, although no money was expended after December 31, 1997. The production of this report was the last activity undertaken under this cooperative agreement.

On December 31, 1997, the Cambodia Court Training Project officially closed.

Conclusion

The success of Phase II of the Project will continue to impact the Cambodian judicial system despite the suspension of activities for Phase III and the political turmoil of the last few months of the Project. The combination of experienced and persevering advisors who were able to form successful mentoring bonds, the leadership and support of the Phnom Penh office in working with the Ministry of Justice in striving to help them understand the importance of a transparent and accessible justice system, and the

coordinating efforts of the Washington office created an environment conducive to change where the will existed.

Phase II progresses made marked improvements in the administration of justice for the Cambodian people. Even should the current political climate create a digression in this progress, the Cambodian people have been exposed to what justice is capable of providing and benefitted from the institutional changes implemented by CCTP.

Lessons on judicial independence, decision making, transparent and accountable justice, and human rights standards embodied in Cambodian law remain with our partners in Cambodia. As their society continues to transform and struggle toward democracy, these lessons will persevere and eventually be relied upon to bring Cambodia into the full realization of democracy and the principles of human rights.

APPENDIX

APPENDIX A

**THE INTERNATIONAL HUMAN RIGHTS
LAW GROUP**

**CAMBODIAN
COURT TRAINING PROJECT**

FINAL REPORT

PHASE I

August 8, 1996

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APPENDICES

FINAL REPORT PHASE I

CAMBODIAN COURT TRAINING PROJECT

I. INTRODUCTION

The following Final Report outlines the activities and accomplishments of the Cambodian Court Training Project (the "Project") during its first funding phase from February 10, 1995, through March 31, 1996 ("Phase I").¹ The Project is organized by the International Human Rights Law Group ("Law Group") and funded by the United States Agency for International Development ("USAID") through a cooperative agreement with the Law Group.

During its first 14 months, the Project provided Cambodia's provincial courts unprecedented exposure to new ideas and approaches to the application of Cambodian law, to legal skills and analytical methods from developed legal systems, and to the essential function and role of the judicial system in upholding the rule of law in a democratic society. Over this period, the Project delivered over 125 formal training sessions, covering more than twenty different core legal topics and reaching every accessible provincial and municipal court in the country.² Project Advisors also served as mentors to court personnel and established strong and productive working relationships with the judges, prosecutors, and other court staff.

In addition to the intangible benefits of Project training and assistance, the Project over this period brought about the following improvements, among others:

- improved the timely handling of criminal cases
- strengthened court procedures for advising criminal defendants of rights
- restored court buildings and improved facilities
- improved accessibility of court buildings
- strengthened organization and storage of evidence and records
- provided essential supplies and furnishings to every court

In this report, Project accomplishments initially are reviewed in relation to the training and overall objectives identified in the Project's Revised Workplan. The next section details accomplishments based on the proposed objectives set out in the Project's Baseline

¹ Although USAID granted an extension of Phase I beyond March 31, 1996 for financial purposes, this date is retained as the Phase I ending date for purposes of narrative reporting on Project activities.

² Preah Vihear was the only court not visited because of security concerns and transportation difficulties. However, a Project team reached Preah Vihear by chartered plane in June 1996, following the close of Phase I, and provided training there on Domestic Violence and Gender Awareness in the courts.

Assessment and Proposed Project Workplan. This report also revisits impediments to change in the justice system, and reviews the Project's data collection efforts. A final section outlines conclusions and broad recommendations for the Project's continued efforts during its second phase. For purposes of narrative reporting, this second phase began April 1, 1996 and runs through March 31, 1997 (Phase II).

A. Background

As is well known, during the Khmer Rouge regime of 1975 to early 1979, most of Cambodia's judges and legal practitioners either were killed, died, or fled the country. Legal codes and documentation were destroyed, and the legal infrastructure devastated. Although the justice system was reestablished in the early 1980's by the Vietnamese-backed communist regime, judicial personnel received only limited formal legal training under socialist judicial models. Those trained during that time remain judges and prosecutors today, and are only now growing into their new roles in a democratic society. With increasing pressures on the courts, few resources, and very limited legal training, court personnel are struggling with the demands of an emerging democratic system. Accordingly, since the UN-sponsored elections of May 1993, training and developing Cambodia's judicial system has become a priority.

The identification of the needs of the justice system in Cambodia arose from more than two years of experience by the Law Group in field operations in Cambodia intended to strengthen respect for human rights and rule of law. In its initial project proposal, the Law Group noted that many provincial courts were not functioning in a manner consistent with basic judicial standards and that the skills and infrastructure needed to operate a fair and impartial justice system did not exist. The Law Group proposed to provide legal expertise and limited material assistance from the United States and other countries in order to help meet some of those needs.

B. Project Methodology

The Project hired 18 legal professionals from the United States and a variety of other countries to provide advice and training in the provincial courts, and to provide central coordination and administration. An international staff list is attached as Appendix A. The Resident Legal Advisors ("Resident Advisors" or "RLAs") were based in five provincial capitals, or "hubs," and assigned to work in one, two, or three additional courts in adjacent provinces.³ The hub provinces were chosen based on a variety of factors including the perceived needs and importance of the various courts, geographic location, accessibility, and arrangements with a U.N.-sponsored project also placing legal advisors in selected provincial courts.

Resident Advisors initially gathered information and data about the needs and operations of the courts, and then coordinated and provided training, mentoring, and material assistance in the courts they served. A Court Administration Advisor ("CAA") also

³ The regional groupings were as follows: Kampot Region: Kampot, Takeo, Sihanoukville, Koh Kong; Kampong Cham Region: Kampong Cham, Kampong Thom, Kratie; Battambang Region: Battambang, Siem Reap, Banteay Mean Chey (Sisophon); Kampong Chhnang Region: Kampong Chhnang, Kampong Speu, Kandal; Prey Veng Region: Prey Veng, Svay Rieng. Other courts, including Stung Treng, Ratanakiri, and Mondulakiri, received occasional visits and training by Resident Advisors.

gathered information about and developed recommendations concerning court administration and coordinated the Project's material assistance program. Formal training emphasized the practical application of Cambodian law, legal skills and theory, human rights and democratic principles, and was tailored to the specific needs of the Cambodian courts. Training was conducted principally by the Resident Advisors and by visiting international volunteer legal experts, or "*pro bono publico*" ("for the public good") trainers. Training and mentoring was conducted through the Project's Cambodian interpreters.

The Project opened its first provincial office on May 20, 1995, in Kampot Province, and continued to bring additional international staff through July until four additional offices were staffed in Kampong Cham, Battambang, Kampong Chhnang, and Prey Veng. The Resident Advisors' continuous presence in the provinces allowed the Project to build strong and interactive relationships with judicial personnel in the field and to respond to the varying needs of the courts. Training was offered at the provincial courts in order to minimize disruption of the daily activities of the courts and to allow for training of court clerks in addition to judges and prosecutors. Advisors also facilitated the establishment of communicative relationships between the police, the courts, local officials and other non-governmental organizations ("NGOs") in a number of provinces in which they served. The Project coordinated closely with the two other Law Group Projects in Cambodia. The Cambodian Defenders Project, which provides training for legal defenders to practice in Cambodian courts, and the Human Rights Task Force, which is in the process of transitioning to a fully-Cambodian human rights resource organization which works to strengthen the capacity of NGOs in monitoring and advocacy, human rights education and institutional management and development.

Personnel in Phnom Penh provided administrative oversight, coordinated project training efforts, provided some direct training, supported the work of the Resident Advisors in the field, and liaised with the Ministry of Justice.

C. Gender-Segregated Data on Project Beneficiaries

There currently are six women judges in the Cambodian courts, and all have been fully included in and received training during Phase 1. Most courts have one to several female clerks or administrative assistants, and these women also were included in all training sessions to which administrative personnel were invited to attend. There are no female prosecutors.

Because of the inadequacy of court records, the Project has been unable to precisely determine the degree to which women utilize and are brought into court. Nevertheless, based on the observations of Resident Advisors, it is clear that a substantial percentage of court users, including plaintiffs, victims, and civil and criminal defendants, are women. The Project's impacts can be assumed to have benefited female court users at least equally to men. Indeed, because of the Project's special efforts to provide training on issues of fair treatment for women in the justice system, (see part B.II.E.2.e on "Vulnerable Sectors" below), female court users may have benefited from Project training to an even greater extent than male litigants.

D. Prior Reports to USAID

The Baseline Assessment and Proposed Project Workplan

The Project's Baseline Assessment and Proposed Project Workplan ("Baseline Assessment") identified key problems faced by the justice system and the training and material needs of the provincial courts, and outlined proposed "courses of action" by which the Project would seek to address those problems. The Baseline Assessment also proposed indicators by which progress could be measured. This document provided the initial basis for Project activities in Phase I.

Activity Report

An Activity Report submitted to USAID on October 14, 1995, outlined the activities and accomplishments of the Project during its first seven months, from February 10 through September 10, 1995, in relation to the objectives set out in the Descriptive Workplan and proposed courses of action set out in the Baseline Assessment.

Revised Workplan

A Revised Workplan was submitted to USAID on November 3, 1995. This workplan set out the Project's objectives with respect to the major program elements, including judicial and administrative training, mentoring, court administration, and material assistance. The Revised Workplan also refined some of the proposed actions and indicators of change outlined in the Baseline Assessment. A curriculum plan for the remainder of Phase I also was included.

II. ACCOMPLISHMENTS

A. Overall Objectives

1. Training

Objective: To provide skills training in response to the identified needs of the Cambodian judiciary.

Accomplishments: During Phase I, Resident Advisors and visiting pro bono trainers conducted over 125 separate training sessions in the provincial courts. In addition, the Project sponsored two days of training at the Ministry of Justice's annual judicial conference in December 1995 ("MOJ Conference"), attended by over 75 judges and prosecutors from throughout the country. The Phase I training program covered all of the core curriculum subjects under the Project's Curriculum Plan, plus other selected topics. The following list outlines the principal trainings conducted by the Project through the end of March 1996:

TOPIC	TRAINER(S)	PROVINCES COVERED
Homicide Investigation	Russell Stetter (U.S.)	8 (plus July MOJ Conference)
Contracts and Domestic Violence	Judge Arthur Brennan (U S)	9
Criminal Procedure	Thierry Fagart (France)	12
Judicial Ethics	Justice Shirley Abrahamson (U S)	7

Examination of a Witness	John Philipsborn (U S)	7
Introduction to Community Corrections	Lyn Keogh (Australia)	5
Family Law	Juanita Rice, Romina Piccolotti (RLAs)	5 (plus CDP* and HRTF**)
Role of a Judge in a Constitutional Democracy	Judge Leonard Sand (U S)	6
Contracts and Legal Analysis	Kim Sathavy (Cambodia), Finn Lynghjem (Norway), Michael Karnavas (RLA)	11
Fraud, Theft and Breach of Trust	Tan Bieng (RLA)	13
Criminal Procedure and Investigations	Michael Karnavas, Ian Lloyd (RLAs)	13 (plus Annual MOJ Conference and CDP)
Criminal Law and Defenses	Bernard Harborne, Charlotte Oldham-Moore, Stephen Murdoch (RLAs)	7
Contracts and Torts	Ronald Sokol (France), Kevin Landy (RLA)	8
Land Law	Hanne Sophie Greve (Norway), Pol Lim (Cambodia), Joshua Sondheimer (RLA)	4 (plus CDP)
Civil Law and Procedure	Bernard Chevalier (France)	4

* Cambodian Defenders Project
** Human Rights Task Force

In addition to the above, selected training sessions were held in individual courts or the Annual Judicial Conference on the following topics:

- Elements of the Crime and Constitutional Issues ~ Professor Dciores Donovan (U S)
- Criminal Procedure and Defenses ~ Christie Warren (C&T Director), Stephen Murdoch (RLA)
- Self Defense ~ Ian Lloyd (RLA), David Lubitz (CDP)
- Office Procedures and Record Keeping ~ Jennifer Akers (Court Administration Advisor)
- Court Administration ~ Jennifer Akers (Court Administration Advisor)~
- Clerks Training ~ Judge Eng (Cambodia)
- Photography of Criminal Evidence ~ facilitated by Romina Piccolotti (RLA)~
- Criminal Procedure ~ Yves Corneloup (France) ~

A calendar indicating the dates and locations of the various training sessions is attached as Appendix B.

Evaluations of Project Training

The results of evaluations completed by trainees at the close of many training sessions indicates that the recipients found Project training sessions highly valuable. Evaluation forms were distributed in more than 40 training sessions covering almost all of the topics in the Phase I curriculum. Most importantly, trainees were asked if they found the sessions: (1) very useful, (2) somewhat useful, (3) not very useful, and (4) not useful at all. **An overwhelming 95% of the respondents in total (869 out of 913 responses) said they thought the training sessions had been "very useful."** The remaining five percent identified the trainings as "somewhat useful."

Many advisors, through their continued observations of and discussions with court personnel, identified that the judges, prosecutors, and court clerks have become more engaged in discussing and thinking analytically about Cambodian law and their roles in the

justice system. This is clearly a result of the exposure and opportunities for open discussion provided by the Project.

A sampling of the comments of training recipients themselves provides direct indication that the training has helped to improve legal understanding and practice.

"It is best to exchange ideas and experiences. I am very happy with the seminar and my understanding is improved, especially in the method of finding offenders."

Investigation of Crimes - Kampot

"All of this seminar is very essential for my affairs as I meet obstacles in cases in the future."

Family Law - Battambang

"I am very happy with your training, because it improves my understanding of law"

"This training is very important for work in law and we can apply it for our future."

Criminal Procedure - Kampot, Takeo

"After listening to the training of the teacher . . . I understand about the rights of the property owner and of the state, and can make considerations about the law to respect for civil servants and the people."

Land Law - Kampong Speu

"I am so happy in this training because we understand what we did not understand clearly before."

Fraud, Theft, and Breach of Trust - Kampot

The comments of judicial personnel often reveal deep appreciation for the efforts of the trainers, and many urge continued training and discussion:

"We are delighted to participate with wonderful training and would like to say thank you for your time."

Criminal Procedure - Siem Reap

"I would like to be advised in more areas of the law for application in the future."

Contracts and Legal Analysis - Koh Kong

"We need more training to take experience from procedures of developed countries."

Criminal Procedure - Kampong Cham

2. Judicial Advice and Mentoring

Objective: Continue and expand the provision of mentoring and related informal advice and assistance to judges, prosecutors, and other court personnel.

Accomplishments: Resident Advisors spent substantial amounts of time discussing legal issues with all levels of court personnel, particularly in the courts in the five "hub" provinces. Advisors noted that court personnel became increasingly confident and comfortable engaging in discussions about legal questions and seeking advice. Advisors believe that they were able through these interactions to help develop and expand the legal understanding and critical skills of judicial personnel, and to assist in developing greater confidence, competence and efficiency in the courts.

Daily interactions with court personnel provided opportunities to give lasting insight into legal method, modern approaches, and to boost confidence necessary for courts to assume a more active role in implementing law. Examples noted by Resident Advisors included mentoring sessions which provided judges the understanding and confidence to utilize existing authority under Cambodian Family Law to issue for the first time a protective order against an abusive spouse. Other mentoring sessions provided judges insight into methods and factors to consider in analyzing complex contract and property disputes, which insight was then applied in cases before the courts. Other mentoring assisted judges in analyzing issues concerning the roles and responsibilities of prosecutors, or of the inapplicability of criminal charges in particular civil-oriented disputes, and provided a basis for improved decisions in cases before the courts, and greater confidence upon which to make decisions in the future.

3. Material Assistance

Objective: Continue to provide material assistance to meet the identified needs of the provincial and municipal courts to the extent permitted under the Project's material assistance budget.

Accomplishments: Recognizing that the provision of material assistance is essential to the progressive task of strengthening the courts of Cambodia, the Project provided essential equipment and supplies to each municipal and provincial court (other than Preah Vihear), and provided other needed equipment, furnishings, and capital improvements to selected courts.

Material provided to all courthouses included comprehensive sets of basic office and stationery supplies, file cabinets, and storage cupboards. In a number of courts, the Project also made urgently needed building repairs, provided essential furniture, photocopiers, and typewriters, and repaired or upgraded existing computers. This assistance is described further below.

The positive impacts accomplished by improving court accommodations and furnishings are evident. Capital improvements made to eight courthouses, including repairs and additions to court buildings and toilet facilities, enhanced the dignity of these courts and brought an end to water leaks which formerly damaged court records or made work spaces unusable. Case files and register books formerly stacked on top of desks, cabinets, or the floor were placed and organized in file cabinets and cupboards, protected from loss and deterioration. New desks and chairs enabled more court staff to engage in productive work, and provided comfortable seating for witnesses and for public observation of court proceedings.

Basic Equipment

The Project sought to ensure that immediate needs were met by providing all courts with stationery and office supply packages to assist in their day-to-day operations. Larger courts received \$750 worth of these materials while courts with smaller workloads received \$500 of basic office items.

The most visible sign of disorder in the courts was the poor maintenance and storage of files and exhibits. The Project was successful in helping to reduce the chaos by supplying each court with steel cupboards, filing cabinets and accompanying suspension folders. These items allow courts to begin storing records and accountable items in an organized manner, and to preserve them from theft or damage by insects and other elements. It was commonplace at the outset of the Project to see exhibits, often dangerous weapons, left openly in offices and judges' chambers. Since providing cupboards and addressing the importance of proper storage and handling of exhibits, the weapons evidence in many courts have been placed in the cupboards or locked rooms as courts adopt sound exhibit storage practices. With the provision of filing cabinets, offices which also were once strewn with decaying files now have files stored and labeled.

Copy machines were supplied to Phnom Penh, Siem Reap, Kampot, Kandal, Prey Veng, and Kampong Cham. These copiers were distributed under the proviso that the courts must allow criminal defenders to be supplied with a copy of the court dossier upon request, as required by law, and therefore assisted these courts in meeting their responsibilities to comply with essential rights of criminal defendants.

The Project arranged and funded the repair and upgrade of non-functioning computers in the Sihanoukville, Kampong Cham, and Battambang courts. These machines had been donated to the Ministry of Justice by UNTAC. A computer and ergonomic furniture also were purchased for the Kampot court. The Project funded two clerks from each of the four courts above to attend computer training classes in their respective provinces. Once this training is complete, the Project will work with these individuals to improve court utilization of computers, and to develop models and procedures for use in other courts when they become equipped with computers.

Capital Improvements

The major capital improvements made by the Project during Phase I include the following:

- **Kampong Chhnang:** Repaired and built addition to collapsing court office building, providing essential judges' chambers, and exhibit and storage rooms.
- **Svay Rieng:** Repaired and repainted deteriorating interior and exterior of the courthouse and prosecutor's building, including walls, ceiling, eaves, and windows. Repaired and repainted five bathrooms at courthouse. Constructed a well to provide running water to both buildings.
- **Kampong Cham:** Renovated courthouse building, including repairs to roof and ceiling, installations of ceiling fans, and painting of interior and exterior. Reconstructed part of a concrete fence.

- **Kampong Thom:** Repaired damaged portions of courthouse roof and roof support structure, installed lights and skylight, added office for prosecutor, repaired and replaced broken and rotting wood in floors, walls, and windows, and converted unusable bathroom into evidence room.
- **Kratie:** Constructed new tile floor, concrete platforms to support the judge's and prosecutor's benches, painted interior, added steel bars to windows, laid concrete plaza in front of courthouse and purchased concrete benches for use by waiting witnesses and parties. Constructed new wooden front door and front metal gate, installed ceiling fans, and built two latrines connected to town water supply.
- **Phnom Penh:** Built two new latrines.

4. Court Administration

Objectives: To analyze existing court administrative systems and to make recommendations, in consultation and coordination with the courts and the Ministry of Justice for improvements in relation to case registration, filing and tracking, calendaring, and standardization of forms.

Accomplishments: In Phase I, the Project's Court Administration Advisor (CAA) conducted an extensive review of existing administrative systems, problems, and needs, and presented her findings and recommendations in a report entitled "Court Administration in the Provincial and Municipal Courts of Cambodia." This report was provided to USAID in February 1996, and will serve as a principal basis for the Project's court administration program during Phase II. The following outlines other Project accomplishments during Phase I in the area of court administration, in addition to the report.

- The CAA obtained the Minister of Justice's approval for, and completed substantial portions of, a manual of practice and procedure for court administration. This was accomplished with the assistance of an English-speaking Cambodian court clerk hired temporarily by the Project for that purpose. Completion of the manual will be a top priority for the new CAA in Phase II.
- The CAA and the Project Director provided training on "Upholding Justice Administratively: Standards for Court Administration," to 78 judges and prosecutors at the Annual Judicial Conference in December 1995. In this session, judges and prosecutors were introduced to internationally-accepted standards of court administration and participated in group exercises which required the magistrates to apply those standards to problematic areas of Cambodian court administration.
- The Project enhanced the legal education of clerks across the country by including clerks in the vast majority of its training sessions.
- A pilot Criminal Case Management System, designed to help ensure the implementation of essential rights of defendants and the timely processing of criminal cases and, was proposed to the Minister of Justice. The Minister welcomed and gave general approval for the pilot project.

- A model courtroom design was developed and submitted to the Minister of Justice for approval.
- The CAA held informal discussion at numerous courts during assessment visits on topics including the roles and responsibilities of court employees, record keeping, supervision, securing, storing and disposing of exhibits, standards of court administration, coping with change and maintaining clean courts.
- The CAA held formal training on court administration with court clerks at Kampot and Kampong Speu. This training has resulted in visible improvements to the orderliness of records and presentation of court offices and rooms.
- Court forms in use were collected and reviewed, and based on the apparent adequacy and generally high degree of existing standardization, the Project determined that working on revision and standardization of forms was not a priority.

5. Court Procedure

Objective: To develop recommendations, in consultation and coordination with the courts and the Ministry of Justice, for improving and enhancing court procedure.

Accomplishments: Project accomplishments in the area of systemic procedural recommendations and actions include the following.

- At the 1995 Annual Conference, the Project distributed standard "advisement of rights" cards to all 78 judges and prosecutors in attendance. The cards remind judges of the requirement that criminal defendants be brought before a judge, following charges filed by a prosecutor, within 48 hours of arrest, and outline the obligation and need of the court to advise defendants of the following rights:
 1. The right to be represented by a defender or other counsel;
 2. The right not to be questioned without a defender;
 3. The right to have charges against him or her read and explained; and
 4. The right to apply for pretrial release.

The Minister of Justice approved the distribution of these cards, and the cards accordingly carried the seal of the Ministry of Justice as a sign of its approval. After these cards were distributed, Resident Advisors provided further training on their use during training sessions in the provincial courts on criminal procedure.

- As indicated above, the Court Administration Advisor, in consultation with the one of our Resident Legal Advisors, designed and proposed to the MOJ a pilot Criminal Case Management System designed to improve calendaring procedures in order to ensure implementation of essential rights of criminal defendants. This proposal was endorsed by the Minister.
- The Project has cooperated with other Cambodian rule of law projects to translate a draft Penal Code, and has expressed its interest in providing input at the appropriate time.

- The Project also provided the MOJ with examples of standard bail procedures for their advisors to review and utilize in preparing future draft bail provisions

6. Special Research Projects

Objectives:

- 1 Analyze the ways in which judges and prosecutors implement the new law which prohibits the Democratic Kampuchea Group, and identify areas for future training
- 2 Analyze the potential for computerizing selected courts
- 3 Analyze the traditional Cambodian dispute resolution system to weigh its impact on the court system and the administration of justice
- 4 Evaluation of Supreme Court decisions

Accomplishments:

a. Recommendations Regarding Khmer Rouge Cases

Two Resident Legal Advisors, in conjunction with an advisor from the Cambodian Defenders Project, surveyed cases throughout the country which have been investigated, charged, or tried under the 1994 Law Outlawing the Democratic Kampuchea Group ("Khmer Rouge Law") in order to develop an understanding within the Project as to how cases under this controversial law were being handled, and to develop recommendations for Project training. Their report, completed on April 8, 1996, identified the following key priorities for future training in this subject.

- As in other criminal cases, the courts rely too greatly upon the confessions of defendants, without ensuring that the confessions are voluntary and without requiring sufficient corroborative evidence. Statements by suspects implicating third persons as Khmer Rouge members are viewed by certain courts as sufficient for a conviction. Consequently, training must emphasize procedural and evidentiary safeguards.
- Courts will charge defendants under the statute based solely on alleged membership in the Khmer Rouge, without requiring sufficient evidence of one of the predicate acts for conviction outlined under article 4 of the law, such as acts aimed at destroying the Royal government or public authorities."

b. Analysis of Potential for Computerization of Courts

Carmen Maria Lopez Vasquez of Peru assessed the potential for computerization of the provincial courts. Her report concluded that given the lack of resources for computer maintenance, the lack of basic computer skills, the inconsistency of electric power, and the absence of standard docketing procedures, it is premature to pursue broad computerization of the courts. However, her report included recommendations to provide material support and computer training to selected clerks at each of the four provincial courts which already have UNTAC-donated computers, none of which were functional at the beginning of Phase I. As discussed above at sections II.A.3 and 4, the Project carried out these recommendations, providing computer repair and upgrades for existing computers, printers, and computer training to ten clerks in five provincial courts.

c. Pretrial Dispute Resolution

Pralitigation dispute resolution by judicial officers at the village, commune, and district level, and pretrial mediation at the court itself, are integral elements of the administration of justice in Cambodia. In order for the Project to gain a better understanding of these systems, Ms. Lopez conducted research and prepared a report entitled "Pretrial Dispute Resolution Processes." The report, based on interviews and research in a variety of courts, communes and districts, confirms that the majority of civil, misdemeanor and family disputes are not resolved before they reach the courts, and identifies key problems with the mediation system. For example, the report concludes that mediation is at times unsatisfactory for women involved in family disputes, as these women are sometimes encouraged to return to violent or abusive homes by village mediators who suffer from the same gender biases as the community at large.

The report also sets out the legal authority governing the reconciliation process, catalogues reconciliation techniques, and provides recommendations for the Project's interaction with the reconciliation system. The report will be utilized in future training and mentoring activities addressed to the role of the courts in conducting pretrial dispute resolution.

d. Indexing Supreme Court Opinions

Ms. Lopez, after overseeing the translation of more than twenty Supreme Court opinions, concluded that legal indexing of these opinions was not practical at this stage given the level of jurisprudence and the need for an institutional and financial commitment on the part of the judiciary to continue such efforts. She recommended that the Project coordinate with other organizations providing legal training in Cambodia to offer training on opinion-writing and appellate procedure to the Supreme Court and Court of Appeals. The Project will seek to assist with such trainings over the next year.

7. Dissemination of Information

Objectives:

1. Distribute copies of the Constitution and laws in effect
2. Make written and videotaped training materials available to all courts
3. Develop and disseminate, if completed, resource manuals

Accomplishments: One of the Project's earliest achievements was the distribution of Khmer-language copies of the Constitution and the most commonly used laws to every courthouse nationwide. Resident Advisors noted that some courts previously did not have copies of some of these laws, and observed these compilations being used in the courts.

Advisors who participated in mobile training segments created and distributed Khmer-language written materials to accompany their lectures. These materials addressed the following core curriculum subject areas:

- Homicide Investigation
- Judicial Conduct
- Family Law
- Criminal Law
- Criminal Procedure

- Defenses
- Contracts and Torts
- Land Law

In addition, at the Annual Judicial Conference at the Ministry of Justice, the Project distributed a large notebook containing training material and copies of all of the United Nations covenants to which Cambodia is a party. As noted above, the Project also distributed laminated "advisement of rights" cards, bearing the seal of the Minister of Justice to all participants. The cards identify four essential rights about which judges are required to advise criminal defendants on their first appearance at court. Throughout the year, Resident Advisors also provided written legal material as requested by their individual courts.

A videocassette player and TV monitor were made available to each provincial hub office so that tapes of training sessions which were recorded throughout the year could be assembled into a video library and utilized in training. Videotapes from training sessions on over fifteen topics were edited and made available to provincial hub offices. Legal Advisors began to utilize these videotapes in training sessions in certain provinces by the close of Phase I, and also used them to enhance their own expertise or to help develop their own materials. Use of these tapes during the Project's second phase will enable courts not visited by lecturers in person to benefit from the training, and promote uniformity in the training program. A list of the videotapes in the Project's video library is attached as Appendix C.

Creating resource manuals proved to be a larger task than anticipated, and this work will continue during Phase II.

8. Public Information and Education

Objective: Continue to provide information and education about the courts and law to the community, and coordinate with other NGOs providing community outreach.

Accomplishments: Resident Advisors provided selected training to human rights organizations and other NGOs that work with the courts and provide community outreach regarding legal rights. Training emphasized rights under the Constitution and criminal laws, court procedures, and the constitutional system. Organizations receiving training included the Khmer Institute of Democracy, LICADHO, and ADHOC. In two provinces, the Project assisted with a number of training sessions on the Cambodian Constitution and the role of the judiciary provided to commune leaders, district chiefs and other community leaders. In addition, Resident Legal Advisors routinely held informal meetings with local human rights NGOs to discuss issues relating to pretrial detainees and other court-related issues. These contacts with community groups and NGOs helped raise public awareness about the role of the judiciary and how the court system can be used to secure the rule of law.

B. Accomplishments Under Objectives Identified in Baseline Assessment

The following section identifies Project accomplishments during Phase I with respect to the proposed objectives and actions outlined in the Baseline Assessment, as modified in the Revised Workplan. To the extent that Project accomplishments under these headings already are described above, this section simply references the discussion in earlier sections of this Final Report.

Observations of qualitative or quantitative changes in the courts are identified to the extent available. However, many of "Indicators of Change" proposed in the Baseline Assessment have proved either difficult or premature to measure, and accordingly are referenced only to the extent substantive information is available. As a result of the USAID-driven reengineering efforts and the experience gained over the past year in collecting data, the Project has developed a revised set of indicators to guide Project reporting in the future.

For ease of reference, section headings below correspond to the headings in the Baseline Assessment.

II.D. Particular Training Needs Raised by Judges and Prosecutors

1. Judges

Objectives:

1. Train on laws in effect to improve understanding and application
2. Train on ethical responsibilities and decision-making
3. Train on case management and other issues related to court organization and management

Accomplishments: Achievements with respect to general practical legal training are outlined in part II.A.1 above, while those in the area of case management and court administration are discussed in parts II.A.4-5.

Project training on ethical responsibilities and decision-making are briefly identified in part II.A.1 above. However, training in this area warrants more detail in this section.

As an early priority, the Project engaged the volunteer services of a distinguished American justice, Justice Shirley Abrahamson of the Supreme Court of Wisconsin, to provide training on judicial ethics. Justice Abrahamson provided training to court personnel in more than seven provinces, utilizing relevant provisions of Cambodian law and the canons of the American Bar Association ("ABA") Model Code of Judicial Conduct as a basis for discussion. Following Justice Abrahamson's training, a Khmer translation of the ABA Model Code and its commentary were distributed to all Resident Advisors to provide to the courts in their hub region. An indication of the success of the training can be seen in that several Resident Advisors reported that judges occasionally referred to the canons of the ABA Code and Justice Abrahamson's training when discussing ethical issues arising in their courts.

In the area of judicial decision-making, the Project also was fortunate to obtain volunteer assistance from another highly distinguished jurist, federal District Court Judge Leonard Sand of the Southern District of New York. Judge Sand reviewed the role of the judge in a constitutional democracy, and its impact on decision-making processes. In July, Judge Arthur Brennan of the New Hampshire Superior Court reviewed decision-making processes with magistrates in a variety of courts, and participated with Resident Advisor Magistrate Juanita Rice in a training seminar at the Ministry of Justice, co-sponsored with the University of San Francisco, on judicial decision-making and analysis in the context of criminal law.

Other training sessions specifically emphasized the role and responsibilities of judges. At the MOJ Annual Judicial conference, Project Director Gene Murret gave an address on the meaning of "The Rule of Law," Magistrate Rice gave a presentation on "Judges as Protectors of Rights," and the Project organized and moderated a panel discussion to address issues of judicial independence and ethics as they relate to public confidence in the judiciary

2. Prosecutors

Objectives:

1. Provide training regarding methods of initiating and conducting investigations
2. Provide training in the basic analysis of physical evidence
3. Provide training regarding the handling, storage, and preservation of evidence

Accomplishments: One of the most comprehensive areas of training conducted during Phase I was in the area of investigations and evidence. A number of Resident Advisors, as well as several visiting international trainers, gave guidance to court personnel on all aspects of investigation, and concerning the handling, storage, analysis, and preservation of evidence

Russ Stetler, an American criminal investigator and the Project's first volunteer visiting trainer, provided two weeks of training in numerous courts on homicide investigation, including the use and analysis of ballistics evidence, fingerprints, and wound examination. He also taught at the week of training at the Ministry of Justice on Criminal Law jointly-sponsored by the Project and the University of San Francisco in July, 1995. While in Phnom Penh, Mr. Stetler visited and wrote a report on the services provided by the crime lab at the Ministry of Interior.

The Project also sponsored trainings on approaches to interviewing parties and witnesses by John Philipsborn, an experienced American criminal lawyer.

Resident Advisors Ian Lloyd and Michael Karnavas, both experienced criminal lawyers, conducted a series of trainings on criminal investigation which addressed the roles and responsibilities of the different actors, law relating to the investigation process, and practical approaches. They utilized fact patterns based on actual pending cases were utilized in order to ensure the practical relevance of the training, and large and small group discussions were used in order to promote full discussion by all participants.

At the Annual Judicial Conference, one full day of presentations by the Project focused on criminal law and procedure, use of defenders, investigation issues, and use of forensic evidence. The vehicle was a mock murder/rape trial. In the morning, witnesses for the accused and prosecution presented testimony and were cross examined. However, scientific evidence intentionally was not yet introduced. During a working lunch, small groups were each asked to discuss the evidence and to recommend a decision. All groups reported that there was not enough evidence upon which to reach a verdict. In the afternoon, the testimony of two expert witnesses, a forensic pathologist and a ballistics expert, presented scientific evidence which was circulated among the judges. This exercise exposed the magistrates to the uses and significance of forensics, and to the existence and capabilities of the Ministry of Interior's crime lab in Phnom Penh.

The Project also provided a series of training tapes and materials on investigations and physical evidence to the crime lab.

The Prey Veng Resident Advisor Romina Picolotti organized a four day "Photography of Physical Evidence" training program conducted by a Cambodian criminal evidence specialist trained in the former Soviet Union. All the training was videotaped, and the photographs taken by participants compiled into a training package for distribution to other Resident Advisors for use in their courts.

II.E. Problems and Needs, Proposed Courses of Action, and Indicators of Change

1. Systemic Problems

a. Separation of Powers

Objectives:

1. Collect information to assist Cambodian authorities to better implement separation of powers at the national and regional level
2. Provide technical advice on laws or regulations relating to the independence of the judiciary, including the Supreme Council of the Magistracy
3. Liaise with the Supreme Council at such time as it begins to function, and assist in the development of rules of conduct for court officials that protect the separation of powers

Accomplishments: Achieving greater judicial independence is critical to the progress and viability of the Cambodian court system. Accordingly, mentoring and training on issues concerning separation of powers and judicial independence have been central to the Project's efforts in its first phase.

Resident Advisors were asked early on to seek to collect information and make observations about interference and pressure on the courts by provincial, executive, police, and military authorities. Their findings indicate that while there have been important inroads towards the creation of an independent judicial system, vestiges of a centralized system and old power structures remain. Even post-election laws passed by the current Cambodian government reluctantly embrace the concept of separation of powers--most importantly, Article 51 of the Law on the Status of Civil Servants requires advance permission from the relevant executive institution before the courts may formally bring criminal charges against civil servants, including members of the police and military.

In light of these realities, the Project has consistently emphasized the concept of judicial independence and separation of powers in mentoring and training. Project training on judicial ethics specifically addressed the issue of separation of powers in Cambodia, and reviewed laws affecting judicial independence. The training also examined approaches by which the judiciary can affect change in the substantive law. In the provinces, Resident Legal Advisors have worked to build better relationships between the courts and local authorities through training of local officials, meetings with governors and other provincial authorities, and by the formation of committees to increase institutional cooperation. The presence of Project Advisors in the provinces has served as a daily reminder not only to the court staff, but to local officials, soldiers, and police, of the importance attached to strengthening the independent authority of the courts.

In part because of the Project's efforts, judicial personnel were emboldened to address difficulties of making rulings and taking other judicial action in light of political pressure and interference by military and police power. At the close of the conference, the Minister of Justice declared that the Ministry would step up efforts to address violations of the law by civil servants and the military.

Regrettably, the Supreme Council of Magistracy has not yet been convened. Accordingly, the Project has not yet had the opportunity to work with that body. Nevertheless, the Project Director provided Khmer-language copies of the ABA Model Rules of Judicial Conduct to the Minister of Justice in an effort to provide input into the future Council's deliberations on rules of ethics.

The establishment of the Supreme Council of the Magistracy is crucial if Cambodia is to develop an independent judiciary. The Project's ability to work effectively with the Ministry of Justice on the development of a code of conduct and other issues related to judicial ethics hinges upon the existence of this Council. The Law Group will continue to raise the importance of establishing this institution with funders, the United Nations, NGOs, and others, as well as with the Cambodian government as appropriate.

The Project also provided information to the Ministry of Justice and courts regarding the establishment of a magistrates' association, and provided Khmer-language translations of bylaws from several American judges' associations.

b. Hybrid and Changing Law

Objectives:

1. Identify and assist in articulating gaps and seeming contradictions in the law
2. Offer, upon request, information to government and non-governmental agencies involved in the development of new laws
3. Train court personnel in methods of determining applicable law, the scope of their jurisdiction, and in the application of new laws

Accomplishments: As part of their mentoring efforts, Resident Legal Advisors have worked with courts to identify problem areas in the law and potential resolutions to those problems. Training in every subject has focused on reconciling conflicts in existing laws and solving problems caused by gaps in those laws. Issues addressed by training sessions include ambiguities in the substantive criminal law, the continued applicability of the UNTAC penal code, applicability of provisions of significant laws adopted prior to the establishment of the Kingdom of Cambodia, and approaches to fill in gaps in virtually all areas of criminal and civil law.

At the MOJ's Annual Conference, the Project facilitated discussion among judges and prosecutors about methods for determining the applicability of laws, and methods for their interpretation and application.

c. Role of the Courts and Law in the Community

Objectives:

- 1 Promote public education about the courts
- 2 Coordinate with other NGOs providing related community outreach

Accomplishments: Please see part II A 8 above

d. Lack of Awareness of Rights in the Criminal Process

Objectives:

- 1 Provide information to the public about the rights of defendants, witnesses and victims in criminal process
- 2 Seek to post signs in police stations and prisons advising detainees of the right to counsel and other basic rights in the criminal process

Accomplishments: Part II.A.8 above describes the Project's selected activities in the area of direct public outreach regarding legal rights. The Project also has sought to indirectly promote implementation and awareness of the rights of defendants, witnesses, and victims by emphasizing the role of judges in educating the public about and protecting those rights. To that end, as noted above, the Project distributed a laminated "advisement of rights" card to each of the court representatives at the Annual Judicial Conference, which reminds judges of their obligation to advise defendants of their basic rights upon their first appearance at the court. Resident Advisor Juanita Rice also presented a discussion of the "Judge as Protector of Rights" at the Annual Conference. Finally, in selected provinces, the Project has also arranged for "advisement of rights" posters to be placed in district police stations and other government buildings.

2. Problems in the Application of Law

a. Inadequate Definition of Tasks

Objectives:

1. Work with local courts and relevant officers to articulate general rules to distinguish among the tasks of court personnel
2. Stress the differing roles of investigating judge, trial judge and prosecutor, and the role of each with regard to clerks

Accomplishments: Through observation and discussion, Resident Advisors identified specific problems regarding definitions of roles and responsibilities among judges, prosecutors, and clerks. These include, among others, clerks conducting investigations, confusion about investigative roles and responsibilities, and an appearance of collaboration between prosecutors and judges in reaching verdicts. Resident Legal Advisors addressed these issues in mentoring and discussions, and incorporated them into training on criminal procedure and substantive areas of civil law. Training and written materials outlined the roles of prosecutor, investigating judge, trial judge and clerk during the commencement of a case, its investigation, and at trial.

At the MOJ's Annual Conference, Project officers and trainers led discussions on the lack of clear definition of tasks and the prohibition against clerks conducting investigations

In breakout groups, judges and prosecutors discussed these issues and cited excessively high caseloads as one reason for allowing clerks to conduct investigations. After the conference, the Ministry of Justice approached the Project for input on the proposed Statute for Clerks, which will formalize clerks' roles and obligations

b. Abuse of Criminal Process

Objectives

- 1 Identify categories of cases of a civil nature which commonly are handled as criminal matters, and vice versa
- 2 Stress in training the appropriate circumstances for handling cases under a civil as opposed to a criminal process
- 3 Collaborate with relevant agencies to design methods for channeling more cases through the civil process

Accomplishments: The Project identified the following principal types of cases in which the courts utilize the criminal process in circumstances that may not always be appropriate:

- negligent injury suits charged as criminal battery
- contract debts charged as criminal fraud or breach of trust
- defamation charges in trivial cases

A variety of different Project trainings addressed this important issue, each from a slightly different perspective. Resident Advisor and former Cambodian prosecutor Tan Bieng conducted training on the elements of fraud, theft, and breach of trust, and distinguished civil cases from those which should be charged as criminal. Training in criminal law by Resident Advisors also addressed the elements of the relevant criminal charges and analyzed circumstances in which those elements are, or are not, met. Additionally, two separate training sessions on contract law examined cases involving ordinary breach, misrepresentation, and fraud, to help clarify appropriate circumstances in which to use criminal charges.

Training sessions which addressed these issues included:

- Fraud, Theft and Breach of Trust by Tan Bieng
- Contract Law and Procedure by Kim Sathavy, Advisor to the Minister of Justice, Finn Lynghjem, a visiting legal expert from Norway, and Michael Karnavas
- Contracts by Ronald Sokol, a visiting legal expert from France, and Torts by Kevin Landy
- Criminal Law and Defenses by Bernard Harborne, Charlotte Oldham-Moore, and Stephen Murdoch
- Civil Procedure by Bernard Chevalier, a visiting legal expert from France

c. Problems Specific to Application of Criminal Law

i. Excessive Periods of Pretrial Detention

Objective: Propose an arraignment and calendaring system to the Ministry of Justice

Accomplishments: Perhaps the most significant achievements of the Project during the first phase have been its successes in focusing attention in the courts to the problem of excessive detention periods for prisoners awaiting trial, and in helping to bring about an apparent reduction in the extent of violations of statutory pretrial detention limits. The initial project goal of proposing a criminal case management system to the Ministry of Justice also was accomplished, and met with the Minister's approval.

Under current law, there is a four-month limit on detention of adults prior to trial.⁴ This period may be extended an additional two months (to six months total) upon the decision of a judge setting out the reasons that the extension is "justified by the requirements of the investigation."⁵ For minors age 13-18, the maximum period of pretrial detention is two months for a felony, and one month for misdemeanors.

In selected courts, Resident Advisors gathered data from prison interviews and court records to determine, among other things, the extent of violations of pretrial detention limits. Relevant information from this data, which will be used to assess changes at the end of the Project, is set out on the following page.

As the information indicates, at the beginning stages of the Project, an average of 20% of the pretrial detainees in the seven provinces covered had been held past the maximum statutory pretrial detention limits (6 months for adults, two months for juvenile felons). In four of the seven provinces, the figures were well above the average, ranging from 24 to 39 percent.

If the number of prisoners detained more than four months are included--four months being the maximum pretrial detention period absent the specific grant of an extension by a judge--the numbers of violations increase substantially to an average of over 37 percent. Although Resident Advisors have observed that courts do not ordinarily grant such extensions, the impracticalities of verifying whether extensions were granted in individual cases, and the difficulties of gaining access to all criminal defendants' files, have made it difficult to verify whether detainees held past four months are being held in compliance with law.

⁴ Article 14(4), Provisions Relating to the Judiciary and Criminal Law and Procedure Applicable in Cambodia During the Transitional Period (10 September 1992) ("UNTAC Code").

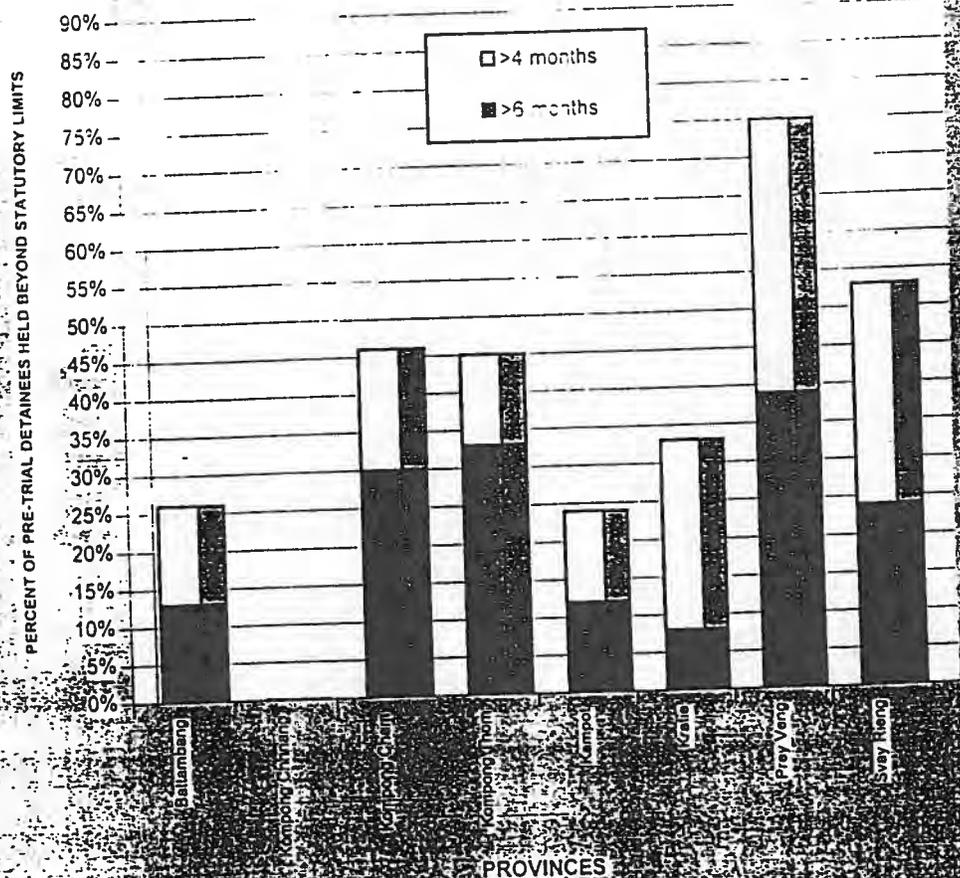
⁵ Id.

TABLE I
PRISONER PROFILES
AND COMPLIANCE WITH PRETRIAL DETENTION LIMITS

Province	Total	Juveniles	Women	Pre-Trial Detention				
				Pre-Trial	>4 months		>6 months	
Battambang	280	0	9	78	10	13%	10	13%
Kompong Chhnang	71	0	2	25	0	0%	0	0%
Kompong Cham	125	1	1	107	17	16%	32	30%
Kompong Thom	47	0	2	33	4	12%	11	33%
Kampot	48	4	8	34	4	12%	4	12%
Kratie	43	1	1	24	6	25%	2	8%
Prey Veng	91	0	1	44	16	36%	17	39%
Svay Rieng	84	2	3	21	6	29%	5	24%
Total (Average % in bold)	789	8	37	366	63	18%	81	20%

Sources: Prisoner interviews and court and prison records as of dates from June to November 1995, varying by province

NON-COMPLIANCE WITH PRE-TRIAL DETENTION LIMITS



In meetings with the Minister of Justice and other representatives of the Ministry, the Project early on and consistently raised concern about this issue. Additionally, discussion about the pretrial detention limits and methods to ensure compliance with the limitations were a consistent theme of Project training and mentoring in criminal law. In October, Ministry officials joined a Project workshop to discuss a number of issues relating to criminal law and procedure, including in particular the consequences of noncompliance with pretrial detention limits.

Immediately following these meetings, the Ministry issued a series of circulars to the provincial and municipal courts emphasizing the importance of compliance with the requirements of law in this area, and requiring monthly reports to include the numbers of pretrial detainees held beyond the statutory time limits. It appears that the issuance of these circulars was at least in part due to the Project's efforts. The circulars include the following:

- Document No. 1092 (October 25, 1995): "On Making Records of Pre and Post Trial Detention." Observes that excessive pretrial detention continues to occur, and require prosecutors to report the initial dates of detention for all pretrial detainees when filing monthly reports on detainees.
- Document No. 1040 (November 17, 1995): "On Final Reports of Prison Examinations for 1995." Sets out a form for monthly and year-end reporting on statistics relating to detainees, and specifically requires reporting on number of pretrial detainees held beyond statutory time limits.
- Document No. 198 (February 14, 1996): "On Excessive Pretrial Detention." Emphasizes that violations of the time limitations continue to occur, and declaring that the Ministry would hold magistrates responsible under the law for such violations. The circular reminds judges that they are subject to liability under Article 57 of the UNTAC Code, which provides for one to five years imprisonment for any public agents "who deliberately infringe upon rights of physical integrity."

As discussed earlier in this report, the Project also submitted to the Ministry of Justice a proposed criminal case management system for implementation as a pilot project in Project model courts. The Minister of Justice endorsed the proposal, and during Phase II the Project will seek to refine and implement this new system. The proposal tailors Cambodian law and relevant international case management procedures into a system of regular court appearances for accused persons. One objective of the proposal is to encourage and facilitate greater compliance with statutory requirements for pre-trial detention.

Although quantitative data has not yet been compiled, Resident Advisors noted that in a number of provinces, including Kampong Cham, Kratie, Kampot, and Takeo, that improvements had been made by the close of Phase 1 in the courts' record of compliance with pretrial detention limits.

In Takeo, for example, during the first semester of 1995, out of 14 criminal trials involving persons held in custody before trial, 12 defendants, or 86%, had been held past the six-month maximum statutory time limit. In May 1996, just after the close of Phase 1, none of the five detainees tried during that month had been held past the statutory limits. Moreover, according to the court, none of the pretrial detainees in prison at that time had

been held past the maximum six-month period. These improvements were due at least in part to the Project's efforts.

ii. Absence of Defense Advocates

Objective: Provide training regarding the role of defense representatives and in protecting the rights of defendants.

Accomplishments: In criminal procedure training, Resident Advisors and visiting experts stressed the rights of the accused, including the right to defense advocates. Resident Advisors Michael Karnavas, an experienced American public defender, and Ian Lloyd, a seasoned Australian prosecutor, provided training in numerous courts on criminal procedure and trial practice, which included mock trials utilizing a defense advocate. The training emphasized a practical understanding of the role of defenders by asking trainees to participate in role plays in which they assumed roles as judges, prosecutors and defense advocates.

At the Cambodia Defender Project, Resident Advisor Michael Karnavas led an intensive workshop for lawyers recently admitted to the bar. The workshop involved one hundred and twenty hours of instruction on the role and responsibilities of defenders, case analysis, witnesses, investigation techniques, and basic trial skills. Improved skills among defenders will assist the courts in carrying out their responsibilities.

Resident Advisors also facilitated the use of defense advocates by the courts in provinces where they regularly appear, by locating defenders for appointment in open cases, and seeking solutions to conflicts between courts and defenders when they occurred.

To emphasize the importance of defense advocates, the Project also submitted a proposed courtroom design for model courts to the Ministry of Justice which provides for defense advocates to have a dais of equal size and height to that of the prosecutor. This design is still under discussion between the Project, the model courts, and the Ministry of Justice.

iii. Procedural and Evidentiary Safeguards at Trial

Objective: Provide training and mock trial presentations to demonstrate trial procedures that implement procedural and evidentiary safeguards.

Accomplishments: Project training in criminal procedure also emphasized trial procedures that incorporate evidentiary requirements. Most importantly, training stressed the requirement that the confession of a defendant must be corroborated by other evidence to support a criminal conviction. Because courts typically rely too heavily on sworn written statements from witnesses at trial, training also accented the statutory requirement of live testimony at trial by witnesses identified in police reports. Training sessions also targeted the development of appropriate techniques for interviewing and taking written statements of witnesses and suspects, as well as proper questioning techniques at trial.

Many judges and prosecutors have expressed concern over the poor quality of police investigations and the non-appearance of witnesses due to police failure to enforce warrants. In light of these concerns, the Project has requested USAID to seek a waiver from Congress so that judicial police could be included in Project training. The Project

believes that training of the judicial police would help guarantee that evidentiary and procedural safeguards are respected, as well as improve institutional coordination and cooperation

- iv. Absence of a Uniform Bail System
- v. Absence of Alternatives to Trial

Objectives:

- 1 Promote the establishment of a conditional pretrial release system
- 2 Explore the feasibility of creating a pretrial diversion program for first-time offenders

Accomplishments: The Project accomplished its objectives of promoting the establishment of pretrial release and diversion systems. The Ministry of Justice and the courts have been apprehensive, however, about adopting new programs in these areas.

Although accused misdemeanants commonly are released or not arrested before trial, the Ministry of Justice has established an unwritten policy, followed by the courts, of generally not considering applications for pretrial release of accused felons. In meetings and in training sessions concerning the right of pretrial release under existing law, the courts and Ministry expressed concern about the risk of flight of accused felons, and for that reason were reluctant to adopt new schemes which would allow their release. Nevertheless, public defenders have begun to make inroads in this area, and the Project has determined that it will still be worthwhile to provide training, guidelines, and mentoring during Phase II on the operation of a pretrial release system within the framework of existing law and procedure.

Regarding pre-trial diversion programs, Lyn Keogh, a visiting expert from Australia, trained on the related concepts of 'community corrections' and sentencing alternatives. At this point in time, the Project has determined that the establishment of such programs does not appear feasible, based on the concerns of judges and prosecutors over lack of resources for oversight of such programs, the risk of flight of criminal defendants, and inadequate mechanisms for their apprehension.

vi. The Prison System

Objective: Determine appropriate strategies for addressing issues relating to prison conditions and operations that are within the scope of the Project, if any

Accomplishments: After initially exploring the feasibility of providing a prison consultant to examine the prisons and propose measures to improve conditions, the Project concluded that these efforts fell outside its mission. Further, the Project did not expect to affect changes in judicial enforcement of rules relating to prison operations due to the absence of a functioning administrative law system, and the lack of specific jurisdiction over the operation of the prison system on the part of the Ministry of Justice.

The Minister announced in December that the Ministry of Justice would assume jurisdiction over the prison system from the Ministry of Interior. However, this change has not yet been formally adopted in law or practice. The Project will explore with the Ministry, when appropriate, strategies to address issues relating to prison conditions and operations.

Despite these limitations, the Project provided limited assistance to the prisons to help foster institutional cooperation with the courts, and to improve human rights conditions. Resident Advisors regularly conducted prison visits, gathered information on detainees, and worked to improve coordination between prison officials and the court. These efforts have had a significant impact in both improving institutional relationships and prison conditions. For example, in Kampong Cham, when public health conditions plummeted at the local prison and a scabies epidemic erupted, Resident Advisors in Kampong Cham spearheaded an initiative to secure regular prison visits by a physician and to provide inmates with medicine, soap, fresh bedding, and mosquito nets. The materials were donated by local NGOs and a visiting U.S. Army Medical Team.

In Battambang, Resident Legal Advisors helped establish a "Committee for the Improvement of Battambang Prison" whose members included the provincial vice-governor and his staff, a representative from the UN Centre for Human Rights, judicial police, local human rights workers, and members of the court. The committee worked to increase cooperation between the prison and the court, and to improve inmate conditions through vocational training courses, and material assistance such as the provision of medicine and mosquito nets. Through the efforts of Resident Advisor Ian Lloyd, the Committee obtained a small grant from AusAID to fund the construction of a prison interview room to facilitate private communication between detainees and their legal representatives or local NGOs.

After Justice Michael Kirby, the United Nations Special Representative on Human Rights, called the conditions at Kampot prison some of the worst in the country, Resident Advisors worked in cooperation with an effort by the new prison warden and other NGOs to improve the prison. As a result of these efforts, which included repairs to prison walls and additional barbed wire fencing, the practice of shackling prisoners at night to prevent escapes was abandoned, the doors to windowless isolation cells were removed, a fish pond was built as additional source of nutrition, and twenty-five prisoners and five guards were enrolled in a four month vocational training course. Government authorities have asked local NGOs to repeat these successes in other prisons in the country.

d. Problems Specific to the Application of Civil Law

Objectives:

1. Identify those areas of civil law in which particular problems exist in the laws themselves or their application
2. Consult with the relevant Cambodian ministries, officials, and the courts to assist in devising solutions to these problems
3. Monitor the handling of cases and interview litigants to determine their level of satisfaction with the procedures in civil cases

Accomplishments: Initially, Resident Advisors in the course of their data collection activities researched and identified problems in the most commonly-applied areas of Cambodian civil law, including contracts, property, family law, and torts. Following up on this information, those Advisors assigned to prepare curriculum in these areas of civil law conducted in-depth research on their topics through discussions with judges and prosecutors, reviewing cases and court records, and meeting with other NGOs and institutions. The Advisors then prepared a training curriculum tailored to the specific needs and problems identified in the courts in each area of law.

For example, in the area of property law, judges face difficulties in light of the changes in possession and use of property resulting from the country's recent turbulent history, the changes in land tenure policies between 1979 and the present, and the scarcity and unreliability of ownership records. To address these problems, training included discussion of evidentiary problems, approaches to handling multiple claims of ownership, and methods for systematic and efficient investigations in land cases. Training also sought to provide background on the application of certain principles and procedures in the 1992 Land Law which give courts difficulty.

Training in contract law and torts emphasized underlying legal principles and their application under Cambodian law to address perceived needs for a stronger grounding in the analytical framework of contract and personal injury law. As discussed above, training in this area also addressed distinctions between civil breach of contract, and criminal actions for fraud and breach of trust.

With respect to family law, training focused on motivating court staff to develop positive approaches to solving problems in family law cases, addressing domestic violence, and expediting case flows. To address some of the major areas of practical difficulty, training included problems for analysis and discussion on property division, temporary restraining orders, reconciliation, alimony, and child custody and support.

Training on problems specific to the application of civil law included:

- Contract Law and Procedure by Kim Sathavy, Advisor to the Minister of Justice, Finn Lynghjem, a visiting legal expert from Norway, and Michael Karnavas
- Contracts by Judge Arthur Brennan from the U.S.
- Fraud, Theft and Breach of Trust by Tan Bieng
- Contracts by Ronald Sokol, a visiting legal expert from France, and Torts by Kevin Landy
- Family Law by Juanita Rice, Romina Picolotti, and Charlotte Oldham-Moore
- Land Law by Hanne-Sophie Greve, a visiting legal expert from Norway, Joshua Sondheimer, and Pol Lim, First Deputy Inspector General for Political, Administrative, and Police Affairs at the Ministry of Interior.

e. Vulnerable Sectors

Objectives:

1. Monitor access and use of the court system by women and minorities and communicate our information to court staff and relevant agencies
2. Devote special attention in training on areas of law that particularly impact women, such as family law and certain areas of criminal law
3. Consider bringing members of Cambodian women's and minority rights organizations to speak with court staff

Accomplishments: Project officers and Resident Legal Advisors initially sought to gather information and data regarding access to and use of the court system by women and minorities. Conclusions were based primarily on the observations of Resident Advisors and information from other sources due to the inadequacy of court records. Case registers, for example, do not indicate whether a party is a member of a minority group, and frequently do not indicate the sex of a party, as well.

The Project determined that at least in the initial stages, the most effective approach to training on issues concerning the treatment of women and minorities would be to purposefully but indirectly, raise these issues within the context of practical training on particular legal issues.

The Project determined that the difficulties faced by women in the courts generally concern issues of treatment rather than access. Women are frequently parties in civil cases where they are often signatories to contracts, holders of land title, or initiators of divorce proceedings. Statistics from a report issued by the Asia Foundation⁵ indicate that at Phnom Penh Municipal Court between March and June, 1994, cases initiated by female plaintiffs comprised at least 44% of the civil cases during that period. The most important concerns relate to the treatment of women by the court in particular legal contexts, such as conciliation hearings in family disputes and incidents of domestic violence.

Project training also devoted special attention to areas of particular relevance to women as victims, defendants, and witnesses. In the area of criminal law, training on sexual assault, domestic violence, battered woman syndrome, and trafficking of women and children for purposes of prostitution generated significant discussion by court staff. Project training on family law emphasized the recognition and elimination of bias and the impartial application of law.

An important contribution of the Project was the example shown by female Resident Advisors and Project officers who trained and mentored in the courts. For many court staff, both male and female, it was their first prolonged exposure to professional women in leadership positions.

The absence of data collection by the courts on the ethnic identity of parties was not the only difficulty faced in evaluating the experience of minorities in the courts. The complex combinations of ethnicities in Cambodian society also complicate the identification of ethnic groupings. Notwithstanding these difficulties, Resident Advisors made inquiries and observations about access to the courts by minorities and their treatment in the judicial system. Project training generally addressed concerns regarding the treatment of minorities indirectly, consistently emphasizing principles of non-discrimination and impartiality in court procedures, legal analysis, and decision-making.

The Project discussed the possibility of including members of Cambodian women and minority rights organizations in training in the courts. However, given the Project's determination initially to adopt an indirect approach towards training on these issues, such joint trainings were not pursued.

⁵ Harris, Lindsay E. Esq., Women and the Cambodian Legal System: A Women's Legal Needs Assessment at 45 (February 1995, Asia Foundation, Phnom Penh).

3. Administrative Needs

- a. Docketing, Filing, and Other Administrative Systems
- b. Administrative Forms

Objectives:

1. Work with local courts and relevant officials to develop and put into place a uniform system for docketing, filing, and calendaring
2. Provide administrative training regarding docketing and filing systems
3. Propose and implement the use of uniform case forms

Accomplishments: Please see parts II.A.4 and .5 for a detail of accomplishments relating to court administration.

4. Material Needs

- a. Court renovations

Objectives:

1. Encourage and assist with certain operational repairs
2. Co-ordinate with other NGOs to improve water and sanitation facilities

Accomplishments: Please see part II.A.3 above for a detail of material assistance provided or arranged by the Project.

- b. Electric Power

Objective: Explore the possibility of making a small generator available to selected courts.

Accomplishments: After assessing the needs of the courts with respect to electric power, the Project determined that the lack of electric power or interruptions in supply did not substantially interfere with court functions. Although courts routinely requested generators, in addition to other material items, when asked to prioritize their needs, court personnel preferred to be supplied with a copy machine or other items. The ongoing capacity for courts to support the fuel and maintenance costs of a generator are also doubtful. For these reasons, the Project determined that providing generators to the courts was not a priority.

- c. Communication and transportation

Objectives:

1. Explore the possibility of improving communication between selected provinces through a radio system.
2. Explore the possibility of improving the system of court transportation.

Accomplishments: Because most courthouses obtained telephones during the course of Phase I as Cambodia's telecommunications systems were expanded, the Project determined that improving communication by means of a radio system was not necessary.

Many courts lack adequate transportation to carry out investigations, deliver documents, and to conduct judgment enforcements. Many courts asked early on for the Project to provide them with motor scooters to carry out these tasks. However, because other types of assistance were deemed a higher priority, and because of the potential for misappropriation of court vehicles, the Project decided against purchasing motor scooters for the courts.

At USAID's insistence, the Project provided a Jeep Cherokee four-wheel drive vehicle, valued at \$25,000, to the Ministry of Justice. This Jeep is intended to enhance the ability of Ministry officials to visit the provinces to carry out their supervisory and support role.

d. Miscellaneous Equipment

Objective: Provide some of the basic equipment needed by courts.

Accomplishments: Please see part II.A.3 above for a detail of accomplishments in providing basic office equipment and supplies.

C. Impediments to Improvement of the Justice System

The following section comments on factors which continued to impede the functioning and improvement of the judicial system, and which thereby interfered with the ability of the Project to affect progressive change in the courts during Phase 1. These include:

1. Salaries of Court Personnel

The low salaries of court personnel were identified in the Baseline Assessment as a major contributing factor in problems with the administration of justice. The Project's experience in Phase I has confirmed this as a major impediment to improvements in the system of justice and to the ability of the Project to impact the justice system. While corruption is commonplace in every facet of Cambodian society, the expectation is that the judiciary--more than any other branch of government--should be insulated from such practices. This is not the case. It is clear that the ordinary salary of \$20-\$30 per month for Cambodian court personnel is not sufficient to support a family and is wholly inadequate. The result is a spectrum of corrupt practices, from additional "case registration fees," to demands for payment for a desired outcome or avoidance of criminal punishment.

Although better salaries for judges will not, in itself, put an end to such practices, raising judicial salaries is a necessary precondition to institutional efforts to control and punish corruption. The International Human Rights Law Group has been lobbying and will continue to lobby for adequate salaries for court personnel with appropriate government officials, the United Nations, donors and others.

2. Inadequate Institutional Commitment to Controlling Corruption

According to the Minister of Justice, in a statement made at the Annual Judicial Conference in December 1995, Cambodian judges in 1995 ruled fairly "in 60% of the

cases.⁶ The remaining cases, he noted, were tainted by corruption or other factors.⁷ Although the Minister pledged at the conference to take action to control corruption in the courts, the Project is unaware of any disciplinary or other action having been taken against court personnel since the Minister's pledge. Most importantly, the Supreme Council of the Magistracy, the institution granted authority under the Constitution to oversee discipline within the justice system, has yet to be formed as a result of a political stalemate over its composition. As a result, corruption and favoritism continues in the courts unabated.

3. Threats to Judicial Independence

During the 15 months of Phase II, perhaps the most significant case handled by the Cambodian judiciary involved charges against Prince Norodom Sirivudh for allegedly plotting the assassination of Second Prime Minister Hun Sen. According to many observers, the Phnom Penh court's performance in its trial in absentia of the Prince, and its verdict of guilt in light of what many believed to be slender evidence, cast significant doubt upon the extent of the political and de facto independence of the courts.

Resident Advisors in the provinces reported their awareness that the Ministry of Justice continues to instruct courts how to rule in particular cases, notwithstanding the courts' and the Ministry's assertions of the courts' independence and their awareness of the Constitutional guarantee of judicial independence. Judges also continue to remain subject to mandatory membership in the Cambodian People's Party, contrary to international principles of judicial independence.

The Project will continue to address issues and particular instances relating to judicial independence, as appropriate, with the Ministry of Justice or individual judges.

Article 51 of the 1994 Cambodian Law on Civil Servants, in direct conflict with the principle of judicial independence, requires courts, before charging any civil servant with a crime, to obtain "prior permission" from the director of the relevant government institution. The term "civil servant," although not defined in the law, is viewed by the government and courts as including military and police officials. The Project and numerous other organizations have questioned the constitutionality of Article 51 and argued for its repeal. However, because the Constitutional Council has yet to be formed, there is no institution with authority to adjudicate the constitutionality of the provision, and the trial courts are reluctant to assume that responsibility. The government itself has made no effort to change the law. The Project will continue to raise its concern about this provision with the government and other organizations such as the United Nations and human rights NGOs as appropriate.

Efforts by political and executive authorities to oversee policy and decisionmaking by the courts, and laws which permit executive interference in the judicial process, therefore remain a serious threat to the operation of an independent and fair judicial system.

⁶ "Justice Minister Targets Corruption in the Courts," The Cambodia Daily, December 29, 1995, at p.7, col. 2

⁷ Id.

4. Court Security

Phase I has confirmed that court personnel have reason to fear for their personal safety when making unpopular decisions. Resident Advisors noted instances of threats made upon the courts, and in one province, the chief judge reported that his life had been threatened by a military commander who wanted an officer of his released from prison. The Kampot court was damaged in January 1996, when protest over a decision in a land dispute case turned violent. Over the past year, courts have become increasingly aware of the need for greater security, and have sought assistance from the police and military police in guarding court premises. Judges complained during the 1995 Annual Conference of the "difficulties" in making rulings in cases where a defendant was backed by political clout or military power. The Project will assist the courts and Ministry of Justice, as needed, to identify ways to help address the problem of security for court personnel.

5. Disregard for Judicial Authority by the Police and Military

A related issue to the problem of actual or implied threats against court officials is the disregard by police and military for the authority of the courts. Judges themselves cite this a major impediment to their work. Judges complained to the Ministry of Justice over the past year about cases where members of the police or military interfere with court efforts to enforce judgments, demand the release of soldiers or police officers held in custody, or simply disregard court notices and subpoenas. The problems in one case involving interference by police officials with one court's attempt to enforce a judgment led the Minister of Justice earlier this year to take the unusual step of writing to the Ministry of Interior to take action to resolve the problem. The Law Group has spoken out on the issue of human rights violations including disregard of judicial authority by military and police forces. These matters will continue to be raised.

6. The Khmer Rouge and Other Security Issues

Phase I has also confirmed that the continuing civil war in Cambodia affects the administration of justice in many ways. Judges continued to report difficulties in bringing accused persons to trial within statutory limits because of problems investigating cases in territory occupied by the Khmer Rouge. During training sessions which addressed issues of pretrial release or sentencing alternatives, court personnel claimed that if non custodial options were employed, many defendants or convicts would abscond to areas where the security situation would prevent apprehension.

7. Police Role in the Administration of Justice

During Phase I Resident Advisors, through direct and sustained exposure to the daily workings of the justice system, further confirmed the necessity of a cooperative, professional, and skilled judicial police force to achieving improvements in the rule of law in Cambodia. Although the Project was not authorized directly to train judicial police, Resident Advisors sought to enhance the courts' oversight of the work of the judicial police with respect to investigation and detention practices. The Project also conducted training on the role of the judicial police and defined the roles and tasks of the police and court personnel.

8. Conclusion Regarding Impediments

In evaluating the Project's success in improving judicial performance, it is obviously necessary to take into account the above factors. However, while each of these factors interferes with the ability of the Project to affect change in the administration of justice, it is also clear that the Project's efforts enable the judiciary to better address these problems. By contributing to better judicial performance, providing a greater awareness of the meaning of judicial independence with respect to particular practices and policies, and by promoting the authority and independence of the courts, the Project is helping to promote respect for the courts and to develop a stronger awareness among court personnel of what needs to be done to allow the courts to function properly in a new democratic system.

D. Data Collection

During Phase I, Resident Advisors designed and implemented a program of data and information collection about court operations. This effort was designed both to gain a better understanding of the workings of the courts and the needs of the justice system, and to develop information by which the Project's impact could be evaluated. This section provides an overview of this effort, and sets out some of the interesting data obtained.

1. Overview

The Project developed a set of five forms to guide the collection of data. The first sought basic information about court personnel, and infrastructure and equipment needs. Three other forms sought quantitative information about the handling and types of civil cases, the handling of criminal cases, and about the prison population and compliance with defendants' rights. A fifth form sought comprehensive quantitative and qualitative information relating to indicators in the Baseline Assessment.

The data collection program generated a substantial amount of baseline information about the operation of a number of provincial courts. At the outset, this information was essential for improving understanding between Resident Advisors and their courts, and was used by the Project to develop curriculum and to identify issues to address in mentoring and proposals for procedural or systemic reform.

Because of the inadequacy of court records, the difficulties of obtaining our own data from those records, the unexpectedly time-consuming nature of the data collection effort, and administrative factors, Resident Advisors generally were not able to collect and compile comparative data to assess the Project's impact at the close of Phase I. In part for this reason, the Project has revised its indicators and data collection requirements. Nevertheless, the information gathered during Phase I will be invaluable for Phase II advisors working in those provinces where data was collected, and will provide baseline information for assessing change at the close of Phase II.

2. Representative Data

Quantitative information compiled by the Project relating to the degree of compliance with pretrial detention time limits is set out above in the section on Excessive Periods of Pretrial Detention. Tables II-V on the following pages set out a sample of data collected by Resident Advisors in certain provinces relating to civil and criminal caseloads and case types.

The data is interesting as it indicates wide disparities between provinces with respect to the types of crimes charged, and with respect to the breakdown of types of civil cases coming to court in the various provinces

Table II shows the breakdown of criminal case types in eight provinces. This table shows the most commonly charged crimes to be robbery, battery, theft, murder, and voluntary and involuntary manslaughter. Nevertheless, wide disparities exist between provinces. For example while robbery represented some 37% of the crimes charged in Takeo in 1995, it represented only 2% of the crimes charged in Svay Rieng during that time.

Table III shows the breakdown of criminal case types by average percentage based on the figures for the eight provinces in Table II. As the chart shows, robbery is the most commonly charged crime in these provinces, averaging almost 20% of criminal charges. Battery is next, comprising some 15.5% of criminal cases. Theft (12%), murder (12%) and voluntary and involuntary manslaughter (9%) follow. Together, these five categories of cases make up almost 70% of the courts' criminal caseload.

Table IV provides similar information about the civil caseloads of seven provincial courts. As the table shows, land, contract, and family cases comprise almost the entire civil caseload in these courts. Cases involving land and housing were the most common, making up an average of 37% percent of the civil cases in the seven courts. Contracts cases were a close second, averaging 35% percent of the civil cases. Family cases, mostly divorces, made up an average of 20% of the civil caseload in these courts.

Finally, Table V provides a breakdown of the civil caseloads of seven courts by province. Again, there is wide variation between provinces. Cases involving property rights, for example, comprise 51% of the civil caseload in Kampong Thom, but only 22% in Svay Rieng. Family law cases range from just 11% of the civil caseload in Kampong Cham, to 34% in Kampong Thom. Meanwhile, Kampong Thom had the lowest percentage of contract cases, 12%, compared to Prey Veng, where they comprised some 52% of the civil caseload.

Table II
Criminal Cases Breakdown - Percentage*

Province	Murder	Robbery	Theft	Weapon	Battery	Vol / Inv Translaughter	Rape	Fraud	Breach of Trust	Defamation	Other	Total No
Battambang	16%	31%	16%	5%	3%	12%	3%	3%	6%	0%	6%	295
Kampong Chhnang	15%	33%	0%	0%	1%	33%	4%	0%	0%	0%	13%	67
Kampot	19%	19%	12%	0%	16%	4%	2%	5%	4%	2%	17%	139
Prey Veng	8%	18%	13%	3%	25%	2%	0%	2%	5%	12%	12%	350
Svay Rieng	12%	2%	26%	12%	19%	3%	2%	9%	2%	7%	7%	58
K Cham	5%	10%	14%	5%	18%	15%	2%	4%	5%	5%	17%	349
K Thom	10%	10%	8%	1%	19%	5%	4%	4%	1%	7%	33%	135
Takeo	10%	37%	9%	3%	23%	0%	1%	10%	1%	1%	4%	98
Average	11.93%	19.86%	12.19%	3.59%	15.56%	9.23%	2.35%	4.54%	2.98%	4.13%	13.64%	100%

Sources: Court records and reports for first semester of 1995, or 1995 year, varying by province.

* Figures are reported in percentages as time periods and sources vary

CRIMINAL CASE BREAKDOWN - PERCENTAGE

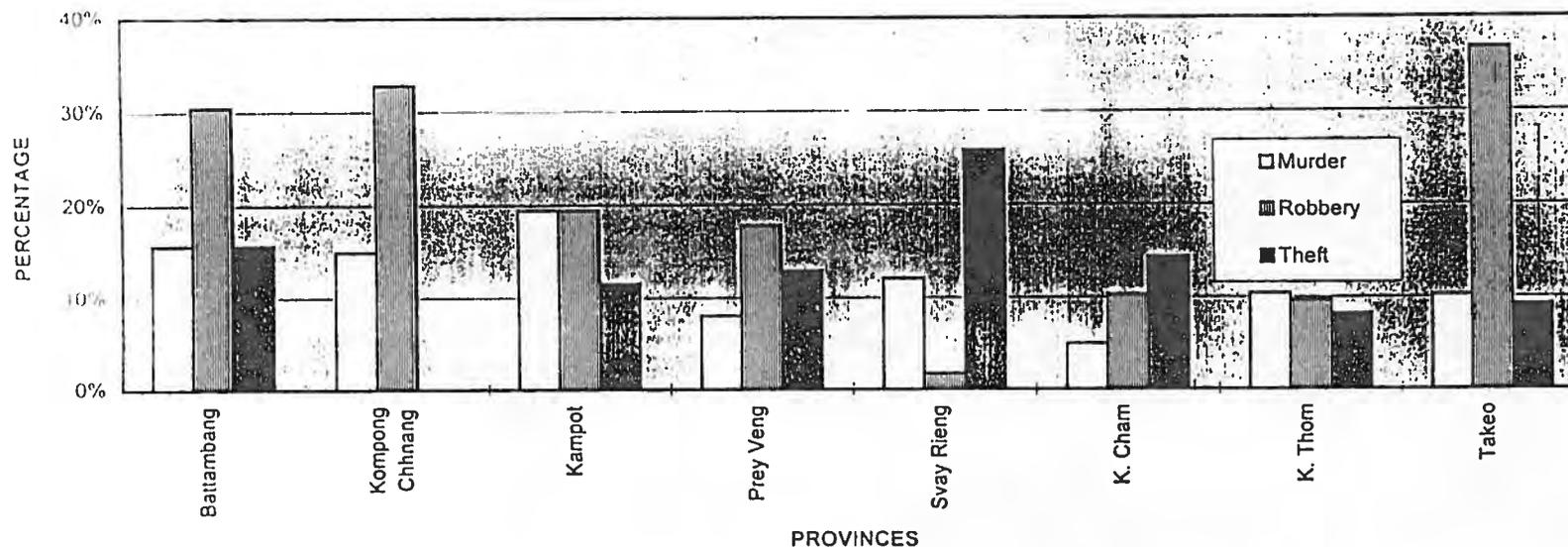
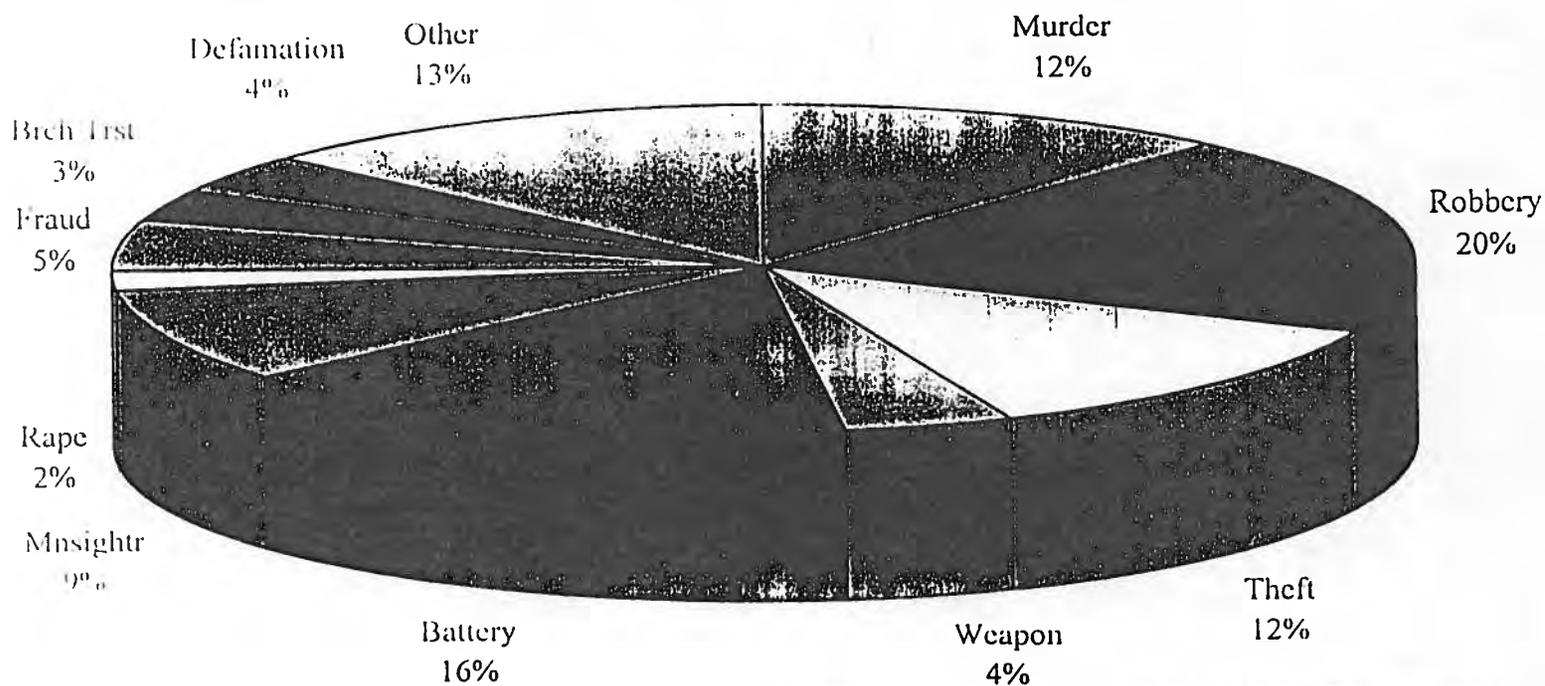


Table III
Criminal Cases Breakdown - Average Percentages

Average	Murder	Robbery	Theft	Weapon	Battery	Mnsightr	Rape	Fraud	Brch Trst	Defamation	Other
	12%	20%	12%	4%	16%	9%	2%	5%	3%	4%	13%

CRIMINAL CASE BREAKDOWN
 AVERAGE PERCENTAGE BY CRIME OVER EIGHT PROVINCES

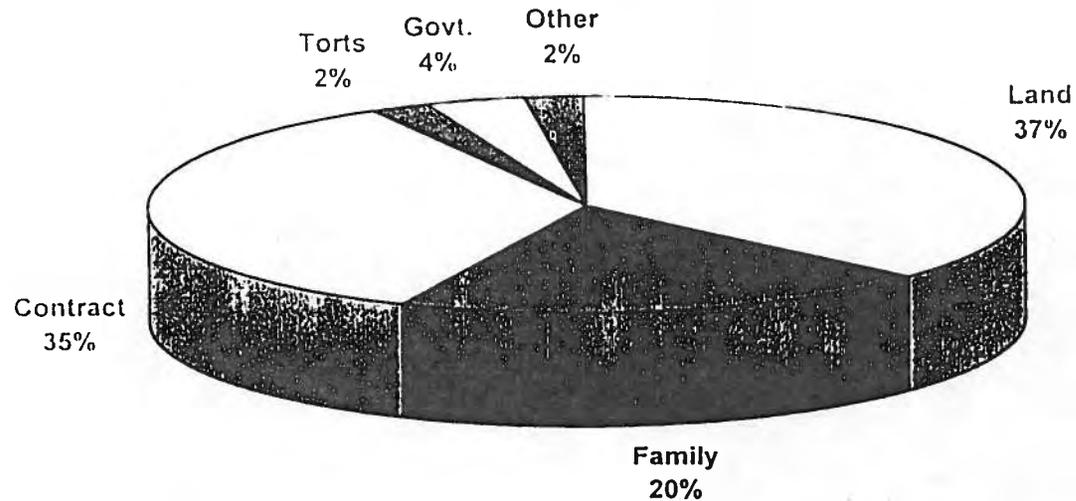


Source: Based on figures in Table II

**Table IV
Civil Cases Breakdown***

Province	Land		Family		Contract		Torts		Govt.		Other		Total	
	No	%	No	%	No	%	No	%	No	%	No	%	No	%
Kampong Cham	189	48%	42	11%	165	42%	0	0%	0	0%	1	0%	397	100%
Kampong Thom	54	51%	36	34%	13	12%	2	2%	0	0%	1	1%	106	100%
Kampot	45	26%	21	12%	53	31%	12	7%	25	15%	14	8%	170	100%
Prey Veng	179	31%	82	14%	302	52%	12	2%	0	0%	1	0%	576	100%
Svay Rieng	36	22%	37	23%	82	51%	0	0%	0	0%	7	4%	162	100%
Kratie	104	39%	35	13%	99	37%	2	1%	27	10%	1	0%	268	100%
Takeo	39	42%	30	32%	18	19%	5	5%	0	0%	1	1%	93	100%
Average Percentage		37%		20%		35%		2%		4%		2%		100%

**CIVIL CASE BREAKDOWN
AVERAGE PERCENTAGE BY TYPE OVER SEVEN PROVINCES**

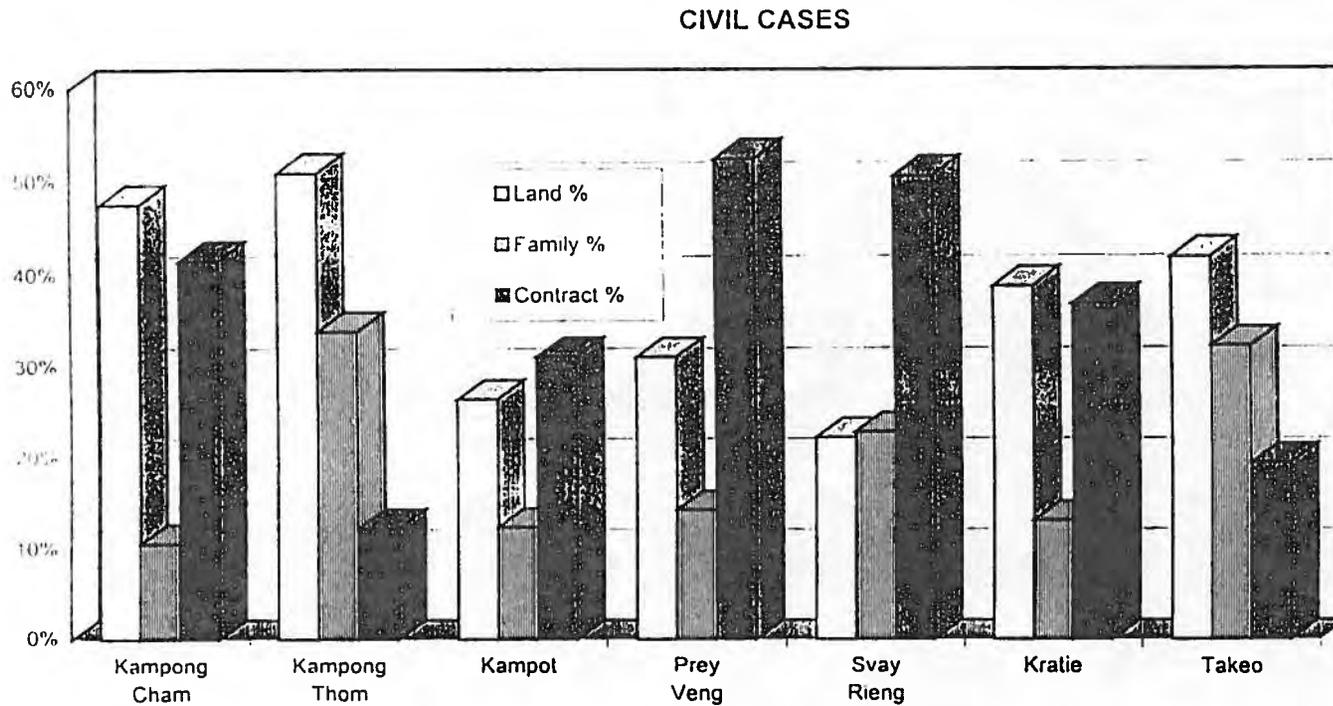


Sources: Court records and reports for first semester of 1995, or 1995 year, varying by province.

* Figures are compiled by percentage as time periods and source vary.

Table V
Civil Cases Breakdown

Province	Land %	Family %	Contract %
Kampong Cham	48%	11%	42%
Kampong Thom	51%	34%	12%
Kampot	26%	12%	31%
Prey Veng	31%	14%	52%
Svay Rieng	22%	23%	51%
Kratie	39%	13%	37%
Takeo	42%	32%	19%



Source: Based on figures in Table IV

III. CONCLUSIONS AND RECOMMENDATIONS

Over the course of the first phase, the Project successfully carried out its central mission of providing training and assistance to the courts in identified areas of need. Regardless of the difficulties of measuring achievements by the yardstick in a project of this type, it is clear that a positive and lasting impact has been made. The Project has raised the level of judicial education and understanding, and judges and prosecutors in most provinces remain eager for continued training and contact with new ideas and perspectives. Sustained interaction with experienced jurists from the United States and other countries with developed legal systems has promoted greater interest and abilities in legal method and strengthened the awareness of court personnel of their role in upholding the rule of law.

The experience of charting a new course in untested waters during Phase I has led to a series of recommendations to refine and improve the Project's efforts during its second phase. These include:

- Reducing the number of courts covered by each hub office generally to two;
- Emphasizing mentoring over formal training, though formal training should continue on a more limited basis;
- Legal Advisors should implement Project curriculum principally by providing training in the courts within their region, utilizing curriculum materials developed and translated in advance. Training tours should be utilized on a limited basis to make use of particular expertise or experience, and for comparative experience in other courts;
- Visiting experts to be utilized on a limited basis where interaction with individuals having particular expertise would be particularly valuable;
- Emphasizing criminal law issues in training and mentoring;
- Focusing, organizing, and coordinating reporting and data collection efforts more effectively to allow for better assessment of Project impact;

Each of these recommendations have been incorporated into the Project's Workplan for Phase II.

By providing new information and perspectives to Cambodia's judiciary, the Project during Phase I has made a lasting contribution to the skills and legal education of all court personnel—including court clerks, many of whom will become Cambodia's future judges and prosecutors. Improvements to court structures and the provision of necessary equipment and furnishings also has helped enable the courts to work more effectively, and in structures befitting the status of the judiciary in a democratic system. Already, the positive impacts of the Project have become evident. Over the course of the next year, the Project will continue to focus light on critical areas of law and to nurture the development of capabilities within the courts with the hope of fostering continued growth and improvement in their performance.

APPENDIX A

PHASE I PROJECT STAFF

Over the period of Phase I, the staff of the Cambodian Court Training Project included the following

Officers and Administrative Support

Judge Lawrence Pierce (U.S.) - *Project Director (To mid-October 1995)*
Eugene Murret (U.S.) - *Project Director (From mid-October 1995)*
Thierry Fagart (France) - *Deputy Director (From February 1996)*
Christie Warren (U.S.) - *Curriculum and Training Director*
Janet Wise (U.S.) - *Finance Officer*
Richard Thao (U.S., Cambodia) - *Office Administrator*
Sophie Pinwill (Australia) - *Assistant to the Curriculum and Training Director*
Melissa Baron (U.S.) - *Project Liaison (To January 1996)*
Susanne Pederson (Denmark) - *Project Liaison (From January 1996)*
Antonio Patricio (Philippines) - *Accountant (from September 1996)*

Resident Legal Advisors

Jennifer Akers (Australia) - *Court Administration Advisor*
Magistrate Juanita Rice (U.S.) - *Senior Legal Advisor*
Ian Lloyd (Australia) - *Senior Legal Advisor*
Michael Karnavas (U.S.) - *Senior Legal Advisor*
Tan Bieng - (Cambodia, France) - *Special Legal Advisor*
Bernard Harborne (Great Britain) - *Legal Advisor*
Carmen Maria Lopez Vasquez (Peru) - *Legal Advisor*
Romina Picolotti (Argentina) - *Legal Advisor*
Charlotte Oldham-Moore (U.S.) - *Legal Advisor*
Joshua Sondheimer (U.S.) - *Legal Advisor*
Kevin Landy (U.S.) - *Legal Advisor*
Stephen Murdoch (U.S.) - *Legal Advisor*
Ron Jennings (U.S.) - *Legal Advisor*
Juan Pablo Ordonez (Colombia) - *Legal Advisor (January-March 1996)*
Megan Ballard (U.S.) - *Intern (Summer 1995)*

Cambodian Staff (not identified here for security reasons)

Assistant Office Manager (1)
Office Assistants (2)
Interpreters (11)
Drivers (4)
Guards (2)
Maids (3)
Maintenance (1)

Project Staff of International Human Rights Law Group in Washington, D.C.

Gay McDougall - *Executive Director*
Laura McGrew - *Cambodia Project Coordinator*
Peter Rosenblum - *Program Director (until October 1995)*
Ria Burghardt - *Executive Officer*
Hilary Chapman - *Program Assistant, Cambodia Projects*
Rothira Duong - *Staff Accountant*

APPENDIX B

PHASE I TRAINING CALENDAR

JUL	AUG	SEPT	OCT	NOV	DEC	JAN	FEB	MAR
<ul style="list-style-type: none"> • 1st Elements of the Crime and Constitutional Issues Professor Donovan Kampot. MOJ • 8 - 20 Homicide Investigation Russ Stetler Kampot Prey Veng. Kampong Cham (w/ Kratie and K'g Thom). Battambang Siem Reap. MOJ • 10 - 23 Contracts and Domestic Violence Judge Art Brennan K'g Cham. Prey Veng K'g Chhnang. Komong Speu Takeo. Kampot. Kandal. Siem Reap. Battambang • 14 - 28 Criminal Procedure Thierry Fagart K'g Chhnang. Kandal. Kompong Speu. Phnom Penh. K'g Cham. (w/Kratie and K'g Thom). Battambang. Siem Reap. Takeo. Kampot. Prey Veng 	<ul style="list-style-type: none"> • 9 - 16 Judicial Ethics Justice Abrahamson K'g Chhnang. Kampot. (Takeo, S'ville) Siem Reap. Prey Veng • 19 - 28 Examination of a Witness Unit Phillipsborn K'g Cham. K'g Speu. Kandal. Kampot (w/ Takeo, S'ville) Siem Reap 	<ul style="list-style-type: none"> • 12-22 Introduction to Community Corrections Lyn Keogh. Kandal. K'g Speu. Siem Reap. Prey Veng. K'g Cham • 18 - 23 Family Law Judge Juanita Rice, Charlotte Oldham-Moore, Romina Picolotti Siem Reap. Battambang. 	<ul style="list-style-type: none"> • 5 - 26 Role Of the Judge in a Constitutional Democracy - Judge Sand K'g Speu. Kandal. Prey Veng. K'g Chhnang. S'ville. K'g Cham • 14 - 6 Nov Contract Law and Procedure Judge Kim Sathavy. Judge Finn Lyngghjem. Michael Karnavas K'g Speu. Kandal. K'g Chhnang. Svay Rieng. Prey Veng. Koh Kong. S'ville. K'g Cham. Takeo, Siem Reap. PNP • 19 - 21 Criminal Procedure and Defences C. Warren S. Murdoch. Monduliri • 2 - 19 Family law Judge Juanita Rice, Romina Picolotti Prey Veng. K'g Cham • 24 Self Defense Ian Lloyd. David Lubitz Prey Veng 	<ul style="list-style-type: none"> • 15-29 Fraud, Theft Breach of Trust Tan Bieng Prey Veng Kandal. K'g Speu. K'g Chhnang. Takeo. Kampot • 21 - 24 Court Administration Jennifer Akers S'ville. Kampot 	<ul style="list-style-type: none"> • 4-5 Criminal Law and Procedure Michael Karnavas. Ian Lloyd. Sibansville • 19 - 21 Fraud, Theft Breach of Trust Tan Bieng Phnom Penh. Siem Reap • 1st Office Procedures and Record Keeping Jennifer Akers Takeo • 7 - 11 Criminal Law and Offences Bernard Harborne. Stung Treng 	<ul style="list-style-type: none"> • 16th Criminal Law and Defences Bernard Harborne Charlotte Oldham-Moore. Stephen Murdoch S'ville • 19th - 28th Ratanakiri • 18th - 19th Fraud, Theft Breach of Trust Tan Bieng Prey Veng • 23 - 25 K'g Cham. Kratie • 8th S'ville • 8 - 19 Family Law Judge Juanita Rice Cambodian Defenders Project 	<ul style="list-style-type: none"> • 1st - 14th Criminal Law and Defences Bernard Harborne Charlotte Oldham-Moore. Stephen Murdoch Koh Kong. Siem Reap. Sisophon. Pursat. K'g Chhnang • 9 - 14 Criminal Investigation Ian Lloyd, Michael Karnavas. Kampot. Koh Kong • 12-16 Photography of Criminal Evidence Prey Veng • 9 - 29 Contracts Kevin Landy. Ron Jennings. Ron Sokol, K'g Chhnang. Kandal. K'g Cham. Prey Veng. Svay Rieng. Siem Reap, Phnom Penh, Kampot • 26th - 12 March Land Law Joshua Sondheimer. Hanne Sophie Greve, and Pol Lim CDP, K'g Speu. Svay Rieng. Prey Veng. K'g Cham 	<ul style="list-style-type: none"> • 6 - 9 Criminal Investigations Ian Lloyd Michael Karnavas Siem Reap (w/Pursat. Sisophon. Battambang K'g Chhnang • 19 - 21 Ratanakiri (w/Stung Treng) • 11 - 23 Clerks Training Judge Finn Prey Veng • Family Law Judge Rice Hanne. Rights Task Force • 9 - 23 Duties of a Judge Judge Chevalier K'g Cham. Kampot. Kratie. K'g Thom • 18 - 23 Criminal Procedure Judge Corneloup Phnom Penh

APPENDIX C

VIDEO LIBRARY

LECTURER(S)	TOPIC
Lynghjem/Sathavy/Karnavas	Contracts
Fagart	Criminal Procedure
Karnavas	Criminal Investigations and Procedure
Lynn Keogh	Community Corrections
Tan Bieng	Fraud, Theft, and Breach of Trust
Landy/Sokol	Contracts
Landy	Torts
Harborne/Oldham-Moore/ Murdoch	Criminal Law and Defenses
Picolotti/Cambodian Lecturers	Photography of Evidence
Karnavas/Lloyd*	Criminal Procedure
Chevalier*	Civil Law and Procedure
Stetler*	Homicide Investigation
Dolores Donovan*	Constitutional Law
Various**	Ministry of Justice Conference: Criminal Procedure, Court Administration, Judge as Protector of Rights, Int'l Human Rights Conventions, Public Confidence in Judiciary
Tom McDonald	Electoral Law
National Judicial College	Bench Trial Skills
Various	Dispute Resolution
Psyche Kennet	Training techniques

* Needs conversion to PAL system

** Needs editing

APPENDIX B

1. Criminal Investigation Training Results–Observation Charts

Handling Evidence

Province	Observations before training	Observations After training
Kratie	<ul style="list-style-type: none"> • No designated evidence room. Evidence kept in a spare office with old files and desks. • Most evidence was not marked. • The Prosecutor and his clerks keep track of evidence in their heads. • Some evidence in sacks, and some in envelopes. Very few pieces labeled and properly preserved. • Incorrectly believed that plastic bags were the best means of preserving evidence. • In the simulated crime scene the team missed the clue of the burning mosquito coil. The clue was left on the scene to indicate an approximate time of the crime. • The team failed to designate a individual to be solely responsible for the collection of evidence. Several of the officers present were mishandling evidence. 	<ul style="list-style-type: none"> • In crime scene simulation the evidence collected from the simulated crime scene was collected properly. • The evidence was placed in properly labeled bags and preserved as instructed. • I have observed the processing of 3 actual crime scenes since the training. In each training techniques taught at the training were employed correctly with minimal errors. • Evidence collected from these actual crime scenes was preserved correctly and placed in properly labeled envelopes.
Koh Kong	<ul style="list-style-type: none"> • No designated evidence room. Evidence kept in a small cupboard inside of the prosecutor's office. • Few of the items in the cabinet were properly preserved or labeled • During initial crime scene simulation several errors were made including: handling of evidence without rubber 	<ul style="list-style-type: none"> • In crime scene simulation the evidence collected from the simulated crime scene was collected properly. • The evidence was placed in properly labeled bags and preserved as instructed.

Province	Observations before training	Observations After training
	<p>gloves, over-handling of evidence, failure to properly mark the evidence and failure to label the envelopes correctly.</p>	
<p>Kompng Som</p>	<ul style="list-style-type: none"> • I did not observe their evidence room. • In the initial crime scene simulation they failed to properly mark evidence and label the envelopes to contain it. The officer assigned to collect the evidence did not understand the concept of “chain of custody” and failed to transfer possession of the evidence to the officer assigned to preserve it several times. 	<ul style="list-style-type: none"> • In crime scene simulation the evidence collected from the simulated crime scene was collected properly. There were some minor errors but a quick evaluation and explanation midway through the processing seemed to correct some misunderstandings regarding the processing of evidence. • The evidence was placed in properly labeled bags and preserved as instructed.
<p>Takeo</p>	<ul style="list-style-type: none"> • I did not see their evidence room because they were doing construction on the courthouse. • There were many skilled officers in this province. Although they did things very differently then what we would be training them to do their work was acceptable and in most cases would be considered adequate. 	<ul style="list-style-type: none"> • They quickly adapted to the techniques we taught and understood the importance of the logic behind them. • We explained the benefits of uniformity among the courts and they agreed to adapt their methods to the techniques we were teaching.
<p>Kampot</p>	<ul style="list-style-type: none"> • Their evidence room was well kept and all of the evidence I observed was properly preserved in paper envelopes and adequately labeled. The labeling did not have information regarding the officer who found the evidence, the date it was found or where it was found. • During the initial simulation we observed a number of serious mistakes. Several people trampled important evidence, the officer collecting it handled it 	<ul style="list-style-type: none"> • In crime scene simulation the evidence collected from the simulated crime scene was collected properly. It was documented, collected and preserved as instructed. • Using their own initiative they then placed all of the collected in a box, sealed it and labeled it properly. This was a good step.

Province	Observations before training	Observations After training
	<p>without gloves and did not give it to the officer designated to preserve it.</p> <ul style="list-style-type: none"> Burning cigarettes were left in an ashtray as evidence of when the murder took place. This clue was missed by the team. 	
Stung Treng	<ul style="list-style-type: none"> There is no designated evidence room. Evidence is kept in spare spaces and closets about the court. Although they performed reasonably well in the 1st simulated crime scene there were a number of errors such as: too many people handling the evidence, failure to use gloves, improper labeling of envelopes. 	<ul style="list-style-type: none"> In crime scene simulation the evidence collected from the simulated crime scene was collected properly. The evidence was placed in properly labeled bags and preserved as instructed.

Securing the Crime Scene

Province	Observations before training	Observations After training
Kratie	<ul style="list-style-type: none"> In the first crime scene simulation they failed to secure the scene properly. 	<ul style="list-style-type: none"> In the second crime scene simulation after the training they secure the crime scene with rope and tape and assigned an officer to control access to the crime scene. When we attempted to enter the scene to observe their work more closely we were professionally and politely escorted from the scene. An amusing but pleasing act.
Koh Kong	<ul style="list-style-type: none"> In the first crime scene simulation they failed to secure the scene properly. Other participants in the training were permitted to walk over the scene destroying some evidence. For example, a shell left on the floor was kicked several times before being lost under a file cabinet. Several other participants not assigned to process the scene 	<ul style="list-style-type: none"> In the second crime scene simulation after the training they secure the crime scene with rope and tape and assigned an officer to control access to the crime scene.

Province	Observations before training	Observations After training
	<p>handled the body prior to it being photographed or examined by the lead investigator.</p>	
Kompng Som	<ul style="list-style-type: none"> • In the first crime scene simulation they failed to secure the scene properly. • The offices assigned to the team did try to prevent other participants from walking on the crime scene but failed to place a rope or tape around the scene. 	<ul style="list-style-type: none"> • In the second crime scene simulation after the training they secure the crime scene with rope and tape and assigned an officer to control access to the crime scene.
Takeo	<ul style="list-style-type: none"> • In the first crime scene simulation they secured the scene adequately according to methods one of them had learned in Russia. 	<ul style="list-style-type: none"> • In the second crime scene simulation after the training they secure the crime scene with rope and tape and assigned an officer to control access to the crime scene.
Kampot	<ul style="list-style-type: none"> • In the first crime scene simulation they failed to secure the scene properly. • Participants as well as other spectators not involved in the training were allowed to walk around the crime scene destroying evidence. • One person took some cigarettes out of a pack left on the table of the crime scene. 	<ul style="list-style-type: none"> • In the second crime scene simulation after the training they secure the crime scene with rope and tape and assigned an officer to control access to the crime scene.
Stung Treng	<ul style="list-style-type: none"> • In the first crime scene simulation they failed to secure the scene properly. • Although no evidence was contaminated during the exercise the team failed to demarcate the crime scene and keep other participants at a proper distance. 	<ul style="list-style-type: none"> • In the second crime scene simulation after the training they secure the crime scene with rope and tape and assigned an officer to control access to the crime scene.

Sketching the Crime Scene

Province	Observations before training	Observations After training
Kratie	<ul style="list-style-type: none"> • No participant had done this before. 	<ul style="list-style-type: none"> • The assigned team produced a detailed and accurate crime scene sketch. • We taught them to measure the evidence from

Province	Observations before training	Observations After training
		two intersecting walls. This team did this but also measured the distance between the body and each piece of evidence.
Koh Kong	<ul style="list-style-type: none"> Only one of the more senior judicial police officers knew how to do this or could explain its importance 	<ul style="list-style-type: none"> The team produced an adequate crime scene sketch.
Kompong Som	<ul style="list-style-type: none"> No participant had done this before. 	<ul style="list-style-type: none"> The team produced an excellent crime scene sketch.
Takeo	<ul style="list-style-type: none"> A military police officer who was trained in Russia had seen this done but had not done it himself. The other participants had never done this before. 	<ul style="list-style-type: none"> The team produced a usable crime scene sketch. The information was present but it needed to be re-drawn.
Kampot	<ul style="list-style-type: none"> One of the participants did this very well in the initial crime scene simulation. I do not know where he learned to do it. My criticism of his work was limited to his attempts to draw an extremely detailed 3-dimensional sketch. This delayed the other members of the team. We teach them that the appearance of the drawing is not important and they should simply document and measure (from 2 intersecting walls) each piece of evidence at a crime scene. 	<ul style="list-style-type: none"> The team produced an excellent crime scene sketch.
Stung Treng	<ul style="list-style-type: none"> No participant had ever done this before. 	<ul style="list-style-type: none"> The team produced an adequate crime scene sketch.

Photographing the Crime Scene

Province	Observations before training	Observations After training
Kratie	<ul style="list-style-type: none"> The photos taken were fair. There were some focus problems and they failed to take a picture of the entire crime scene indicating where evidence was. They shot evidence at angles causing fore-shortening and distortion of the size of the 	<ul style="list-style-type: none"> The picture taken of the second simulation were done well.

Province	Observations before training	Observations After training
	evidence.	
Koh Kong	<ul style="list-style-type: none"> • The photos taken were fair. There were some focus problems. • They shot evidence at angles causing fore-shortening and distortion of the size of the evidence. 	<ul style="list-style-type: none"> • The picture taken of the second simulation were done well.
Kompng Som	<ul style="list-style-type: none"> • The photos taken were fair. There were some focus problems. 	<ul style="list-style-type: none"> • The picture taken of the second simulation were done well.
Takeo	<ul style="list-style-type: none"> • The photos taken were fair. There were some focus problems and they failed to take a picture of the entire crime scene indicating where evidence was. • They shot evidence at angles causing fore-shortening and distortion of the size of the evidence. 	<ul style="list-style-type: none"> • The picture taken of the second simulation were done well.
Kampot	<ul style="list-style-type: none"> • The photos taken were fair. There were some focus. • They shot evidence at angles causing fore-shortening and distortion of the size of the evidence. 	<ul style="list-style-type: none"> • The picture taken of the second simulation were done well.
Stung Treng	<ul style="list-style-type: none"> • The photos taken were fair. There were some focus problems and they failed to take a picture of the entire crime scene indicating where evidence was. • They shot evidence at angles causing fore-shortening and distortion of the size of the evidence. 	<ul style="list-style-type: none"> • The picture taken of the second simulation were done well.

APPENDIX C

2. Criminal Investigation Preliminary Training–Outline and Evaluation

Contents:

Prior to our full-fledged investigation training we began with an afternoon of training for the court personnel of Kratie. We introduced basic theories of investigation using latent fingerprint processing as a vehicle for discussing basic investigative techniques. In preparation for this training we set out the following goals:

1. To open a dialogue about what can be reasonably expected of a good investigator in Cambodia.
2. To use a demonstration of fingerprinting to illustrate the investigative process of collecting evidence, processing it and then drawing conclusions from it.
3. To initiate a dialogue regarding the role of technology in criminal investigation in Cambodia.

Training Methods

Because of the small number of participants we were able to run the session as an informal discussion. We invited each member of the group to describe their responsibilities regarding investigation and engaged the other members to comment. We facilitated a discussion focusing the discussion in light of the above goals.

Approximately half-way into the session Mike Conway gave a short demonstration of fingerprint technology in the context of a staged crime scene. Using a glass table in the courtroom Mike was able to demonstrate how latent prints are made visible and then transferred to fingerprint cards. During the rest of the session participants tried to process fingerprints as well as a discuss the feasibility of this technology in Cambodia. The discussion moved to broader questions and concerns of the role such technologies should play in the Cambodian criminal justice system at this time.

Which training methods seemed most engaging and least engaging?

For the most part the participants were engaged throughout the session. A few times I worried that we might lose some people when some participants took long digressions and made short speeches. I think this is expected in Khmer culture and I think that any attempt on our part to control or direct this would have destroyed the spontaneity of the session.

The open discussion during the fingerprint exercise was very constructive. They seemed to really enjoy standing around the room observing each other process prints and talk about broad issues concerning criminal investigation. The size of the group and the quality of the team made this possible.

Are there any variables which seemed to affect the training?

This day fell on Chinese New Year. I spoke to the president of the court about this prior to training and he assured me that the holiday would not interfere with the quality of participation. I did not perceive any lack of interest during the session or desire on the part of the participants to leave early.

Was the training pitched at the right level or was some of it too basic or sophisticated?

Judging by the uniform level of participation I think that it was pitched well. It was challenging enough to be exciting but accessible too. They seemed stimulated by the demonstrations, the hands-on activities, and the level of discussion. The training team was impressed with the discussion as measured by the complexity of issues and questions they raised.

What do you think were the most effective aspects of your training performance?

The most effective aspect of the training was the blend of discussion and hands-on work. I think while either one would have been good training the combination worked very well.

APPENDIX D

TRAINER EVALUATION OF TRAINING PROGRAMME

Topic:	Investigation of Criminal Offenses		
Trainers:	Michael Conway, Dermot Groome, Juanita Rice		
Khmer Co-Trainers:	Khun Bun Seng, Por Phak, So Serey Yuth		
Location:	Kratie Court	February 10, 11, 12, 1997	21 hrs
	Koh Kong Court	February 15, 17, 1997	12 hrs
	Kompong Som Crt	February 19, 20, 1997	12 hrs
	Cambodian Defndrs	February 24, 1997	3 hrs
	Takeo Court	February 25, 26, 1997	12 hrs

Number of Hours: 60 hours of training

Contents:

We introduced basic to advanced theories of investigation and investigative techniques. The primary goal of the training was to provide basic competency in the following areas:

1. To introduce the basic theories of criminal investigation and approaches to crime scene processing.
2. To train in the duties and responsibilities of a competent and ethical criminal investigator.
3. To train in the critical initial procedures required to preserve a crime scene for methodical processing.
4. To train in the identification of injuries and wounds and how to make important evidentiary observations about them. The wounds covered included: gunshot wounds, knife wounds, blunt trauma, ligation wounds, and petichial hemorrhaging.
5. To teach simple techniques to: distinguish between a drowned corpse and a murder victim dumped in water; distinguish between a murder and a suicide; distinguish between different types of strangulation.
6. To teach simple ballistics tests that can be performed without any special laboratory equipment.
7. To train in the proper handling of evidence in a crime scene. From properly documenting and photographing to storing for further investigation and trial. This training included practicing the preservation of a wide range of materials including: firearms, items to be processed for fingerprints, suspected poisons, suspected drugs, documents and wet, bloody clothing.
8. To train in the creation of tamper-proof envelopes for evidence storage using inexpensive materials readily available in the local markets.
9. To train in the lifting and analysis of latent fingerprints.
10. To expose participants to the potential of fingerprint processing as an investigative technique in anticipation of such becoming available in the near future at the national level.
11. To train in the basic theories of witness interviewing

12. To train in the basic techniques of interrogation of a suspect using non-coercive methods.
13. To train in basic techniques to be used when interviewing: child witnesses, difficult witnesses and witnesses that are suspected of giving false testimony.
14. To assist participants in processing a simulated crime scene using a fake body. To document and process the scene; properly preserve all evidence; make observations about wounds; to draw preliminary conclusions and to develop an investigative plan.
15. To give participants a second crime scene during which realism was stressed and they received no assistance. To allow them to experience and perform in a realistic crime scene situation. They would be tested in their ability to process the scene, sketch and photograph the scene, preserve the evidence and make observations about the crime.

Training Methods

1. Lecture

Lectures were the main vehicle to impart the bulk of the knowledge. Ideally the material we covered should have been spread out over a longer period. In order to give the participants a basic competency in crime scene process we needed to teach a large amount of material. The most efficient means of doing this was a lecture format.

Every attempt was made to make the lectures engaging and stimulating. Throughout, the participants were invited to share their stories with the group. The trainers drew them into the lecture by selecting various participants and working through a particular concept with them.

2. Vignette Demonstrations

During the lecture on Interviewing Witnesses we decided it would be helpful to lecture on a technique and then provide a short demonstration of the technique. After teaching a particular technique two co-trainers demonstrated the technique in Khmer using a fictitious case. Phak played the part of law enforcement and Seng played the part of the witness. We discussed and practiced the demonstrations prior to the lecture. Phak began each with a brief explanation of what they would see and then he and Seng proceeded to demonstrate the technique. This training method proved to be more successful than initially anticipated. I think it was so successful because doing it directly in Khmer without translation provided a more realistic illustration of the technique.

Judging by the prevalent head nodding during the demonstrations I believe the method reinforced theoretical concepts better than any other method might have. I plan to use it extensively in the future.

3. Guided Problem Solving

Peppered throughout the lectures were 5 minute scenarios and problems which we explored with the participants. The trainers would ask for the assistance of a participant and work through a theoretical or practical concept together. This provided a minimally threatening venue to encourage participants to work through investigative problems together with a professional trainer.

For the most part this technique worked very well. In a few situations the participant chosen did not have a sufficient grasp of the concept being discussed and was lost in the discussion. As trainers we were able to help them through the exercise without embarrassment.

4. Hands-on skills development

fingerprinting:

Under the guidance of Mike Conway the participants were given the skills and materials necessary to process a variety of objects for latent finger prints. Mike would grab their attention by giving a quick demonstration of the technique and then assist them in discovering and processing fingerprints by themselves.

This feature of the training was very popular. The only drawback was the reality that at present Cambodian police do not have the necessary equipment. Mike however has promised to investigate possible avenues of funding to obtain equipment for them.

evidence preservation

Dermot Groome taught the participants basic theories of identifying evidence, documenting its location, establishing a chain of custody and properly preserving the evidence by having participants work with physical evidence. The items included those which present special problems such as: firearms, poisons, drugs, large objects. Dermot used inexpensive items found at local markets to demonstrate how they could make a tamper proof envelope for storing evidence. The material was reinforced when they processed a simulated crime scene on two different occasions.

crime scene sketching

In Kratie Judge Juanita Rice assisted the trainees in sketching and photographing a simulated crime scene. Using measuring tapes, graph paper and cameras the trainees were divided into teams to document the crime scene. They were given feedback about their sketches and received their photographs after they were developed.

crime scene photography

After Judge Rice left for medical treatment we incorporated crime scene photography in a number of different ways. Dermot incorporated photographing injuries as part of the lecture on wound identification. It was also a significant part of the simulated crime scene exercise. We developed their films to give them feedback on their work.

5. Group discussion

At the end of every lecture a period of time was devoted to answering questions and discussing the practical application of the techniques in the Cambodian context. Depending on the court involved this method had good to excellent results. Some of these discussions were highly charged and focused. The participants who spoke brought the most significant problems they faced to the discussion.

6. Role-playing in a simulated crime scene

In this method we set up a crime scene out of the view of the participants. Mike and Dermot drew from their experience in developing realistic crime scenes which presented a plethora of investigative and evidentiary problems. Each crime scene presented a variety of evidence for processing and simulated wounds for analysis. The crime scene also contained a number of clues as to the time of death such as a burning mosquito coils or burning cigarettes or a freshly cut apple that had not yet turned brown.

Prior to entering the crime scene we worked with them to pick a team to process it. We discussed the different duties and responsibilities of the respective investigators and then brought them into the crime scene.

The first time through the crime scene we assisted them whenever they appeared to do something incorrectly. The correction was given in a positive way and the emphasis was on providing a sense of accomplishment by the end of the exercise. At the conclusion of the first crime scene simulation we had a group discussion about why they did certain things and possible ways to do better. We also discussed what conclusions could be drawn from the wounds on the body and the crime scene itself. The exercise finished with a discussion of where the investigation should proceed from that point.

The second time we presented them with a crime scene we did not help. This crime scene provided a significantly different crime and array of evidence to process. We stood by silently and watched. In Kratie, we were even ejected from the crime scene lest we contaminate it! Each group of trainers handled themselves well in the simulated crime scene. It was satisfying affirmation that our training had been successful. The teams processed the crime scenes professionally, methodically and thoroughly. As a former prosecutor I would be happy to receive their work.

7. Recreation of actual investigative problems

In this method we wanted to demonstrate how a good investigator handles two witnesses which the investigator feels are fabricating testimony. Dermot Groome asked two participants in each training to fabricate a false story that they observed Dermot steal a motorcycle from the courthouse some time that day. They were given at least 1 hour to construct a convincing story. Their task was to lie convincingly about it. Dermot's task was to question them in front of the class in such a way as to expose the lie.

Although this teaching method bears risks because the trainer relinquishes control over the demonstration it worked in each court and was an extremely effective means of demonstrating the intended technique. In each case the lie was exposed with humor and realization of the technique's effectiveness. The demonstration was followed by a discussion on how the principles behind this technique may be used in other interview situations.

Special Note on Kratie

Please refer to attached memo for a description of some unusual events which occurred in Kratie and provided the opportunity for uncommon teaching methods.

Which training methods seemed most engaging and least engaging?

For the most part the different training methods worked well together and complemented each other. I have no doubt that training consisting entirely of lectures would not have been nearly as engaging or effective. It is not possible to measure the methods against each other because any one alone would not have been as successful as the blend of them all.

The balanced mix of methods kept the participants interested and engaged while still imparting a large volume of information to the participants in a relatively short period of time.

Are there any variables which seemed to affect the training?

The most significant variable was the prior training and experience of the participants. In Koh Kong there were a number of participants who clearly had a great deal of experience in many of the areas we were teaching. There were also many participants who were inexperienced and needed extensive remedial work in criminal investigation. It was difficult to work with a group with such a great disparity of experience and training. Our solution was to aim down the middle with good

practical skills and techniques. We monitored the novice investigators by using them in the hands-on work and working through problems with them. We tried to meet the needs of the more experienced investigators by discussing the complex situations they faced, and by demonstrating a few very advanced techniques. I think we were successful but ideally the two groups should have been in two different training sessions.

In Koh Kong we also trained on a Saturday. Training on Saturday was necessary because of scheduling constraints. I believe it had an impact on some of the participants. Some participants came for half a day and others only came to Monday's property.

Koh Kong also has a of friction between the Judicial Police and the Military Police. It was apparent that this friction carried into the training and the two groups rarely interacted with each other. This conflict served to stifle some of the group discussions. I believe that some of the participants had questions and comments which they did not voice because they did not feel comfortable in the presence of some of the participants.

Was the training pitched at the right level or was some of it too basic or sophisticated?

Judging by the uniform level of participation I think that it was pitched well. With the exception of Koh Kong each group of participants seemed to be close enough in investigative experience to benefit from the training. The questions/comments section at the end of each session permitted the individual participants to take the discussion to their own level. The combined experience of the trainers enabled the team to meet them at any level and discuss their concerns professionally and knowledgeably. The trainers also dealt with these advanced topics in such a way as to make the advanced material accessible to most of the participants.

The Kompong Som Court in particular asked some very advanced questions regarding evidentiary problems. It was during these questions that I think the court most appreciated the combined experience of the trainers.

What do you think were the most effective aspects of your training performance?

Some of the participants volunteered that this training has been some of the best training they have received from CCTP. If it is, I think it is due to the following reasons:

1. The trainers have real experience and expertise from actually investigating crimes. Mike Conway has 25 years of police experience and Dermot Groome has over 6 years as a prosecutor in Manhattan, New York where he directed many investigations. The participants recognized this level of experience and expertise immediately and responded well to it. One of the judges alluded to the fact that in the past trainers have tried to teach the courts and police material which the courts and police knew better than the trainers.
2. Great efforts were taken to make the training as Cambodian as possible. Except for the fingerprint training every technique we taught was possible in their context. From the simple ballistics tests to preserving evidence each technique is feasible in the present Cambodian context. Any technique which required materials were adapted to be done with materials readily available at low cost in the local markets.
3. We solicited real cases they had dealt with and incorporated them into the training. Although we did refer to a few cases of our own every effort was made to minimize "story-telling" and use the cases which they have faced and struggled with.
4. We worked hard at establishing relationships with them. We began the training by emphasizing that we were not their teachers and they were not our students. We told

them that we were all professional law enforcement officials concerned about Cambodia and the quality of criminal investigation. We engaged them in conversation as much as possible, spoke with them during breaks and made ourselves available to them at times convenient to them.

5. The training was very visual. We relied on a number of visual props which made the discussion very real and the concepts easily illustrated. Dermot Groome replicated different injuries on the skins of bananas. Mike Conway used diagrams and flow-charts to illustrate fingerprinting and investigative procedure. When demonstrating different investigative problems we used plastic guns, knives and nooses as well as realistic evidence.
6. The training required their practical involvement. They were taught many skills and concepts by being coached through their initial attempts. They learned evidence preservation by working with evidence; they learned crime scene sketching by sketching simulated crime scenes. Having them process a realistic crime scene required them to assimilate the information they received in lectures and turn it into practical skills. Coaching them through the first attempt provided them with a feeling of success and the confidence necessary to attempt it on their own. They uniformly approached the second simulation with the confidence that if they followed the simple rules they learned they would a good job.

APPENDIX E

Day 2 - (June 24, 1997)

Morning

*" Evidence, Case Analysis, and
Judicial Reasoning - How to
analyse facts and evidence "*

8 : 00 - 9 : 00 am

Small group discussions - hypothetical
problems

9 : 00 - 9 : 45 am

Plenary Sessions / Report back

Afternoon

*" Judicial Reasoning and Decision
making "*

2 : 00 - 3 : 00 pm

Guided Lecture

3 : 00 - 4 : 00 pm

Small group Discussions

4 : 15 - 5 : 00 pm

Plenary Questions and Answers

Day 3 - (June 25, 1997)

Morning

Continuation of Day 2 topics

8 : 00 - 8 : 15 am

Introduction

8 : 15 - 9 : 45

Demonstration / Commentary

10 : 15 - 11 : 15 am

Plenary session

Afternoon

"Judges' Associations "

2 : 00 - 2 : 45 pm

Panel Discussion

2 : 45 - 3 : 45 pm

Small group discussion- benefits,
obstacles and organisation

4 : 00 - 5 : 00 pm

Plenary report back

End of Conference

The International
Human Rights Law
Group

CAMBODIAN
COURT TRAINING PROJECT
(CCTP)

NATIONAL JUDICIAL
CONFERENCE

*Independence
and
the Judicial Process*

Sihanoukville

23, 24 and 25

June

1997

The International Human Rights Law
Group Cambodian Court Training Project

is
pleased

to welcome
the judges and prosecutors
of the Kingdom of Cambodia
to a conference

at

the seaside town of Sihanoukville.

The theme of the conference is *Independence and Judicial Process*. It will take place on June 23, 24 and 25, 1997. This is the first national conference fully sponsored and organised by the Cambodian Court Training Project, and we are certain that some interesting and challenging issues will be discussed.

This is a wonderful opportunity for all of the judges and prosecutors in Cambodia to meet together and to share experiences and challenges which face them in their daily work, as they strive to be part of fair, independence and transparent judicial system.

Conference Registration

Location : Soriya Hotel Conference Center
Sihanoukville

Time : 3 : 30 - 5 : 00 pm

Date : Sunday June 22, 1997

Participants will register at the conference center and proceed to check in at one of the designated hotels. The registration packet will contain detail of the shared accommodation arrangement, meals expenses allowance, conference dinner ticket and conference materials.

Please contact
Mr. Hang Sochivin or
Mr. Yan Sokha
at the Phnom Penh office of the Cambodian Court Training Project (CCTP),
Tel : (023) 428 848, if there are any queries.

Conference Schedule

Day 1 - (June 23, 1997)

Morning

"Independence of the Judiciary "

8 : 00 - 8 : 15 am Welcome

8 : 15 - 9 : 00 am Guest Panel

9 : 00 - 10 : 00 am Small Group discussions-
"Barriers to
Independence"

10 : 15 - 11 : 30 am Plenary reports

Afternoon

2 : 00 - 3 : 00 pm Small Group
Discussions -" Possible
solutions and
Strategies "

3 : 15 - 4 : 30 pm Report Back

4 : 30 - 5 : 15 pm Panel Discussion

6 : 30 pm
Conference Dinner
at Koh Pos Restaurant

Welcome
to the International Human Rights
Law Group - Cambodian Court
Training Project

National Judicial Conference,
“Independence and the Judicial
Process”

June 23, 24 and 25, 1997

Phnom Penh

Please review carefully all the materials
enclosed in the packages.

CONTENTS

Your individual conference package includes the following:

1. Conference schedule
2. CCTP Personnel list
3. Individual participant name tags
4. Invitation to Conference Dinner
5. Per diem and travel reimbursements for non-Phnom Penh based participants

6. Conference Materials:
“Judicial Independence”
 - UN Guidelines on the Role of the Prosecutor
 - UN Principles on the Independence of the Judiciary
 - Excerpts from Thomas Hammarberg’s presentation to the UN 53rd session
 - Laws relating to Judicial Independence
 - Hypothetical Exercises – Independence
(3)

Conference Materials (continued):
“The Judicial Process and Judicial
Decision Making”

- Hypothetical Exercises – Reasoning and Decision-making (7)
- Reasoning and Decision-making (FIRAC model)
- Charts for analysing cases
- Laws – Search for the Truth
- Laws – Elements of Crimes

Conference Materials (continued):
“Judges’ and Prosecutors’ Associations”

- General Information

The Cambodian Court Training Project Staff list

- Director - Thierry Fagart (France)
- Deputy Director - Camille Cameron (Canada)
- Legal Advisor - Dermot Groome (USA)
- Legal Advisor - Phyllis Cox (USA)
- Finance Officer - Janet Wise (USA)
- Office Manager - Ly Sunlina
- Curriculum and Training Assistant - Sophie Pinwill (Australia)
- Consultant Judicial Education Specialist/Bench Book Editor - Michael Runner (USA)
- Intern - Barbara Schuepbach (Switzerland)
- Intern – Filippa Bergin (Sweden)
- Conference Liaison - Hang So Chi Vin
- Interpreter - Ky Bunnal
- Interpreter - So Srey Yuth
- Interpreter - Long Sok
- Interpreter - Song Vannsin
- Interpreter - Yin Mounirath
- Interpreter - Yan Sokha
- Interpreter - Chea Veasna
- Interpreter - Pich Sorya
- Conference Assistant - Khun Bun Seng
- Conference Assistant - Om Saroeun
- Conference Assistant - Thong Mallay
- Conference Assistant - Um Som Nang

If you have any questions, please do not hesitate to ask our staff.

Conference material

“Judicial Independence”

International Human Rights Law Group
Cambodian Court Training Project

National Judicial Conference

Phnom Penn,
June 23, 24 and 25,
1997

United Nations Instruments
"Guidelines on the Role of Prosecutors"
Conference Materials

45. Guidelines on the Role of Prosecutors

Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990

Whereas in the Charter of the United Nations the peoples of the world affirm, *inter alia*, their determination to establish conditions under which justice can be maintained, and proclaim as one of their purposes the achievement of international cooperation in promoting and encouraging respect for human rights and fundamental freedoms without distinction as to race, sex, language or religion,

Whereas the Universal Declaration of Human Rights enshrines the principles of equality before the law, the presumption of innocence and the right to a fair and public hearing by an independent and impartial tribunal,

Whereas frequently there still exists a gap between the vision underlying those principles and the actual situation,

Whereas the organization and administration of justice in every country should be inspired by those principles, and efforts undertaken to translate them fully into reality,

Whereas prosecutors play a crucial role in the administration of justice, and rules concerning the performance of their important responsibilities should promote their respect for and compliance with the above-mentioned principles, thus contributing to fair and equitable criminal justice and the effective protection of citizens against crime,

Whereas it is essential to ensure that prosecutors possess the professional qualifications required for the accomplishment of their functions, through improved methods of recruitment and legal and professional training, and through the provision of all necessary means for the proper performance of their role in combating criminality, particularly in its new forms and dimensions,

Whereas the General Assembly, by its resolution 34/169 of 17 December 1979, adopted the Code of Conduct for Law Enforcement Officials, on the recommendation of the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Whereas in resolution 16 of the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, the Committee on Crime Prevention and Control was called upon to include among its pri-

orities the elaboration of guidelines relating to the independence of judges and the selection, professional training and status of judges and prosecutors,

Whereas the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders adopted the Basic Principles on the Independence of the Judiciary, subsequently endorsed by the General Assembly in its resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985,

Whereas the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, recommends measures to be taken at the international and national levels to improve access to justice and fair treatment, restitution, compensation and assistance for victims of crime,

Whereas, in resolution 7 of the Seventh Congress, the Committee was called upon to consider the need for guidelines relating, *inter alia*, to the selection, professional training and status of prosecutors, their expected tasks and conduct, means to enhance their contribution to the smooth functioning of the criminal justice system and their cooperation with the police, the scope of their discretionary powers, and their role in criminal proceedings, and to report thereon to future United Nations congresses,

The Guidelines set forth below, which have been formulated to assist Member States in their tasks of securing and promoting the effectiveness, impartiality and fairness of prosecutors in criminal proceedings, should be respected and taken into account by Governments within the framework of their national legislation and practice, and should be brought to the attention of prosecutors, as well as other persons, such as judges, lawyers, members of the executive and the legislature and the public in general. The present Guidelines have been formulated principally with public prosecutors in mind, but they apply equally, as appropriate, to prosecutors appointed on an *ad hoc* basis.

Qualifications, selection and training

1. Persons selected as prosecutors shall be individuals of integrity and ability, with appropriate training and qualifications.

2. States shall ensure that:

(a) Selection criteria for prosecutors embody safeguards against appointments based on partiality or prejudice, excluding any discrimination against a person on the grounds of race, colour, sex, language, religion, political or other opinion, national, social or ethnic origin, property, birth, economic or other status, except that it shall not be considered discriminatory to require a candidate for prosecutorial office to be a national of the country concerned;

(b) Prosecutors have appropriate education and training and should be made aware of the ideals and ethical duties of their office, of the constitu-

tional and statutory protections for the rights of the suspect and the victim, and of human rights and fundamental freedoms recognized by national and international law.

Status and conditions of service

3. Prosecutors, as essential agents of the administration of justice, shall at all times maintain the honour and dignity of their profession.

4. States shall ensure that prosecutors are able to perform their professional functions without intimidation, hindrance, harassment, improper interference or unjustified exposure to civil, penal or other liability.

5. Prosecutors and their families shall be physically protected by the authorities when their personal safety is threatened as a result of the discharge of prosecutorial functions.

6. Reasonable conditions of service of prosecutors, adequate remuneration and, where applicable, tenure, pension and age of retirement shall be set out by law or published rules or regulations.

7. Promotion of prosecutors, wherever such a system exists, shall be based on objective factors, in particular professional qualifications, ability, integrity and experience, and decided upon in accordance with fair and impartial procedures.

Freedom of expression and association

8. Prosecutors like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional disadvantage by reason of their lawful action or their membership in a lawful organization. In exercising these rights, prosecutors shall always conduct themselves in accordance with the law and the recognized standards and ethics of their profession.

9. Prosecutors shall be free to form and join professional associations or other organizations to represent their interests, to promote their professional training and to protect their status.

Role in criminal proceedings

10. The office of prosecutors shall be strictly separated from judicial functions.

11. Prosecutors shall perform an active role in criminal proceedings, including institution of prosecution and, where authorized by law or consis-

tent with local practice, in the investigation of crime, supervision over the legality of these investigations, supervision of the execution of court decisions and the exercise of other functions as representatives of the public interest.

12. Prosecutors shall, in accordance with the law, perform their duties fairly, consistently and expeditiously, and respect and protect human dignity and uphold human rights, thus contributing to ensuring due process and the smooth functioning of the criminal justice system.

13. In the performance of their duties, prosecutors shall:

(a) Carry out their functions impartially and avoid all political, social, religious, racial, cultural, sexual or any other kind of discrimination;

(b) Protect the public interest, act with objectivity, take proper account of the position of the suspect and the victim, and pay attention to all relevant circumstances, irrespective of whether they are to the advantage or disadvantage of the suspect;

(c) Keep matters in their possession confidential, unless the performance of duty or the needs of justice require otherwise;

(d) Consider the views and concerns of victims when their personal interests are affected and ensure that victims are informed of their rights in accordance with the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.

14. Prosecutors shall not initiate or continue prosecution, or shall make every effort to stay proceedings, when an impartial investigation shows the charge to be unfounded.

15. Prosecutors shall give due attention to the prosecution of crimes committed by public officials, particularly corruption, abuse of power, grave violations of human rights and other crimes recognized by international law and, where authorized by law or consistent with local practice, the investigation of such offences.

16. When prosecutors come into possession of evidence against suspects that they know or believe on reasonable grounds was obtained through recourse to unlawful methods, which constitute a grave violation of the suspect's human rights, especially involving torture or cruel, inhuman or degrading treatment or punishment, or other abuses of human rights, they shall refuse to use such evidence against anyone other than those who used such methods, or inform the Court accordingly, and shall take all necessary steps to ensure that those responsible for using such methods are brought to justice.

Discretionary functions

17. In countries where prosecutors are vested with discretionary functions, the law or published rules or regulations shall provide guidelines to enhance fairness and consistency of approach in taking decisions in the prosecution process, including institution or waiver of prosecution.

Alternatives to prosecution

18. In accordance with national law, prosecutors shall give due consideration to waiving prosecution, discontinuing proceedings conditionally or unconditionally, or diverting criminal cases from the formal justice system, with full respect for the rights of suspect(s) and the victim(s). For this purpose, States should fully explore the possibility of adopting diversion schemes not only to alleviate excessive court loads, but also to avoid the stigmatization of pre-trial detention, indictment and conviction, as well as the possible adverse effects of imprisonment.

19. In countries where prosecutors are vested with discretionary functions as to the decision whether or not to prosecute a juvenile, special considerations shall be given to the nature and gravity of the offence, protection of society and the personality and background of the juvenile. In making that decision, prosecutors shall particularly consider available alternatives to prosecution under the relevant juvenile justice laws and procedures. Prosecutors shall use their best efforts to take prosecutory action against juveniles only to the extent strictly necessary.

Relations with other government agencies or institutions

20. In order to ensure the fairness and effectiveness of prosecution, prosecutors shall strive to cooperate with the police, the courts, the legal profession, public defenders and other government agencies or institutions.

Disciplinary proceedings

21. Disciplinary offences of prosecutors shall be based on law or lawful regulations. Complaints against prosecutors which allege that they acted in a manner clearly out of the range of professional standards shall be processed expeditiously and fairly under appropriate procedures. Prosecutors shall have the right to a fair hearing. The decision shall be subject to independent review.

22. Disciplinary proceedings against prosecutors shall guarantee an objective evaluation and decision. They shall be determined in accordance with the law, the code of professional conduct and other established standards and ethics and in the light of the present Guidelines.

Observance of the Guidelines

23. Prosecutors shall respect the present Guidelines. They shall also, to the best of their capability, prevent and actively oppose any violations thereof.

24. Prosecutors who have reason to believe that a violation of the present Guidelines has occurred or is about to occur shall report the matter to their superior authorities and, where necessary, to other appropriate authorities or organs vested with reviewing or remedial power.

International Human Rights Law Group
Cambodian Court Training Project

National Judicial Conference

Phnom Penn,
June 23, 24 and 25,
1997

United Nations Instruments
*"Basic Principles on the Independence
of the Judiciary"*

Conference Materials

50. Basic Principles on the Independence of the Judiciary

Adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985 and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985

Whereas in the Charter of the United Nations the peoples of the world affirm, *inter alia*, their determination to establish conditions under which justice can be maintained to achieve international co-operation in promoting and encouraging respect for human rights and fundamental freedoms without any discrimination,

Whereas the Universal Declaration of Human Rights enshrines in particular the principles of equality before the law, of the presumption of innocence and of the right to a fair and public hearing by a competent, independent and impartial tribunal established by law,

Whereas the International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights both guarantee the exercise of those rights, and in addition, the Covenant on Civil and Political Rights further guarantees the right to be tried without undue delay,

Whereas frequently there still exists a gap between the vision underlying those principles and the actual situation,

Whereas the organization and administration of justice in every country should be inspired by those principles, and efforts should be undertaken to translate them fully into reality,

Whereas rules concerning the exercise of judicial office should aim at enabling judges to act in accordance with those principles,

Whereas judges are charged with the ultimate decision over life, freedoms, rights, duties and property of citizens,

Whereas the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, by its resolution 16, called upon the Committee on Crime Prevention and Control to include among its priorities the elaboration of guidelines relating to the independence of judges and the selection, professional training and status of judges and prosecutors,

Whereas it is, therefore, appropriate that consideration be first given to the role of judges in relation to the system of justice and to the importance of their selection, training and conduct,

Observance of the Guidelines

23. Prosecutors shall respect the present Guidelines. They shall also, to the best of their capability, prevent and actively oppose any violations thereof.

24. Prosecutors who have reason to believe that a violation of the present Guidelines has occurred or is about to occur shall report the matter to their superior authorities and, where necessary, to other appropriate authorities or organs vested with reviewing or remedial power.

The following basic principles, formulated to assist Member States in their task of securing and promoting the independence of the judiciary should be taken into account and respected by Governments within the framework of their national legislation and practice and be brought to the attention of judges, lawyers, members of the executive and the legislature and the public in general. The principles have been formulated principally with professional judges in mind, but they apply equally, as appropriate, to lay judges, where they exist.

Independence of the judiciary

1. The independence of the judiciary shall be guaranteed by the State and enshrined in the Constitution or the law of the country. It is the duty of all governmental and other institutions to respect and observe the independence of the judiciary.
2. The judiciary shall decide matters before them impartially, on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason.
3. The judiciary shall have jurisdiction over all issues of a judicial nature and shall have exclusive authority to decide whether an issue submitted for its decision is within its competence as defined by law.
4. There shall not be any inappropriate or unwarranted interference with the judicial process, nor shall judicial decisions by the courts be subject to revision. This principle is without prejudice to judicial review or to mitigation or commutation by competent authorities of sentences imposed by the judiciary, in accordance with the law.
5. Everyone shall have the right to be tried by ordinary courts or tribunals using established legal procedures. Tribunals that do not use the duly established procedures of the legal process shall not be created to displace the jurisdiction belonging to the ordinary courts or judicial tribunals.
6. The principle of the independence of the judiciary entitles and requires the judiciary to ensure that judicial proceedings are conducted fairly and that the rights of the parties are respected.
7. It is the duty of each Member State to provide adequate resources to enable the judiciary to properly perform its functions.

Freedom of expression and association

8. In accordance with the Universal Declaration of Human Rights, the judiciary, like other citizens entitled to freedom of expres-

sion, belief, association and assembly; provided, however, that in exercising such rights, judges shall always conduct themselves in such a manner as to preserve the dignity of their office and the impartiality and independence of the judiciary.

9. Judges shall be free to form and join associations of judges or other organizations to represent their interests, to promote their professional training and to protect their judicial independence.

Qualifications, selection and training

10. Persons selected for judicial office shall be individuals of integrity and ability with appropriate training or qualifications in law. Any method of judicial selection shall safeguard against judicial appointments for improper motives. In the selection of judges, there shall be no discrimination against a person on the grounds of race, colour, sex, religion, political or other opinion, national or social origin, property, birth or status, except that a requirement, that a candidate for judicial office must be a national of the country concerned, shall not be considered discriminatory.

Conditions of service and tenure

11. The term of office of judges, their independence, security, adequate remuneration, conditions of service, pensions and the age of retirement shall be adequately secured by law.

12. Judges, whether appointed or elected, shall have guaranteed tenure until a mandatory retirement age or the expiry of their term of office, where such exists.

13. Promotion of judges, wherever such a system exists, should be based on objective factors, in particular ability, integrity and experience.

14. The assignment of cases to judges within the court to which they belong is an internal matter of judicial administration.

Professional secrecy and immunity

15. The judiciary shall be bound by professional secrecy with regard to their deliberations and to confidential information acquired in the course of their duties other than in public proceedings, and shall not be compelled to testify on such matters.

16. Without prejudice to any disciplinary procedure or to any right of appeal or to compensation from the State, in accordance with national law, judges should enjoy personal immunity from civil suits for monetary

damages for improper acts or omissions in the exercise of their judicial functions.

Discipline, suspension and removal

17. A charge or complaint made against a judge in his/her judicial and professional capacity shall be processed expeditiously and fairly under an appropriate procedure. The judge shall have the right to a fair hearing. The examination of the matter at its initial stage shall be kept confidential, unless otherwise requested by the judge.

18. Judges shall be subject to suspension or removal only for reasons of incapacity or behaviour that renders them unfit to discharge their duties.

19. All disciplinary, suspension or removal proceedings shall be determined in accordance with established standards of judicial conduct.

20. Decisions in disciplinary, suspension or removal proceedings should be subject to an independent review. This principle may not apply to the decisions of the highest court and those of the legislature in impeachment or similar proceedings.

SITUATION OF HUMAN RIGHTS IN CAMBODIA

Presentation of Report to the 53rd Session of the Commission on Human Rights by Mr. Thomas Hammarberg, the Special Representative of the Secretary-General for Human Rights in Cambodia

This brings me to another subject of concern: the functioning of the justice system. There are a number of problems in this area. The courts are ill-equipped in regard to both human and material resources. Bribery is widespread throughout the court system. Political and military authorities do not respect the independence of the judiciary; in fact, it is not uncommon that pressure is exerted against the judges. My impression is that people at large have little trust in the system, this credibility gap in turn has negative repercussions.

There is a need for several decisive steps. One is to convene the Supreme Council of Magistracy. This body is key for the appointment of new judges and in general for the overseeing of the functioning of the justice system. Without the Supreme Council the necessary reforms of the system are blocked. It is most unfortunate that the convening or not of the Supreme Council has been turned into a divisive party political issue. I appeal strongly to the two major forces within the Government to seek, jointly, ways out of this deadlock.

Other crucial measures would be to make the military accept the authority of the justice system, to sever any link between judges and political parties, to take action against the corruption within the justice system, including increasing the salaries, and to change the law which now effectively prevent courts from prosecuting State employees.

On the latter point - which, more specifically, refers to article 51 of the Civil Servants Act - the Minister of Justice has now drafted an amendment which, when adopted, would put an end to the *de facto* impunity for crimes committed by civil servants and military personnel. I hope the amendment will be approved by the Council of Ministers and put to the National Assembly for adoption - soon. There should be no reason for further delay, during talks with the First Prime Minister and the Second Prime Minister already last year I got assurances that they would work for a change of article 51.

At the same time I have to report that I am concerned about the interrogation techniques used by the police. Beatings and kickings occur frequently during arrest, transport and interrogation. There have been cases of severe torture and I have now agreed to submit documentation on this serious matter to the Royal Government.

Prison conditions are not satisfactory. Resources are of course scarce, but there are other factors which could be remedied. One is that the monthly budget allocations to the prisons from the Ministry of Finance via the Ministry of Interior have been long delayed. This has forced the Prison Directors to borrow money and waste resources on interest payments. The result has been reduced food rations for the prisoners which in turn has led to malnutrition and diseases. I raised this recently with the co-Ministers of Interior and hope for an early solution.

Law Relevant to Judicial Independence

**THE
CONSTITUTION
OF
THE CAMBODIA**

CHAPTER IV

ON POLICY

Article 51- The Kingdom of Cambodia adopts a policy of Liberal Democracy and Pluralism. The Cambodian people are the masters of their own country. All the powers belong to the people. The people exercise these powers through the National Assembly, the Royal Government and the Judiciary.

The Legislative, Executive, and the Judicial powers shall be separate.

Article 90- The assembly shall be the only organ to hold legislative power. This power shall not be transferable to any other organ or any individual.

CHAPTER IX

THE JUDICIARY

Article 109- The Judicial power shall be an independent power.

The Judiciary shall guarantee and uphold impartiality and protect the rights and freedoms of the citizens.

The Judiciary shall cover all lawsuits including administrative ones.

The authority of the Judiciary shall be granted to the Supreme Court and to the lower courts of all sectors and levels.

Article 110- Trials shall be conducted in the name of the Khmer citizens in accordance with the legal procedures and laws in force.

Only judges shall have the right to adjudicate. A judge shall fulfill this duty with strict respect for the laws, wholeheartedly, and conscientiously.

Article 111- Judicial power shall not be granted to the legislative or executive branches.

Article 112- Only the Department of Public Prosecution shall have the right to file criminal suits.

Article 113- The King shall be the guarantor of the independence of the Judiciary. The Supreme Council of the Magistracy shall assist the King in this matter.

Article 114- Judges shall not be dismissed. The Supreme Council of the Magistracy shall take disciplinary actions against any delinquent judges.

Article 115- The Supreme Council of the Magistracy shall be established by an organic law which shall determine its composition and functions. The Supreme Council of the Magistracy shall be chaired by the King. The King may appoint a representative to chair the Supreme Council of the Magistracy. The Supreme Council of the Magistracy shall make proposals to the King on the appointment of judges and prosecutors to all courts. The Supreme Council of the Magistracy shall meet under the chairmanship of the president of the Supreme Court or General Prosecutor of the supreme court to decide on disciplinary actions against judges or prosecutors.

Article 116- The statutes of judges and prosecutors and the functioning of the judiciary shall be defined in separate laws.

Article 120- The function of a Constitutional Council member shall be incompatible with that of the member of the Royal Government , member of the assembly . President or Vice-President of a political party, President or Vice- President of a trade-union or in-post judges.

CHAPTER XIII

EFFECTS, REVISION AND AMENDMENTS OF THE CONSTITUTION

Article 131- This constitution shall be the Supreme law of the Kingdom of Cambodia.

Laws and decisions by the state institutions shall have to be in strict conformity with the constitution.

Law passed by the
National Assembly
on 22nd, Dec 1994
(unofficial translation)

Kingdom of Cambodia
Nation -Religion -King

L A W
ON
THE ORGANIZATION AND FUNCTIONING OF THE SUPREME
COUNCIL OF MAGISTRACY

Chapter I

The organization - function - composition of the
Supreme Council of the Magistracy

- **Article 1-** Referred to the article 113 and 115 of the Constitution of the Kingdom of Cambodia , it is to establish Supreme Council of Magistracy for guaranteeing the independence of the judiciary, discipline for judges and the good functioning of the adjudicate courts of the Kingdom of Cambodia.

Article 2- The Supreme Council of Magistracy shall have composition as follows:

- 1 - HM. the King of Cambodia, as Chairman.
- 2 - Minister of Justice, as..... Member.
- 3 - Chief of the Supreme Court , as Member
- 4 - General Prosecutor to the Supreme Court, as Member
- 5 - Chief of the Appeal Court, as Member
- 6 - General Prosecutor to the Appeal Court, as..... Member
- 7 - Three Judges elected by the judges, as Member

The Supreme Council of Magistracy shall have three (3) other substitute members who are elected by the judges of the whole country , for replacing elected members who are absent . (All members shall be appointed by Royal Decree . In a case when there is incompatibility of function of the minister of justice, he shall be replaced by a senior official from the ministry of justice.)

Article 10-

It is necessary to have consultation with the Supreme Council of the Magistracy to gain its suggestions and recommendation on the proposed bill or draft of laws relevant to the organization of the judiciary field and the functioning of this field.

The response of the Supreme Council of Magistracy must be given within a period of 30 days from the day of reception of such proposed bill or draft of laws from the Minister of Justice .

In urgent case, such above stated period shall be decreased to only ten days.

Article 11-

The Supreme Council of Magistracy shall decide and raise its recommendation to His Majesty the King about the appointment transfer, disruption from (actual) function , suspension of job, put outside of the cadre or removal of the title , of all judges and prosecutors . The Supreme Council of Magistracy shall give recommendation on the matters of promotions of steps and ranks (grades) of all the judges and prosecutors .

The ministry of justice shall prepare and submit the drafts of Decrees to His Majesty the King concerning this above matter.

Article 12-

Concerning the matter of disciplinary actions to be taken against the judges and prosecutors , the Supreme Council of Magistracy shall meet in the form of a Disciplinary Council , and under the Chairmanship of the Chief of the Supreme Court or the General Prosecutor to Supreme Court , depending on whether such case of disciplinary action is to be dealt with the judge or with the prosecutor.

In such above cases , His Majesty the King , and the Minister of Justice will not attend the meetings.

When any elected member is absent , shall be replaced by a substitute member. In case when disciplinary action is to be taken against the chief of the Supreme Court or the General Prosecutor to the Supreme Court , the Disciplinary Council shall be presided by His Majesty the King or his royal representative.

All the documents related to the concerned person , who is supposed to receive the disciplinary sanction , shall be sent to all the members of the Disciplinary Council, for examining thereof at least 15 days before the meeting will take place .

Article 19- The expenses for the functioning of the Supreme Council of Magistracy shall be planned in the budget of the Ministry of Justice.

UNTAC CRIMINAL LAW

Section I: JUDICIAL SYSTEM

Article 1- Independence of the judiciary

1. The independence of the judiciary must be guaranteed in accordance with *The Basic Principles on the Independence of the Judiciary*, adopted by the United Nations. Judges must decide in complete impartiality, on the basis of facts which are presented to them, and in accordance with law, refusing any pressure, threat or intimidation, direct or indirect, from any of the parties to a proceeding or any other person.
2. The judiciary must be independent of the executive and legislative authorities and of any political party. Persons selected for judicial functions must be honest and competent.
3. The principle of the independence of the judiciary entitles and requires judges to ensure that judicial proceedings are conducted fairly and that the rights of the parties are respected. They must have decent and sufficient material conditions for the exercise of their functions. Judges must receive suitable training and be remunerated adequately to ensure their impartiality and independence.

Article 2- Judicial function

Judges and prosecutors both are magistrates. Only judges may adjudicate. Prosecutors are responsible for penal actions, which only they may initiate. They file indictments in court and in all other forums provided for in this text. The Attorney General pleads before the Supreme Court in the interest of the law, reviews the legality of the indictments by the provincial prosecutors, and organizes and supervises their work.

LAW ON CRIMINAL PROCEDURE

SOC 1993

Article 50-

In principle , the prosecutor has the same ranks as the president of the court.

CHAPTER IV

THE INVESTIGATING JUDGE

Article 68- In each provincial and city court, there is one or many judges responsible for investigating criminal case depending on the work load and the court's needs. No judge may participate in the judgment of a case of which he /she was involved in the investigations.

Article 97- Parent and relatives, by marriage until fourth degree included, shall not be simultaneously members of the same court either as a judge or representative of the prosecution department . This principle is not only applied to provincial or municipal court but also to all jurisdictions irrespective of level .

Article 98- In principle ,there is an absolute incompatibility of office between a judge and a representative of the prosecution department. The representative of the prosecution department who perform his /her duty in any proceeding may not be a judge in the same case . There is also incompatibility of office between an investigating judge and a trial judge .

Article 125-

The evidences of a criminal offence may be produced by any means in order to convince the judge , for example by confession , by witnesses' appropriate and convincing testimony , by examination on all indications, by expertise or by other legal means such as the on-site visit etc...

To ascertain its conviction , the criminal jurisdiction may examine all documents put forward for questioning during the hearing and examinations between parties and attorneys in order to render judgment . Judge shall not base their conviction on personal knowledge he/she might acquire outside the hearing .

Article 128-

The investigation during the hearing shall be in public, if not, it will be considered as null and void . The proceedings in the open court are required not only for the pronouncement of the judgment , but also for the investigation ,and the hearing . Therefore, the judgment shall mention the proceedings in open court because without it, the judgment shall be considered as null .

Article 129-

Nevertheless , the hearing can be conducted in camera, if the proceedings in open court might deem dangerous to the public order and good tradition . The in camera hearing may only be conducted on part of the investigation . In another sense , the time for the in camera proceeding is limited to the investigation of the case . The pronouncement of the judgment shall be in public , if not, it shall be considered as null.

Article 143-

All judgments shall consist of two parts : the record of proceedings before judgment and judgment itself .

1/- The record of proceedings which is written on the top of the judgment shall consist of surname, name, profession, domicile and the role of the parties, the surname and first name of the lawyer or the defender, the charge and the request of the parties, if any, the remainder of the procedure with indication of the principal acts and different incidents from the court has already decided . This record of proceeding shall also contain the questions and the answers from the hearing .

2/- The judgment itself shall be sub-divided into two parts: the grounds and the enacting term of judgment .

A/- The grounds of judgment are the reasons on which determine the decision of the court

B/- The enacting terms of judgment express measures taken or the sentence pronounced by the court .

Article 144-

All judgments shall be grounded on each of the counts of accusations as well as on each of the parties' requests . The grounds of the decision shall be precise, that means expressing unequivocally and uncontradictorily the thought of the judge.

The enacting terms which is the essential part of the judgment , shall also be as precise as the grounds. In the enacting terms of judgment, there shall be references to all legal texts on which the decision is based .

CONFERENCE HYPOTHETICAL 1 - INDEPENDENCE

You are the sitting judge on a case that will come to trial next Wednesday. The dossier shows the following facts: The Judiciary police suspected that there was illegal gambling regularly occurring at the house of Ly Peau. The judiciary police decided to search the house one night at 9:00pm. One man was standing outside the house. The judiciary police entered the house against the wishes of the house owner. They saw only five men sitting around a table drinking palm wine. All five men denied they were gambling. The judiciary police decided to do a search because they knew there was gambling going on and they said this was a criminal offense which was *flagrant delicto*. They searched all through the house. The police found playing cards and some money all in the same place hidden under one bed. They arrested the man and they are the accused in the trial which will take place next Wednesday.

The defender has filed a motion to suppress the evidence under Article 20 because he argues that the search was illegal for two reasons. First, he argues that the search was illegal because it occurred at 9:00pm. Second, the defender argues the search was illegal because the offense was not *flagrant delicto* and therefore argues that the judiciary police were required to have a warrant before they could do the search. The defender therefore argues that none of the evidence can be considered by the sitting judge. The prosecutor says first, that the criminal offense was *flagrant delicto* even though the police did not truly see any gambling while it was happening, and second, that a search of a house where the offense was *flagrant delicto* can be conducted at any hour of the day or night.

You think that Articles 18, 19 and 20 of UNTAC law are not clear on these legal issues and you wish to get ideas about the correct interpretation of the law from other good sources.

QUESTIONS:

1. Who are your choices of appropriate people or groups to talk to about different possible interpretations of the UNTAC law?
2. After you make a list of your choices of appropriate people or groups to talk to, list the advantages and disadvantages of talking to each of these various choices?
3. How will the choice you make of whom to talk to affect your opinion of your independence as a judge?

CONFERENCE HYPOTHETICAL 2 - INDEPENDENCE

You are the sitting judge on a case which you will hear next week. The accused is a woman who killed her husband who lay unconscious from drinking too much palm wine. Before he drank palm wine husband and the accused had had a very big fight and the husband had beaten the accused very badly. The Investigating Judge also found clear evidence that the husband had beaten his wife for many years in the past. Previously the husband had caused the wife serious physical injuries including a broken arm and cuts on her body and the husband had beaten the wife when she was pregnant so that she had lost the baby. The accused had sincerely told the Investigating Judge that she feared her husband would kill her if she did not kill him because he had threatened to kill her and her mother and the children.

You know that the Ministry of Justice has severely criticized two other judges for the decisions they had made in the past in very similar cases. In one case that was criticised by the Ministry of Justice the sitting judge had decided that the woman should not be imprisoned at all. In the second case the sitting judge had decided that the wife should be sentenced to only six months in jail.

QUESTIONS:

1. Do you believe that your judgment in this case will be affected by your knowledge of the ideas of the Ministry of Justice?
2. How will your judgment in this case be affected by your knowledge of the ideas of the Ministry of Justice?
3. Do you think there may be consequences to you personally if you make a judgment in the case in a way that the Ministry of Justice criticises?
4. What consequences do you think there would be for you personally if you make the judgment in the case in a way that the Ministry of Justice does not agree with?
5. Do you think that paying attention to what the ideas of the Ministry of Justice are about the correct judgment in this case is related in any way to the independence of the judiciary?
6. Is receiving advice from the Ministry of Justice about correct judgments in a case a matter which is completely separate from the principle of independence of the judiciary?

*Cambodian Court Training Project - National Judicial Conference - Phnom Penh
1997*

CONFERENCE HYPOTHETICAL 3 - INDEPENDENCE

You are the investigating judge on a case under UNTAC Article 51, receiving and concealing stolen goods. A good friend of the governor of the province is a commune chief and someone stole three of his cows. The accused was arrested when the cows were recovered in the possession of the accused and while the accused was trying to sell the cows. The accused will be brought to the court for the first appearance this afternoon.

The important facts are the following: everyone agrees that the accused did not steal the cows. The accused was in the hospital when the cows were stolen. The accused says he did not know the cows were stolen property, that soon after he got out of the hospital he bought the cows from someone he did not know and paid the man money for the cows. The commune chief is very angry and he has never liked the accused. The commune chief says that the accused knew he was receiving stolen property because he only paid a small price for the cows. The accused has lived all his life in the village. His wife has always lived in the same village. Both of them have their family in the same village. They have six children in the village. The man has a small job and he has never been in any trouble before.

Just before lunch time the governor telephones to you and says that he and his wife are very unhappy. It is very important to them that the accused not be free on bail before the trial. The governor says that he thinks there may be some bad accident or other trouble if the man is free on bail and that it is better to keep him in detention until the trial.

QUESTIONS:

1. Do you believe that your judgment in this case will be affected by your conversation with the Governor?
2. How will your decision on pretrial release in this case be affected by your knowledge of the ideas of the Governor?
3. How would you respond if you received a call like this in this case or in some other case?
4. Do you think there may be consequences to you personally if you make a decision about pretrial release in a way that the Governor strongly disagrees with?
5. Do you think that paying attention to what the ideas of the governor or vice-governors are in this case is related in any way to the independence of the judiciary? If so, how?
6. Is receiving information or opinions from the governor or vice-governors about a case a matter which is completely separate from the principle of independence of the judiciary?

Conference material

**“The Judicial Process and Judicial Decision
Making”**

HYPOTHETICAL ON BREACH OF TRUST AND FRAUD AND CONTRACT

A, B, C and D, live in Kampong Tom. They each have saved money from their work. One day A told B, C and D, that he wanted to start a small construction business but he did not have enough money to start it. In August 1996 A, B, C and D, agreed that B, C, and D, each would give A \$3000 to use to start his business. A agreed with B, C and D, to pay back each of them the \$3000 plus \$200 interest on 1 November 1996. A started the construction business with the money he had saved and the money he received from B, C and D. On 1 November 1996 A paid back B, C and D all of the money including the interest which he promised to pay them.

B wanted to start a restaurant one day. He found a nice house which he could rent for his restaurant. He talked to his wife who was an excellent cook, and she agreed to cook frequently for the restaurant. On 1 December 1996 B told A, C and D that he wished to borrow \$3000 from each of them and that he would pay the money he owed back to each of them at the end of three months, together with interest of \$250 each. B said he planned to start a restaurant for the tourists who came to Kampong Thom and he was very sure his restaurant would be very successful.

A, B, C and D signed the following agreement in writing:

I, B, agree that A, C and D have each given to me \$3000 to use to start a restaurant. I promise to pay each of them \$3000 plus \$250 of interest on 1 February 1997.

B received money from each of the other people and he used the money he received from A, C and D together with his own money to start his restaurant.

On 1 February 1997 B was not successful in his restaurant and he did not have any money; he could not pay back A, C or D. B apologized and said that he would pay when he was able to. C was angry and went to the Prosecutor and complained for fraud and breach of trust. The Prosecutor investigated immediately and learned that B had failed in his effort to start his restaurant business. B was not able to continue his restaurant and so it had closed on 1 March 1997.

During the same period of time, on 1 December 1996 E, another friend of A, B, C, and D, learned about his friends' arrangement and he talked to them. E runs the guest house in Kampong Thom. E explained to his friends that he wished to start a store selling different kinds of supplies and equipment for the construction businesses in Kampong Thom province. He said that if A, B, C and D gave him money he would use the money that they gave to him and his own money to start the new business. He told A, B, C and D that two people from Phnom Penh had already made agreements with him to buy all of their supplies and equipment needed to build two new hotels with two swimming pools in

Kampong Thom province. He said that because of these two hotels and the agreements he had with the men from Phnom Penh to supply the material and equipment for these two hotels, he knew he would make a lot of money. He promised to pay back the money he received from them with interest at 18 % no later than 1 April 1997. B said he had no money because he was working on his restaurant and therefore B did not give E any money. A, C and D believed E and agreed to give him money.

A, C, D and E signed the following agreement:

I, E agree that A, C and D have each given to me \$4000 to use to start a construction supply business. I promise to pay each of them \$4000 plus interest at 18% per year no later than 1 April, 1997.

On 1 April 1997 E did not pay back A, C and D. He said he did not have any money. After the investigation the Prosecutor learned that E truly did not have any money. The Prosecutor learned that E did not start any construction supply business. He had used the money from A, C and D to pay for university education for his children in Thailand. He had hoped that he would be able to pay A, C and D back but he did not have enough money from his guesthouse business to pay them.

The Prosecutor must decide whether to bring charges against B and E. If he does bring charges he is not sure what those charges should be. If he does not bring charges he does not know what advise to give to C. Please advise him.

HYPOTHETICAL - LEGAL REASONING

Sokha is a member of the Judiciary Police. In a village about 40 kilometers from Siem Reap he observes the ambush and killing of a man by A and B. Two other members of the judiciary police arrive at the scene of the crime while Sokha is still there. Together the three members of the judiciary police investigate the crime scene. They find a new Honda Dream moto hidden in the bushes. It appears that A and B planned to use the moto after the killing in order to escape. Sokha says to the other judiciary police that he will take the moto to the police post. Sokha does not take the Honda moto to the police post because he wants to keep the moto for himself. He needs some money so he plans to sell the moto soon. The Prosecutor writes three letters to Sokha. In each letter he asks Sokha to send the moto to the prosecutor as important evidence of the premeditated murder, but Sokha does not. The other two judiciary police do not dare to argue with Sokha. The prosecutor wants to charge Sokha with a crime. Did Sokha commit a crime? If yes, what crime did he commit?

Conference Hypotheticals

NOTE: Assume when considering these problems that any authorisation required by Article 51 of the Law on Civil Servants has been obtained.

....

1. A, a court clerk, tells B, the accused person's lawyer in a theft case, that B can have a copy of the case file in exchange for \$100. B complains to the police. The police talk to the clerk and then tell B that he will have to pay the \$100 if he wants the file. B then complains to you, the prosecutor.

.....

2. A, a judicial police officer, tells B, an accused person in a robbery case, that he will be able to secure the immediate dismissal of charges against B and the release of B from detention in exchange for a sum of money. B consults with his family. They decide to pay the money. They go to the police officer with the money. He accepts the money. One month later, B is still in pre-trial detention. B's family go to A and ask him when B will be released. A says he has not been able to get court officials to dismiss the case against B, and that the case will go to trial. B's family demands their money back. A says he has the right to keep the money and that it is not his fault that the court would not cooperate with him. He tells them that he has already spent the money. B and his family make a formal complaint to you, the prosecutor. Will you charge anyone? With what charge or charges?

.....

3. A is an official in the Ministry of Commerce. A and B have been friends since they were children. B has a cousin, C who wants a tourist visa to go to the United States. C is a retired teacher. C's sisters and brothers are in the United States. C has not seen them for 20 years. He tried on a previous occasion, one year ago, to get a visa to go to the United States but his request was denied because he did not have a full-time job.

C wants to apply again for a visa, and he wants this second application to be successful. C knows that B has a good friend who is an official in the Ministry of Commerce. C asks B if B's friend A would write a letter saying that C has a full-time job in the Ministry of Commerce. B asks A. A says that he is not senior enough to write such a letter, and that only D, A's boss, can write such a letter. B begs A to do something for C. A then writes the letter and signs D's name. B presents this letter to officials at the US Embassy. They grant the visa to B. B is very happy and gives A and C each a gift - a gold ring - to show his appreciation. Before B leaves for the United States, embassy officials discover that B does not have a full-time job at the Ministry of Commerce. They immediately cancel the visa and report this case to the authorities.

You are the prosecutor. You know all of the above facts. Will you charge anyone? If so, with what?

.....

4. A is a member of the National Assembly. He lives in Phnom Penh. He also has a house in Kratie. He and his wife are involved in the logging business in Kratie. They own many acres of land on which there are many trees. A's wife, B, runs the logging business when A is in Phnom Penh.

A and B supply logs to a foreign logging company which has an office in Kratie province. An official of the logging company told A and B that the company would give them a new jeep and several thousand dollars each month if the company could cut the wood on A's property. A and his wife agreed to let the company cut logs on A's land. They knew the logging company did not have permission to cut the wood and was therefore operating illegally. They keep the jeep in Kratie and drive it when they are there. The monthly payments from the logging company are usually paid directly to B either at the logging company's office in Kratie, or at their head office in Phnom Penh. Sometimes, but not very often, A is with B when she receives the monthly payments. B deposits the money in her bank account. On a few occasions the payments have been made to A at his office in Phnom Penh.

This arrangement between A, B and the logging company began in January 1996. In June, 1996, an official of the logging company told A that the company was considering leaving Cambodia because profits were decreasing. He told A that if A could use his power to get a concession at a low price for the logging company for a large area of land in Stung Treng, the company would probably continue to operate in Cambodia. A talked to some government officials and the concession requested by the company was obtained quickly without any delays for competitive bidding or any other procedures. The company has continued to operate in Cambodia since then. The payments by the company to A and B in exchange for the right to cut wood on their Kratie property have continued without any interruption.

Someone has found out about this and has complained to you, the prosecutor. Will you charge anyone? If so, who will you charge and what will you charge them with?

Fact Situation

Kim Phal is a 30 year old woman. She lives in a village near Kampong Cham. She has been charged with theft under Article 43 of the UNTAC Penal law. She allegedly stole gold jewelry from a friend. She says she it was given to her by her friend in payment of a debt.

She was arrested in the vicinity of her friend's house shortly after the alleged theft. She had the jewelry in her possession when she was arrested. She also had a set of keys to her friend's house in her possession. At the time of her arrest she had her personal belongings with her and she was headed to catch a boat back to Kampong Cham.

KP says that she always stays with the complainant during her monthly visits to PP and has had a set of house keys since last year. She says her friend gave the keys to her. Sometimes her friend would give KP fruit to take back to Kompong Cham. This month the main purpose of KP's visit to PP was to attend her cousin's wedding. She had a wonderful time at the wedding and saw a lot of people she had not seen in a long time.

The complainant denies any debt or agreement as alleged by the accused. She knows KP--they come from the same village in Kompong Cham. She admits that KP was staying with her while she was in PP for a short visit. However, she says she did not give the jewelry to KP. Furthermore, she says she did not give a set of house keys to KP and that her own set of house keys had been missing since the morning of the theft. She says she kept the jewelry in her bedroom--which she kept locked when she was away from the house. There was no sign of forced entry into her bedroom.

There is evidence from KP's sister and from Thao Sunlina, a woman who lives in KP's village, that KP lent some money to the complainant six months ago and that the complainant has not yet repaid the loan. Thao Sunlina says that she is also owed money by the complainant. Thao Sunlina was told by KP that on this particular monthly visit by KP the complainant would give KP money to repay both loans.

KP's sister has a stall in the market where she sells fabric, and she makes frequent visits to PP to buy fabric and other things to sell in the market in her village.

The complainant denies owing money to anyone in the village. She admits, however, that her brother, who still lives in the village, has incurred several gambling debts--but she does not know to whom he owes the money.

REASONING AND DECISION-MAKING : FIRAC

FIRAC is a method of analysing, organising and presenting information. This method has the following components:

(1) *FACTS*: IDENTIFY THE FACTS OF THE CASE

(2) *ISSUES*: IDENTIFY THE ISSUES:

The issues are the problem(s) or question(s) which you must resolve.

(3) *RULE*: IDENTIFY THE RULE(S) WHICH RELATE TO THE ISSUES

A rule is the law which you will use to resolve each of the issues, for example, a statement of the relevant statutory provisions.

(4) *APPLICATION*: ANALYSE THE PROBLEM

This means we apply the rules to the facts to resolve the issues.

The goal of legal reasoning is to reach a conclusion which is consistent with the law and the facts of the case. The only way we can reach a logical conclusion is to apply the law to the facts.

(5) *CONCLUSION*: THIS IS THE ANSWER(S) TO THE ISSUE(S)

ANALYSING EVIDENCE

<u>Evidence</u>	<u>Finding of Fact</u>
Items of information from witnesses, documents or physical evidence.	Facts that the Judge decides are correct and true facts
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	10
etc.	etc.

Article 55.

Once the perpetration of any crime or any misdemeanor is known, the prosecutor shall proceed immediately to the investigation measures which are provided to him/her by the law and which are necessary to find the truth. In case where the committed crime or misdemeanor is exceptionally serious, the prosecutor shall inform immediately the general prosecutor at the appeal court and the Minister of Justice. The prosecutor shall carry out the instruction he/she receives from them in this matter.

In case where the prosecutor is unavailable because of the sickness or other reason, the assistant prosecutor shall be in charge in his/her place. If there are many assistant prosecutors, the one who is senior in the rank shall replace the prosecutor.

If there is no assistant prosecutor the Minister of Justice shall decide immediately any judge from the jurisdiction to replace the prosecutor. In case of extreme emergency, the president of that jurisdiction may designate a judge to temporary replace the prosecutor and shall inform immediately the Minister of Justice.

Article 81 .

The investigating judge subpoenas to appear before him/her all persons, whose names indicated in the complaint or denunciation complaint, witnesses called upon by the accused person, as well as all other persons of whom the hearing appears to be useful to the revelation of the truth.

In all cases, the investigating judge has the rights to confront one party with another, or one witness with other witnesses, or the witnesses with the parties.

Article 87 .

Besides hearing the witnesses, the investigating judge may take other actions deemed useful to the revelation of the truth. For example, the investigating judge may go to visit the accused person's domicile for a house search. In this case, the lawyer or the defender shall be informed and also invited to accompany the judge in the visit.

The investigating judge shall make a report describing, in details, his/her performance and shall sign with the clerk and all other persons participating in the search.

The investigating judge shall also draw up a precise and detailed inventory of things and papers that he/she has seized and keep them in a closed and stamped package on which the judge and the clerk sign.

Article 88 .

The investigating judge may call for an expertise whenever he/she thinks that this measure is necessary for the revelation of the truth. In this case, the investigating judge shall look for the persons deemed to be capable of evaluating such as physician, certified public accountant, jeweller ... etc. who can evaluating the nature and circumstance of the offence.

If there was a death with an unknown cause, the investigating judge shall have recourse to a physician specialist to establish the cause.

All expertise expenses shall be included into the court cost which is in the accused person's charge if he/she will be finally convicted. If there is no ground for prosecution or if the accused person is discharged, the state will be in charge of the expertise expenses.

The investigating judge may order a second expert appraisalment to check the first one whenever he/she deems necessary.

Article 114.

Even though the accused does not appear, the court shall proceed as if the accused is present by hearing the witnesses testimony, examining all the documents and information that may lead the court to find out the truth. The court may dismiss the absent accused when it finds that there is not enough evidence. In case of sentencing, the court may also decide to allow extenuating circumstances for the accused. In one word, the non-appearance of the accused during the hearing shall not constitute an aggravating circumstance.

Article 125.

The evidences of a criminal offence may be produced by any means in order to convince the judge, for example by confession, by witness's appropriate and convincing testimony, by examination on all indications, by expertise or by other legal means such as the on-site visit etc...

To ascertain its conviction, the criminal jurisdiction may examine all documents put forward for questioning during the hearing and examinations between parties and attorneys in order to render judgement. Judges shall not base their conviction on personal knowledge he/she might acquire outside the hearing.

Article 130.

The judge is the person who keeps the hearing in order, and who conducts the interrogation. During the interrogation, the judge can stop or reject anything that may unnecessarily delay the interrogation, without contributing to the revelation of the truth.

When there is a protest between the representative of the prosecution's office or the plaintiff with an accused person or the civilly responsible person concerning the usefulness of any interrogation's measures: hearing of witnesses asking questions, or other issues, the judge may decide by order and simply mention it in the hearing report, in order to know which measures are accepted or refused.

Article 133.

Then the judge hears the witness's testimony in the following order: prosecutor's witness, plaintiff's witness and accused's witness. This order may if there is an important reason (Cambodian version missing. I translate from French version). The judge may not necessarily hear any testimony when he/she considers that it does not help to reveal the truth. In the event of objection, the judge shall decide this case by order which shall be recorded in the report of the hearing.

the offense. Counsel for the intervening party shall have access to the file on the same terms as those of counsel for the accused.

2. Parties guilty of the offense and their accomplices are jointly liable for reparations or compensation, under conditions outlined in the *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, adopted by the United Nations.

Article 28: Offenses based on Opinion or Belief

1. No one may be prosecuted for political opinion, religious convictions, or membership in a race or ethnic group.
2. Penal texts currently in force anywhere in Cambodia may no longer refer to offenses based on opinion or ideology, and are accordingly abrogated.

Article 29: Review of Certain Trials

Any convicted person may directly or through counsel or an attorney, request a review of their trial to determine whether they have been convicted for their ideas, opinions, statements, or their membership or non-membership in a racial, ethnic, religious, political or social group.

Article 30: Statute of Limitations

The Statute of Limitations is three years for misdemeanours and ten years for crimes. The Statute of Limitations ceases to run as soon as any legal process has been initiated.

TITLE IV: CRIMES

Article 31: Murder

1. Anyone who kills or attempts to kill another person after premeditating the crime, or by preparing an ambush, or who kills or attempts to kill another person in the course of theft or rape, is guilty of murder, and shall be liable to a punishment of imprisonment for a term of ten to twenty years.
2. Premeditation is the process of conceiving and preparing an attack on another person before the actual execution of the attack. An ambush consists of lying in wait with the intention of committing an act of violence against another person.

Article 32: Voluntary Manslaughter

Anyone who voluntarily kills or attempts to kill another person without any of the aggravating circumstances mentioned in Article 31, whether or not a weapon is used, is guilty of the crime of voluntary manslaughter, and shall be liable to imprisonment for a

term of eight to fifteen years.

Article 33: Rape

1. Anyone who rapes or attempts to rape another person of either sex is guilty of rape and shall be liable to imprisonment for a term of five to ten years.
2. Rape is any sexual act involving penetration carried out through violence, coercion or surprise. If rape is accompanied by threats with a weapon, or if it is committed on a pregnant woman or a person suffering from illness or mental or physical infirmity, or by two or more offenders or accomplices, or if it is committed by anyone in a position of authority over the victim, the punishment shall be a term of imprisonment of ten to fifteen years.

Article 34: Robbery

1. Anyone who steals or attempts to steal from another person under the following aggravating circumstances is guilty of the crime of robbery and shall be liable to a term of imprisonment of three to ten years:
 - if the theft is accompanied by force, whether or not a weapon is used or the victim sustains injury;
 - or if the theft is committed by several persons or by breaking and entering.
2. Theft is the fraudulent taking of another person's property with the intent of appropriating it.

Article 35: Illegal Confinement

Anyone who, without orders from the judicial authority, arrests, detains or illegally confines anyone shall be liable to imprisonment:

- for ten years, if the confinement or detention lasts longer than one month;
- from three to five years, if the confinement or detention lasts less than one month.

Article 36: Organized Crime

Any individual who has taken part in a formal or informal association set up for the purpose of planning one or more crimes or misdemeanours against persons or property, if specific acts of preparation of these offenses have taken place, shall be liable to a term of imprisonment of from three to fifteen years.

Article 37: Embezzlement by Public Officials

1. Any elected official, civil servant, military personnel or official agent of any of the

four Cambodian parties to the Paris Agreement, or any political official who, while performing official duties or tasks related to such duties, with a view to owning or using, misappropriates, sells, rents, embezzles for personal profit or for that of a third party, property, services, money, personnel, any advantage, document, authorization or any function belonging to any public authority, is guilty of the crime of embezzlement of public property and shall be liable to imprisonment for a term of three to ten years.

2. The court may remove the convicted person from elective office and may also prohibited him or her, after serving the sentence, from standing for election or from holding any position in the public administration for a period of two years.

3. The penalty for this crime shall also include a fine of double the sum of money or value of the property embezzled.

Article 38: Corruption

1. Without prejudice to possible disciplinary action, any civil servant, military personnel or official agent of any of the four Cambodian parties to the Paris Agreement, or any political official who, while performing official duties or tasks related to such duties, solicits or attempts to solicit or who receives or attempts to receive property, a service, money, staff, a professional position, a document, an authorization or any benefit in exchange for any one of these same elements is guilty of the crime of extortion and shall be subject to a punishment of three to seven years in prison.

2. The court may remove the convicted person from elective office and may also prohibited him or her, after serving the sentence, from standing for election or from holding any position in the public administration for a period of two years.

3. The penalty for this crime shall also include a fine of double the sum of money or value of the property extorted.

Article 39: Illicit Traffic in Narcotic Drugs

1. Except for derogations for reasons of public health granted by public health authorities of each of the existing administrative structures, the production, transport, importation, exportation, possession, offering, transfer, acquisition and use of plants, narcotics and psychotropic substances, the list of which is appears in the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 20 December 1988, the Protocol to the Single Convention of 27 March 1972, Convention on Psychotropic Substances of 21 February 1971 and the Single Convention on Narcotic Drugs of 30 March 1961, are prohibited throughout Cambodian territory.

2. Any one who knowingly violates the present article shall be liable to a punishment of five to fifteen years in prison. Furthermore, all illicit substances will be seized and the courts shall order their destruction after they have been analyzed.

Title V: MISDEMEANOURS

Article 40: Involuntary Manslaughter

Any person who through carelessness, negligence, inattention or failure to heed regulations involuntarily kills another person is guilty of the misdemeanour of involuntary manslaughter and shall be liable to a term of imprisonment of one to three years.

Article 41: Battery with Injury

1. Anyone who voluntarily strikes another resulting in injury leading to permanent disability or temporary disability lasting more than six months, is guilty of battery and shall be liable to a punishment of one to five years in prison.

2. If the disability lasts less than six months, the offence shall be punished by a term of imprisonment of six months to two years.

3. If there is no disability, the punishment shall be a term of imprisonment of two months to one year.

4. If any weapon is used to strike the blows, the period of imprisonment shall be doubled.

Article 42: Indecent Assault

1. Any person who sexually assaults another person of either sex by touching, caressing or any other sexual act not involving penetration, is guilty of the misdemeanour of indecent assault and shall be liable to a term of imprisonment of one to three years.

2. If the indecent assault is accompanied by fraud, violence or threat, or if it is committed by any person with authority over the victim, or if the victim is under 16 years of age, the duration of these sentences shall be doubled.

3. Any person who procures, entices or leads away, for purposes of prostitution, or sexually exploits a minor, even with the consent of that minor, shall be liable to a term of imprisonment of two to six years.

Article 43: Theft

Any person who steals or attempts to steal the property of any natural or artificial person, in the absence of any of the aggravating circumstances set forth in Article 34, is guilty of the misdemeanour of theft, and shall be liable to a term of prison of six months to five years.

Article 44: Offenses Concerning Cultural Property

1. Any person who steals or attempts to steal cultural property belonging to the State or to natural or artificial persons, which is part of the Cambodian national heritage, shall be liable to a term of imprisonment of six months to ten years. Any person who illicitly

exports or attempts to export or transfers or attempts to transfer ownership of cultural property shall be liable to the same punishment.

2. For the purposes of the present text, cultural property shall be as defined in the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property of 14 November 1970, ratified by Cambodia on 26 September 1972. Any element of cultural property that has not been the subject of an authorization to transfer ownership or to export, issued by the Supreme National Council or by the body designated for this purpose by the SNC, shall be deemed part of the Cambodian national heritage.

3. The voluntary damaging of cultural property belonging to the Cambodian national heritage, through unauthorized or clandestine excavations, vandalism or any other means, shall incur the same punishment.

Article 45: Fraud

Any person who, through deceit, use of a false name or title persuades another person of an illusory authority, or by making another person fear or anticipate an event of any sort, receives or attempts to receive all or part of the estate of any natural or artificial person, is guilty of the misdemeanour of fraud and shall be liable to a term of imprisonment of one to five years.

Article 46: Breach of Trust

Any person who misappropriates or disposes of, against the interest of the owner, possessor or holder, any property, money, merchandise, or document containing or establishing an obligation or release, which was entrusted to that person as rent, deposit, commission, loan or remuneration for paid or unpaid work, having promised to return it or to offer it back or to put it to an agreed upon use, is guilty of breach of trust and shall be liable to a punishment of a term of imprisonment of one to five years.

Article 47: Counterfeit of Seals, Bank Notes, Public Documents, Stamps and Trademarks

Any person who either:

1. counterfeits seals of existing administrative structures or makes improper use of such seals;
2. counterfeits or falsifies a bank note, postage stamp, validation sticker, fiduciary note, stock, bond, or currency that is legally negotiable in Cambodia, or passport or identity card of existing administrative structures, or who makes use of or brings such instruments into Cambodian territory;
3. counterfeits or falsifies a bank note, postage stamp, validation sticker, fiduciary note, stock, bond, or currency that is legally negotiable in a

foreign country, or passport or identity card of a foreign country, or who makes use of or brings such instruments into Cambodian territory;

is guilty of the misdemeanour of counterfeiting and shall be liable to a term of imprisonment of five to fifteen years.

Article 48: Violation of Copyright

1. Any production of a writing, musical composition, drawing, painting, film, photograph, or any other printed or engraved representation which does not respect the intellectual property rights of its author(s) constitutes violation of copyright.
2. Any importation, exportation, reproduction, performance or distribution of a reproduction of an intellectual creation with the intent to disregard the intellectual property rights of the author(s) also constitutes violation of copyright.
3. For the purpose of the present text, copyright is understood in the sense of the Bern Convention of 9 September 1886, revised in Paris on 24 July 1971, and by the Universal Copyright Convention signed in Geneva on 6 September 1952, revised in Paris on 24 July 1971.

Article 49: Forgery of Public Document

Any elected official, civil servant, military personnel, or official agent of any of the four Cambodian parties to the Paris Agreement or of any registered political party who, while performing official duties or tasks related to such duties, commits a forgery, either by false signature, or by alteration of a deed, writing or signature, or by impersonation, or by false entry into a registry or other public deed after its execution or closing, and any person who knowingly makes use of the same, is guilty of forgery of a public document and shall be liable to a term of imprisonment of five to fifteen years.

Article 50: Forgery of Private, Commercial or Bank Document

1. Any person who, by one of the means outlined in Article 49, forges or attempts to forge a private, commercial or bank document shall be liable to a term of imprisonment of five years or a fine of one million to ten million Riels.
2. Any person who knowingly makes use of a forged private, commercial or bank document shall be liable to the same punishment.

Article 51: Receiving and Concealing Stolen Goods

Any person who receives or purchases goods which he or she knows to have been obtained through theft or fraud or any crime or misdemeanour is guilty of the misdemeanour of receiving and concealing stolen goods, and shall be liable to a punishment of one to five years in prison. This is an ongoing offence, for which the

Statute of Limitations does not run until the receiving and concealing has terminated.

Article 52: Wrongful Damage to Property

Any person who intentionally damages or attempts to damage the property of another is guilty of the misdemeanour wrongful damage to property and shall be liable to a term of imprisonment of one to three years. If the damage is minor or the property of little value the imprisonment shall be reduced to two months to one year. Wrongful damage to cultural property belonging to the Cambodian national heritage is covered by article 44.

Article 53: Arson

1. Any person who damages or attempts to damage the property of another through use of fire or explosives is guilty of the misdemeanour of arson and shall be liable to a punishment of one to three years in prison.
2. If the damaged property is inhabited by one or more persons, the duration of the prison term is doubled.

Article 54: Bearing or Transporting Illicit Weapons

1. Any person who bears or transports a firearm, explosives, or artillery, without authorization in accordance with regulations issued by UNTAC on the bearing and transporting of weapons, is guilty of unlawful bearing or transporting of illicit weapons and is liable to a punishment of six months to three years in prison.
2. Any person not wearing a uniform who carries a weapon must be able to produce at the request of the authorities, especially UNTAC representatives, an authorization to carry the weapon. Failure to do so shall result in the immediate confiscation and destruction of the weapon and a report serving as a record of the infraction shall be addressed to the competent judicial authority.

Article 55: Coercion of Witnesses

Any person who threatens, intimidates, or brings pressure to bear upon a witness in a judicial proceeding is guilty of the misdemeanour of coercion and shall be liable to a punishment of one to two years in prison.

Article 56: Perjury

Any person who, in a judicial proceeding, perjures him- or herself by telling the Court facts which he or she knows to be erroneous or false, and which are recognized as such by the Court, is guilty of perjury and shall be liable to a punishment of one to two years in prison.

Article 57: Infringement of Individual Rights

Any public agents, including police or military agents, who deliberately infringe upon rights of physical integrity and the inviolability of the home, as protected by the present text, shall be liable to a punishment of one to two years in prison.

Article 58: Bribery

Any person who corrupts or attempts to corrupt any elected official, civil servant, military personnel, or official agent of any of the four Cambodian parties to the Paris Agreement or of any registered political party who, while performing official duties or tasks related to such duties, by promising property, service, money, staff, professional position, document, authorization or any benefit whatsoever in exchange for any one of these same benefits is guilty of bribery and shall be liable to a punishment of one to three years in prison.

Article 59: Incitement Leading to the Commission of a Crime

Any person who, by speech, shouts or threats made in a public place or meeting, or by writings, publications, drawings, engravings, paintings, emblems, films or any other mode of writing, speech, or film that is sold, distributed, offered for sale or displayed in a public place or meeting, or by signs or posters displayed in public, or by any other means of audiovisual communication, directly incites one or more persons to commit a crime shall be punished as an accomplice to the crime. This provision also applies if the incitement leads merely to an attempt to commit a crime.

Article 60: Incitement not Leading to the Commission of a Crime or Misdemeanour

Any person who, by one of the means listed in Article 59, incites the commission of one of the crimes or misdemeanours covered by the present text, without the offence actually being committed, shall be liable to a punishment of one to five years in prison.

Article 61: Incitement to Discrimination

1. Any person who, by one of the means listed in article 59, provokes national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be punished by imprisonment of one month to one year, a fine of one million to ten million Riels, or both.

2. Whenever the court convicts an accused for one of the acts mentioned in the preceding paragraph, it may order that its decision be posted at specified locations, at the expense of the convicted party, and published in one or more newspapers, also at the expense of the convicted party, not to exceed ten million Riels. Any association established pursuant to rules approved by the Supreme National Council, may intervene and bring a civil action against the party accused of the acts covered by this Article by registering a complaint with the competent prosecutor and by petitioning the court to intervene.

Conference material

“Judges’ and Prosecutors’ Associations”

Information on Judges' Associations:

Principle No. 9 of the *United Nations Basic Principles on the Independence of the Judiciary* states that "Judges shall be free to form and join associations of judges, or other organizations to represent their interests, to promote their professional training and to protect their judicial independence." (emphasis added)

Many countries have such associations, often called judges' associations and most of these associations are private, self-governing and professional organizations.² Such judges' associations serve to promote the interests of judges. Judges' associations should provide a forum where judges can freely discuss topics of their selection, without succumbing to external pressure.

Some countries have separate judges' associations for provincial judges and national judges, while other countries have just one judges' association that encompasses all judges in a country.³ Judges' associations are sometimes called judicial conferences, judicial councils, or they are the judicial division of bar associations

In most cases, these judges' associations are separate from the Ministry of Justice. They often play a key role in promoting the independence of the judiciary. "A judges' association can contribute significantly to improving the self esteem and professionalism of the judiciary as well as protecting its independence."⁴

Judges' associations should address issues which are of concern to judges as well as to "provide opportunities for professional development and education."⁵ In addition, judges' associations should play an important role in the development of moral and ethical characteristics for judges, the role of judges and the status and integrity of judges.

Canon 4 (commentary) of the Code of Conduct for United States Judges recognizes that judges are "in the unique position to contribute to the improvement of the law, the legal system, and the administration of justice. . . . To the extent that the judge's time permits, the judge is encouraged to do so, either independently or through a bar association, judicial conference, or other organization dedicated to the improvement of the law."⁶

¹ UN Basic Principles on the Independence of the Judiciary, Principle No. 9.

² Examples of such judges' associations are the American Judges' Association, Association of Austrian Judges, Association National des Juges (France), Commonwealth Magistrates & Judges Association (Great Britain), Federal Judges' Association (USA), International Association of Women Judges, Latvian Judges' Association, etc..

³ A good example is the United States of America, which seems to have judges' associations for all the states, as well as a Federal Judges' Association and numerous other special interest judges' associations

⁴ *Report on Court Administration in Romania* 60 (CEELI, 1993).

⁵ *Id.*

⁶ Code of Conduct for United States Judges, Canon 4. A Judge May Engage in Extra-Judicial Activities to Improve the Law, the Legal System, and the Administration of Justice.

Another function of judges' associations is to make the needs of judges known to the legislative and executive authorities. These judges' associations provide a forum to confer, discuss and adopt resolutions which are designed to: 1) influence the legislature to improve laws, 2) administrate justice and 3) define the status of judges.

As stated previously, it is important that a judges' association is separate from the Ministry of Justice, it should be a force to counterbalance the power and authority of the Ministry of Justice. Judges should separate themselves from the rest of the legal community in order to retain their independence and impartiality.

The California Judges' Association provides a good example of the kind work such an association does. The California Judges' Association drafted a Code of Ethics which prohibits judges, under threat of discipline, from belonging to groups that discriminate on the basis of race, sex, religion or national origin.⁸

When forming a judges' association, the lines of authority between the courts, Ministry of Justice, and the judges' association should be clearly stated. Judges' associations should not be subject to annual negotiations with the Ministry of Justice so as to avoid political turf battles.⁹

Here is a list of activities and purposes of a judges' association, composed from various sources. A judges' association could:

- 1) defend judges' rights and lawful interests, their honor and dignity;
- 2) initiate and consider on its own initiative issues on judicial ethics, and make decisions on the removal of fellow judges who have breached their duties/ethics.
- 3) consider important problems of work of courts, personal and organization problems and legal and social position of judges;
- 4) carry out public examination of drafts of law and other activities related to judges and their status;
- 5) represent the interests of judges in other public associations or government bodies; and
- 6) discuss problems of judicial practice in general.¹⁰

Please feel free to add to this list activities which you think are important for a judges' association to undertake.

⁷ See CEELI documents on Central and Eastern Europe.

⁸ Information taken from the internet, "New Code OK'd with Limited Ban on Anti-Gay Bias." The ban exempts the military and the Boy Scouts.

⁹ See *Analysis of Two Concept Papers on Judicial-Legal Reform in the Republic of Kyrgyzstan* (CEELI 1994).

¹⁰ Taken from various examples of judges' associations around the world.

In conclusion, it is a benefit for a country or a region to have judges' associations for judges. These judges' associations are a means of getting judges to freely and openly discuss their profession and other aspects of law. Such discussions can only lead to an improved system of justice, which will benefit all members of society.¹¹

¹¹ This material was composed from various sources.

Handwritten signature or initials in the top right corner.

Excellencies, ladies and gentlemen,

On behalf of the CCTP, I first would like to thank you all for gracing our conference with your presence.

I would like to thank in particular

- His Excellency Uk Vithun, Secretary of State at the MOJ
- Her Excellency Ly Vouch Leng, Under Secretary of State at the MOJ
- The honourable member of Parliament Mr Kem Sokha, Chairman of the Human Rights Committee at The National Assembly
- I also would like to welcome our foreign guests, Mrs , Mr Sato and Mr Katayama.

Unfortunately, the keynote speaker of the conference, Mr Dato' Param Kumaraswamy, UN special rapporteur on the independence of the judiciary is not yet arrived, but we will welcome him this afternoon.

- And finally, I would like to especially thank Mr Y-Dan, Director of personal and training at the MOJ for his help and his perfect cooperation with us for the organization of our conference.

I know that your time is valuable and we greatly appreciate your presence.

Of course, it doesn't mean that the time of the other guests is not valuable and we thank you too!

The CCTP was set up in the beginning of 1995 by The International Human Rights Law Group, an american NGO based in WDC with the financial support of the United States Agency for International Development (USAID)

I would like to seize the opportunity for thanking Mr Gordon West (Norm Olsen), USAID representative in Cambodia, for his presence at the conference and his financial support.

For more than two years and half, we have been working closely with the Ministry of Justice and with most of the Cambodian Courts. The objective of our project is simple but ambitious :

Strengthen the Rule of Law and increase the respect of the Human Rights in Cambodia in close cooperation with the government by providing training and mentoring to the Cambodian courts.

At the end of the year, the CCTP will finish its activities and, although we strongly feel that significant progress has already been made since the beginning of our project, we remain concerned by some critical issues.

On of them and probably the most worrying is the question of the independance of the judiciary.

The worldwide historical experience shows that at all times, even in the developped democratic countries, there is a great temptation for the governments in place to control the national judiciary in order to serve their own interests, rather than the interests of the people.

We cannot ignore that the recent history of Cambodia has been built on violence, blood and tears and, unfortunately, this terrible background is not yet totally over.

We guess that amongst all the Cambodian political parties, there are some people who think that the struggle for the power might be hampered by the strict respect of the Rule of Law.

In that hard struggle, the Judiciary takes a special place and is the target of all the ambitions. This body is clearly considered by some people as a tool and a weapon for the conquest of the power.

On the other hand, the salaries of the Judges and Prosecutors are clearly insufficient and threaten their independence.

The issue of the relative impunity of the Cambodian army and police, wherever they come from, is really concerning as well.

Now, for us and for all the Human Rights workers, supporting the Independence of the Judiciary is the most critical challenge, because the history of the nations tells us that there is no real democracy without an independent judiciary.

The way of the total independence is a long and hard way.

You, Judges and Prosecutors, have to face with many difficulties and you need strength and courage.

This conference is for all of us an excellent opportunity to think about the existing barriers to independence and to try to find together possible solutions and strategies in order to resolve the problem.

Of course, it is a political problem, but it would be a huge mistake to consider that the problem rests with one or other of the political parties.

We are all responsible for the future of Cambodia and the only way to work is to join together in order to build a fair and independent judiciary.

In our project, we are confident with the future because we know that, beyond the political struggles, there are, in every political party, people who sincerely work for the good of Cambodia.

In the same way, our long experience with the Cambodian Courts shows us that most of the Judges and Prosecutors clearly understand, strongly support and participate in the establishment of the Rule of Law in Cambodia

This message is especially addressed to all those people who are committed to the best future of Cambodia and, to sum up, I would like to add :

Continue to work in the right way, continue to struggle for the democracy and, all together, we shall overcome!

Thank you very much for your attention and long and peaceful life to the Kingdom of Cambodia!

APPENDIX F

BENCH BOOK PRODUCTION SCHEDULE

3-Feb-97

Function	January	February	March	April	May	June	July	August	September	October	November
<i>Committee</i>	Propose committee Invite members; consult collaborating agencies	Convene committee consult collaborating agencies	Committee meeting consult collaborating agencies	Committee meeting	Committee meeting consult collaborating agencies	Committee meeting	Committee meeting consult collaborating agencies	Committee meeting	Committee meeting consult collaborating agencies	Committee meeting	Committee launch
<i>Editor</i>	Define PD of editor	Advertise for editor		Recruit editor	Editor to commence?	Editor to commence?	Editor in-country Invite Minister and President to supply introductions	Editor in-country Finalise introductions; Arrange indexing	Editor in-country Finalise index	Editor to retire?	
<i>Contents</i>	Draft table of contents;	Circulate table of contents; Define objectives,	Finalise table of contents	Draft readers' guide		Locate indexer					
<i>Manuscript</i>	Schedule production	Commence inventory of materials	Complete inventory of materials	Commission writing	Assist writers	Collate all new submissions.	Translate manuscripts	Edit, revise, correct, complete manuscript	Proof manuscript		
<i>Production</i>	Budget Equipment inventory	Produce writers' guide; and publishing standards				Production quotes in money and time		<i>Review</i>	Manuscript settled, formatted and camera-ready	Production of manuscript * <i>Public holidays</i>	* <i>Public holidays</i>
<i>Folders</i>								Order folders			
<i>Distribution</i>											Launch, distribution
<i>Training</i>											User Training

WRITERS' GUIDE

Thank you for agreeing to prepare a manuscript for publication in the first bench book for the judges and prosecutors of the Provincial Courts of Cambodia

What is the Bench Book?

The bench book, or hand book, is a guide to assist judges and prosecutors to perform their professional duties by providing an accessible and practical reference to important laws and procedures. The bench book will consist of brief summaries of selected laws and procedures, check-lists, guidelines to accepted practice, references to cases and circulars, and commentaries. It is essential that this bench book is a practical, accessible and portable resource, and so it must be kept short. It is neither an academic text nor an encyclopedia.

Your Role as Writer

You have been appointed as an expert in Khmer law to prepare a brief manuscript of up to about 10 pages in a particular subject. This manuscript should assist both experienced and inexperienced judges and prosecutors to administer justice in practice. Your manuscript should help them to understand clearly their roles in the judicial process, to focus on the *key* legal principles and procedures, and to use legal method in performing their duties. We recognize that we are asking you to achieve much in very little space!

Your Style-Guide

You can facilitate our editing process by preparing manuscript in a uniform format.

Could you please submit your manuscript as follows:-

- i) commence with brief statement of key principles, whether law, procedure or accepted practice followed by cited authorities (statute, cases, circulars), simple examples, and any further references or reading
- ii) support text with checklists, flow-charts, step-by-step guides, and simple graphics, including references to articles from relevant laws
- iii) focus on Cambodian law, but use examples from other jurisdictions where there are gaps in Cambodian law and if you think the examples would assist in interpreting and applying Cambodian law
- iv) type in 12-point font, double-spaced, 2-inch left margin on single-sided paper *and* 3.5 inch computer disc (preferably Microsoft-Word compatible) formats
- v) limit manuscript to no more than 10 pages in length
- vi) use headings, bold and italics, consistently

Publication Process

Publication of this bench book is a substantial undertaking, and must be completed during 1997. Once your manuscript has been submitted, it will need to be edited, and then translated into Khmer, by staff of the Cambodia Court Training Project in Phnom Penh. This will require considerable time. For this reason, we urge you to keep to these guidelines and the deadline for writing your manuscript. If you encounter an unexpected problem which may delay meeting your deadline, please let us know immediately.

Need Any Help?

To make this publication possible, we have appointed an Editor to assist you in your role and to manage the production process. Should you have any queries or need any assistance please do not hesitate to call (Editor of the bench book) or Camille Cameron, Deputy-Director of CCTP on 015-92-0069 or 362665.

APPENDIX G

Curriculum and Workplan

July - Pre-Trial Detention and Release

Under Cambodian law, all accused have a right to apply for pretrial release, which should be granted by the court unless there are special circumstances, for example: high risk of flight, or high risk of interference of the accused in the investigation. The actual practice of the courts currently does not reflect this law, however, incremental change can be shown by our results shown in the Results Framework section of this report as a result of training and mentoring. The written training materials are included in the Phase II Workplan.

August - Investigation Techniques

Conducting criminal investigations in Cambodia is particularly difficult due to lack of resources, lack of cooperation between the police, courts, military and the general public. Training centers on ways to accurately identify, record and preserve evidence and question witnesses. Training will continue when we secure an expert on investigation. Written materials have been developed and used during training on this topic.

September - Elements of Crimes

The UNTAC Criminal code has a limited number of loosely defined crimes. Consequently, judges are confused as to appropriate charges for certain crimes. Training in this topic explores meanings and definitions of the existing breaches, mental and physical elements of crimes and, most importantly, provides analytical tools for matching facts with offenses included in the UNTAC law. Written materials have been developed for this topic.

October out of November - Criminal Procedure

Criminal procedure is a cumbersome and complicated area in which advice has been sought by the courts on numerous occasions. Specifically, the training concentrates on roles and responsibilities of the various justice players: the police, the investigating judge, the sitting judge and other court personnel. Written materials are currently being developed.

December - Prosecution and Defense Issues

This topic is a natural progression from the previous subject and involves training on the roles, duties and responsibilities of the prosecutor, as advocate for the state, and defender out of representative, as advocate for the accused. Planning for the increase in access to defenders, the courts have requested training in this area. Written materials are currently being developed.

January - Independence of the Judiciary and Critical thinking and Decision Making

These topics are fundamental to our training program, and are issues dealt with to

an extent in every training session. It is important enough that we will conduct a three day forum to which all the courts of Cambodia will send representatives for intensive discussion and problem solving. The forum is currently being planned, and is scheduled for early next year (March).

February - Elements of Crimes - Revision. (Civil and Criminal Liability)

A revision of elements of crimes is important to ensure understanding and to reinforce analytical skills of this subject. The differentiation between civil and criminal liability is an issue which poses problems for the provincial courts, and is particularly pertinent to the courts' daily caseload.

March - Sentencing

Sentencing theory and practice; mitigation, aggravation, sentencing options, alternatives to imprisonment, reflecting community views and expectations, maximum and minimum penalties, the principle of parsimony, are all included in this topic. Trainers will explore the justifications of punishment, sentencing guidelines and practical application of sanctions.

April out of May - Revision

Revision of training materials and objectives is an important aspect of sustainability. Cambodian trainers who have been identified throughout Phase II will be conducting training revision sessions during this period with assistance from provincial advisors.

APPENDIX H

CDP/CCTP CUSTOMER SURVEY

Terms of Reference (DRAFT# 3)

The purpose of this survey is to obtain the opinions of the provincial courts, court users, prisons, prisoners, police and NGOs, regarding the impact of the Cambodian Defenders Project and the Cambodian Court Training Project on the administration of justice in Cambodia. The Customer Survey is primarily an evaluation tool that is directed by the Indicators in the Results Frameworks of the two Law Group projects. Secondly, the Customer Survey is designed to analyze the work of CDP and assist in strategic planning for this program.

Activities

1. Hire a Customer Survey Coordinator
2. Review and finalize questionnaire
3. Interview and hire two survey teams
4. Conduct survey
5. Analyze findings and write report

Proposed Scope

1. Interview target groups in Kampot, Prey Veng, Kompong Chhnang, Kratie, Kampong Thom (former or current CCTP hub provinces), Kompng Cham, Battambang (CDP permanent office locations + Kampong Thom) and a control province -- Sisophon.
2. One research team will interview Judges, Prosecutors, prison governors and police commanders in these eight provinces.
3. A second research team will interview court clerks, court users, prisoners and NGO staff in the eight provinces.
4. Both teams will be supervised by a the customer survey coordinator.

Time Frame For Completion

1. Terms of Reference finalized with budget for completion of the Customer Survey by June 1, 1997.
2. Strategy and design of the Customer survey finalized by June 14, 1997

3. Identification, hiring and training of research team by July 1, 1997.
4. Field work completed by August 30, 1997. (2 months in field)
5. Analysis of findings completed by September 28, 1997. (4 weeks)
6. Report submitted to CCTP by October 28, 1997 (1 month)

APPENDIX I

Kratie Province Evidence Envelope

1. item found: _____
2. date found: _____
3. location found: _____
4. Name of finder: _____
5. Rank & Number: _____
6. Name of Accused: _____
7. File number: _____

4 Steps to properly preserving evidence

1. **Make it Unique** - The person who found the evidence should make it unique by placing their identification number and the date they found it on the item itself. This can be done by writing on the evidence, scratching the information on the evidence or by taping a piece of paper to the evidence with the information written on the paper.
2. **Label the Envelope** - The front of the envelope should be filled in with the important information.
3. **Seal the Envelope** - The envelope should be sealed with sticky thin tape across the flap of the envelope. Place enough tape to go around the entire envelope at least once. Draw lines across the tape leaving pen marks on both sides of the tape. The person sealing the envelope should sign their name and number across the tape as well.
4. **Keep the Envelope in a safe place** - Keep the envelope in a safe place which is protected from sun and rain.

	Date Opened	Date Sealed	Name of person	Signature
1	XXXXXXXXXXXXXXXXXX			
2				
3				
4				
5				
6				
7				
8				
9				
10				

Preserving Special Types of Evidence

1. Wet or Bloody Clothes - Do not wash the clothing. Dry it and then place it in an envelope or wrap it carefully with newspaper and seal it with tape
2. Guns - Be sure to unload all weapons before preserving as evidence
3. Many similar items found at crime scene - In the case of similar items found at the crime scene such as shell casings you should do the following: Mark each one uniquely. In addition to placing identification number and date on each item, number them. For example. Shell # 1, Shell # 2. The crime scene sketch should indicate where each item came from.
4. Drugs - If the drugs were discovered in a plastic bag they should be left in that bag and the entire bag placed in an envelope or wrapped in paper and sealed. If they are not already in a plastic bag they should be placed in one, sealed, the entire plastic bag placed in a paper envelope and sealed.
5. Poisons - If you suspect an item is poison place it in a clean, empty water bottle and seal. Place the glass that it was in in a separate envelope. Be sure to mark that both of these items may contain poison.
6. Large Items - If an item is too large to fit in an envelope fill out an envelope and then tape it to the item and keep the item in a safe place. If the item is too large to be stored (such as a car) take photos of the item and then preserve them as evidence.

Opening and Re-Sealing the envelope.

If during the course of the case the evidence needs to be opened and resealed for examination by the prosecutor or judge the following procedure should be followed:

1. Cut along the back of the envelope being careful to only cut one side.
2. Take out the evidence for examination
3. When finished examining the evidence place it back in the envelope.
4. Tape over the cut envelope to seal it again,
5. Draw lines across the envelope and then the person sealing it should sign it across the

APPENDIX J

Evidence Management System

Instruction Manual for the Storage and Handling of Evidence

*prepared for
Prey Veng and Svay Rieng Courts
CCTP Provincial Hub Office
June 1996*

DRAFT 2

Documentation

- | | |
|--|--------------|
| 1. Record of Reception of Evidence (Form 1) | MOJ Document |
| 2. Order to Keep Evidence (Form 2) | MOJ Document |
| 3. Criminal Casefile Registration Book | MOJ Book |
| 4. Book for Reception of Evidence | MOJ Book |
| 5. Temporary Release of Evidence form (Form 3) | New Form |

Materials Needed

1. Evidence Labels (see item 6 in annex)
2. Clear Tape (preferably wide tape)
3. String
4. Evidence Shelves
5. File Cabinet

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Preface

Introduction

- I. Preparing Evidence Room
- II. Labeling Shelves
- III. Assigning Evidence Room Personnel
- IV. Documentation Procedure
- V. Labeling and Storing Evidence
- VI. Retrieving Evidence from Shelves
- VII. Releasing and Re-admitting Evidence for Examination or for Trials
- VIII. Closing of the Casefile,
Returning Evidence to its Proper Owner,
and Disposing of Evidence
- IX. Conclusion
- X. Annex

Preface

The following *Evidence Management System, a Manual for Storage and Handling of Evidence* was produced by the CCTP Prey Veng/Svay Rieng Hub in conjunction with both Prey Veng and Svay Rieng Provincial Court Staff. The manual outlines basic guidelines that the Court should follow to store and maintain its evidence. It also introduces an *Evidence Management System*, a simple systematic way of better monitoring Court evidence for quick retrieval and easy inventory. The CCTP has also provided funds to repair existing evidence rooms, which suffer from deterioration, and to construct shelves for proper storage of evidence. Additional material needs (such as labels, writing instruments, and other minor maintenance items) are assumed to be covered by the Provincial Court Budget.

The Manual is also accompanied by a brief training on the implementation of the *Evidence Management System*, to be conducted by a CCTP representative.

Introduction

Perhaps the most important element for a Judge to consider in *any* trial is “the Evidence”. Without evidence the Judge cannot possibly decide a case. Without *properly maintained evidence*, deciding a case can also be very difficult. Imagine that the only existing contract between two parties disputing a land title, was left exposed in a room with a leaky ceiling, and that water from a rainstorm spilt over the contract and washed away the ink of the contract! If we are to uphold justice in the Courts, it is extremely important that evidence be properly handled and maintained.

What this implies is that the Court Staff should be particularly attentive to its evidence, and ensure that it is properly registered, that it is properly kept, and that it is protected from environmental erosion. The Court Staff should respect the importance of evidence in upholding justice, and guarantee that it will be carefully custodied and available to the Judges and Prosecutor when they require to see it.

The reduced material and space constraints of the Courts has limited the ability of the Courts to properly manage its evidence. However, with a few modifications to existing norms and regulations regarding evidence management, and funds donated by the CCTP to improve storage facilities, the management of evidence can be greatly enhanced with little added costs to the Courts.

This manual will explain how the Court can better utilize its existing resources and introduce an improved **Evidence Management System** at little extra cost to the Court budget. The final product will inevitably be that the decisions of the Court will be based on better preserved and better managed evidence, and will hence mean that in its case decisions, the Court will better uphold justice.

I. Preparing the Evidence Room

The first and most important issue regarding storage and handling of evidence is to choose a proper storage space. Whenever possible, the Court should consider the dangers of environmental exposure of evidence. Leaving a metal gun for 6 months in an area exposed to high levels of moisture will inevitably rust the weapon, perhaps questioning its operable conditions and its usefulness to decide a case. Likewise, exposure to insects or humidity can harm delicate items such as paper or clothing and may alter the item by the time it is examined by the judges.

Some basic procedures to avoid these environmental hazards to evidence are:

1. Ensure that the room chosen is not exposed to natural elements such as wind, rain, humidity, soil, etc.. Cover open windows, seal holes with cement or other weatherproof sealants, clean the room frequently and if it is insect- or rodent-infested, introduce pesticides. It may be necessary to assign a guard or a maid to clean the Evidence Room periodically to ensure proper cleanliness.
2. If within the budget of the Court, have the Evidence Room painted periodically. Painting forces deep cleansing, and will help eliminate insects.
3. Scheduled periodic inspections may be necessary to establish a pattern of upkeep and ensure that the room is being properly cleaned. The person assigned to keep the evidence should ensure that it cleaned on schedule, and in turn, a designated Judge or Prosecutor should periodically inspect the room to ascertain its cleanliness.

Space Considerations. Finally, the Evidence Room should be large enough to accommodate the standard amount of evidence kept by the Court. While space is often a constraint at the Courts, the Court should value their evidence enough to prioritize the space to store evidence. This value will come from the increased awareness of the importance of evidence assigned to it by the Court staff.

Vehicles. Oversize (very large) evidence (such as cars, tractors, or trucks) should be kept *as protected as possible* from environmental erosion and outside interference. Some Courts have constructed small garages to hold such evidence. Another possible solution to this problem is to have a small roof-covered area designated on Court premises to protect the evidence from rainfall.

II. Installing and Labeling Shelves

The next step in the establishment of an Evidence Management System is to determine the shelf space necessary to store the evidence. It is never easy to predict what size evidence will be admitted by the Court, and therefore a precise estimate is impossible. However, the Court receives some common size evidence, such as guns or clothing, and usually has many of these items in their Evidence Room.

Shelf Size. The shelves should be able to accommodate at least the standard evidence kept by the Court and should also have some flexible spaces to accommodate additional irregular size evidence. Shelves measuring 50 X 50 cm or 100 X 100 cm are examples of some common size requirements. The number of specifically sized shelves needed will depend on the particular needs of each Court.

Labeling Shelves. Once the shelves are installed, a simple and efficient labeling system is necessary. The labeling system should be simple enough so that *any Court official* that needs to find an item can easily locate it using the system. The system suggested in this manual is to label columns using Letters A, B, C, D, E, ... and rows using Numbers 1, 2, 3, 4, 5, (see Figure 1 in annex for a visual example).

Gun Storage. Storing Guns has proven to be a difficult and cumbersome task, firstly because there are often many guns, and second, because the lack of an orderly system to store guns makes finding them when needed, like looking for a needle in the sea. If the Court normally holds a lot of guns as evidence (more than 20) it should consider building a special shelf unit, uniquely for the storage of guns. This manual suggests a *Hanging Gun Rack* for efficient gun storage (see Figure 2. *Hanging Gun Rack*, in annex for diagram), however, other designs may be considered if they are easily managed and functional. Two important factors influencing the design chosen in this manual were:

1. Limited space and
2. Many guns (50 to 100 guns)

III. Assigning Evidence Room Personnel

A proper Evidence Management System requires continuous monitoring and is best accomplished if a *specific individual is assigned to the task*. While the system should be simple enough for anyone to use, it should be administered under the responsibility of a single individual. This will ensure that correct maintenance of records, proper storage, and periodic cleaning is respected.

This manual recommends that the Prosecutor assign a responsible Clerk to the task of keeping and managing the Evidence Room. This person should be responsible and meticulous about following procedures and should respect and fully implement the Evidence Management System.

IV. Documentation Procedure

1. When evidence is brought to the Court by the Judicial Police, the Prosecutor's Clerk fills out the *Record of Reception of Evidence* form (Form 1: see item 1 in annex). This form clearly details the:

- ordinal number of the *Record of Reception of Evidence* form
- date and time received
- the name of the Judicial Police Officer presenting the evidence
- the offender's name
- the victim's name (and the representative if one exists)
- expert's name
- casefile number
- date of casefile

Form 1 is signed by all of the parties (plaintiff, offender, expert, deliverer, recipient, and the Prosecutor), and is kept in duplicate copy, one copy with the casefile and the second copy with the Clerk in charge of keeping the evidence. The Clerk's copy of Form 1 should be filed by case number in the Evidence Room file cabinet.

2. Once step 1 is complete, the Prosecutor's Clerk should fill out the *Order to Keep Evidence* form (Form 2: see item 2 in annex) which details:

- the ordinal registration number
- name of the accused
- charge
- date of crime committed
- name of civil plaintiff
- source of evidence (police, military, prosecutor, investigating judge)
- date
- signature and seal of the prosecutor

Form 2 is kept in duplicate copy, one copy with the casefile and the second copy with the Clerk in charge of keeping the evidence. The Clerk's copy of Form 2 should also be filed by case number in the Evidence Room file cabinet (together with Form 1).

3. The Clerk will then register the case information in the *Criminal Casefile Registration Book* (see item 3 in annex), which details:

- Number and Date of Casefile Referral
- Number and Date of Original Casefile
- Background of the Accused
- Offense, location and date of Crime Committed
- Evidence and Source of Evidence
- Arrest Date, Detention Date, and Release Date
- Background of civil plaintiff
- Subject of the Complaint
- From
- Number and date of decision on the case
- Other or Remarks pertaining to the case

4. Finally, the clerk will fill out the *Book for Reception of Evidence* (see item 4 in annex), which gives specific details about the evidence including:

- Ordinal Number and Date
- Number and Date of Casefile
- Name of the Accused
- Offense, Location, and Date of Committed Crime
- Evidence Description and Condition of Evidence
- Name of Recipient
- Decision
- Other or Remarks about this Evidence

Of all the forms, this is the most important item for the **Evidence Management System**, because the Clerk in charge of keeping evidence will use this book to log the *assigned location of the evidence on the evidence shelves*. In the *Book for Reception of Evidence*, under the heading “Evidence and Condition of Evidence”, the Clerk will note each item presented as evidence and will choose an available shelf to store each item according to size and space availability in the Evidence Room. Once the shelf or shelves are assigned to the items, the shelf location of each item should be noted next to the item citation in the “Evidence and Condition of Evidence” column. All items pertaining to one case may be placed on the same shelf, or may be separated if they do not all fit on only one shelf (see Figure 1 in annex for visual example).

V. Labeling and Storing the Evidence

1. Once the Clerk has identified an available shelf or location for each item of evidence presented, and noted the newly assigned shelf-location of the item in the registration book (item 4), each piece of evidence must be clearly labeled to include the following information:

- Case Number
- Shelf ID Number
- Item Description (name of evidence, for example gun, shirt, bullets)

The Clerk should obtain one label for each item and fill out the appropriate information about the item on the label.

2. The Clerk should proceed to attach the labels to the evidence in such a way as to not modify or destroy the evidence (with string or pasted onto an envelope, for example). Each label should be protected with clear tape against environmental erosion.

At this particular Court, the two following methods have been chosen to label the evidence:

- i) The labels will be pierced with a single hole (with a hole-punch) and will be attached to the item with string. or:
- ii) The label will be taped to the evidence with clear tape.

3. The Clerk **must ensure** that the shelf assignment of each item of evidence has been registered in the *Book for Reception of Evidence* next to the item description and that this number is the same number cited on the label attached to the item (see item 4 in annex for an example). This will ensure that the evidence can later be retrieved without complications.

4. The items must then be placed on their assigned shelf or shelves.

VI. Retrieving Evidence from Shelves

To retrieve an item for a Court Official wishing to examine it, the Clerk need only to find the **case number** of the evidence in the *Book for Reception of Evidence*; in the "Evidence and Condition of Evidence" column he will find the item cited and the shelf location of the item next to the citation. He then proceeds to the appropriate shelf and by locating the proper label, identifies the requested item.

VII. Releasing and Re-admitting Evidence for Examination or for Trials

1. When an authorized Court Official wishes to take evidence from the Evidence Room for examination, the Evidence Room Clerk should immediately fill out the *Temporary Release of Evidence* form (item 5 in annex) before releasing the evidence to the Court Official. Before the item is removed from the Evidence Room, the Evidence Room Clerk must ensure that the required signatures have been obtained (the signature of the Judge who is requesting the evidence and the Prosecutor who is in charge of keeping the evidence). This form should be kept with the Evidence Room Clerk's casefile copies (Forms 1 and 2) in the Evidence Room file cabinet, and should be available to account for temporarily released evidence.

2. When the item is returned to the Evidence Room, the Evidence Room Clerk should proceed immediately to the *Temporary Release of Evidence* form filed with the casefile copies (see above point 1) to register the return of the item to the Evidence Room. The Clerk of the Court Official who signed for the release should again sign for the return of the evidence, witnessed signed, and dated by the Evidence Room Clerk.

3. For each trial in which evidence is to be presented, Trial Judge's Clerk should fill out a *Temporary Release of Evidence* form indicating all of the evidence to be displayed during the trial, so that the corresponding evidence can be prepared for release. The procedure for release of evidence for trial is the same as for examination and can be found in points 1 and 2 immediately above. As soon as the trial is over (the same day), the evidence should be returned by the Trial Judge's Clerk to the Evidence Room, and the items checked back into storage.

IIIX. Closing of the Casefile,

Returning Evidence to its Proper Owner,

and Disposing of Evidence

1. When the casefile is closed, the appropriate annotation should be made in the *Criminal Casefile Registration Book* and in the *Book for Reception of Evidence*. A simple diagonal line through the case information to indicate that the case is closed may suffice.

2. In the "other" column of the *Book for Reception of Evidence*, the Evidence Clerk should annotate what is done with the evidence after the case is closed.

Example

“Other” Column

Shoes	(returned to victim)
Hat	(returned to victim)
Moto	(returned to accused)
Gun	(given to Police)
Ammunition	(given to Police)

IX. Conclusion

The proper management and handling of evidence begins with a proper value assigned to evidence by the Court Staff. The importance of evidence to every trial cannot be over emphasized and should be instilled in every Court personnel. Upholding Justice begins with respecting rule of law and the components of the judicial process. Evidence is a fundamental component of this system and only through the proper management of evidence will Judges and Prosecutors uphold justice.

This manual attempts to create an effective and efficient **Evidence Management System** based on existing norms and regulations regarding evidence. A few minor modifications to these procedures are introduced to facilitate and improve the handling of evidence by the Courts. By respecting the regulations and developing a commitment to the value and importance of evidence in the judicial process, the Courts will invariably improve their use of evidence and the decisions of judges will be based on clearer and more precise information.

Annex

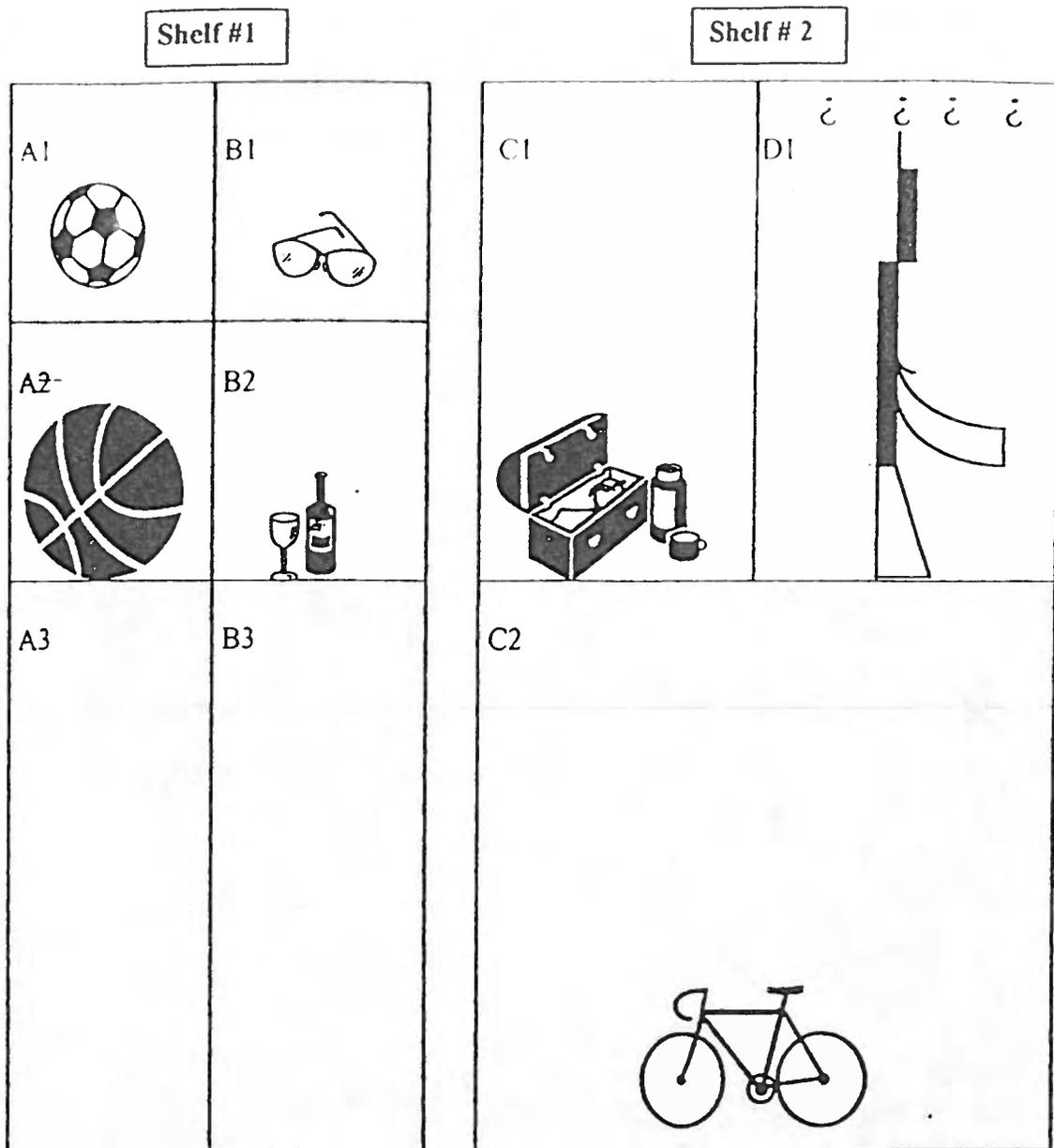
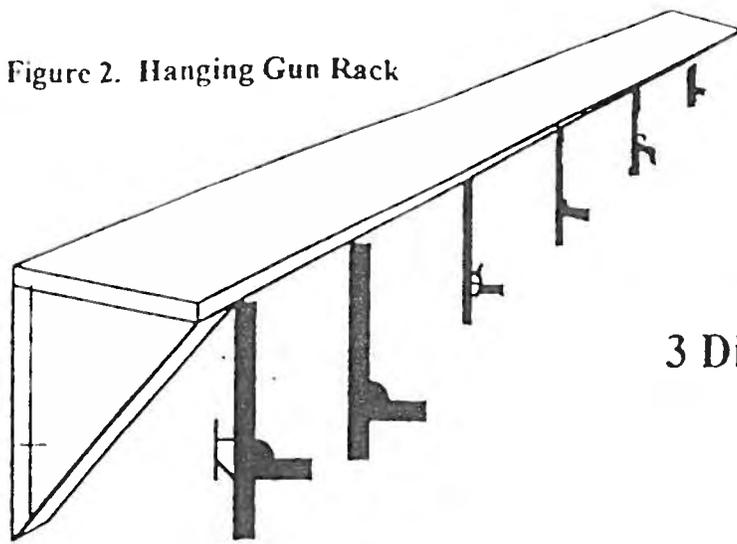


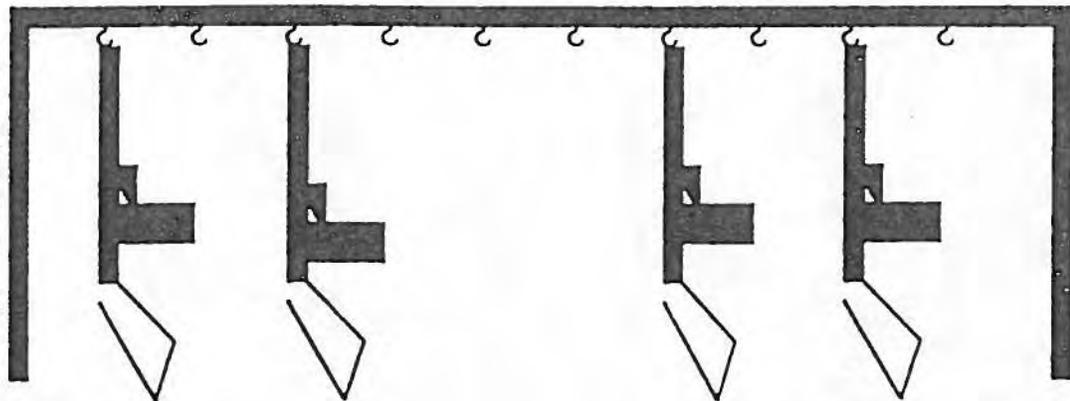
Figure 1. Sample Shelves with Evidence

Figure 1 above shows a sample evidence shelf containing various evidence items distributed throughout the shelf units according to space availability. Note that each shelf unit is labeled with a letter corresponding to the column location and a number corresponding to the row location. Evidence shelves should be clearly labeled facilitating quick identification of item location. In the example, the Bicycle is located on Shelf C2, the Basketball is on shelf A2, and the Machine Gun is hung on D1. Also note that more than one item may be placed in a single cubical; for example, B2 contains both a bottle and a glass. These two items, glass and bottle, may belong to either a single case or perhaps to two different cases. If each item is labeled correctly, the case number should be clearly inscribed on the label to identify the case to which each item belongs. It is important that each item be properly labeled with its assigned shelf location (the item shelf location is also registered in the *Book for Reception of Evidence*), making the item easy to find if requested by a Court official or if it is needed for trial. Various items pertaining to a single case may be placed in single bags or envelopes before shelving in order to keep all case items together.

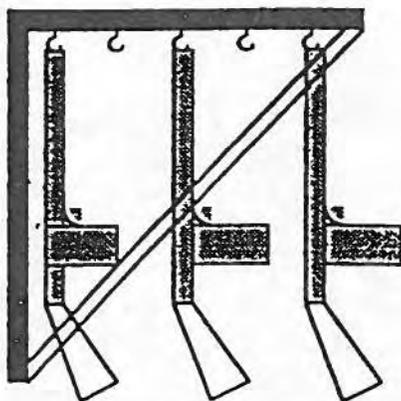
Figure 2. Hanging Gun Rack



3 Dimentional View



Front View



Lateral View

Item 1

**Kingdom of Cambodia
Nation - Religion - King**

Prey Veng Provincial
Prosecutor's Office

Record of Reception of Evidence

Ordinal No. _____

In the year of _____, on _____, at _____ o'clock

We, _____ Prosecutor Clerk of Prey Veng Provincial Court as the
recipient, and Mr./Mrs. _____ of the Judicial Police deliver together
with Mr. _____ as the offender against Mr./Mrs.

_____ as the civil plaintiff or victim or the victim's representative,
together with Mr. _____, as the expert of _____,

having examined the evidence involving the criminal casefile No. _____, dated
_____, register as follows:

1. _____
2. _____
3. _____
4. _____

This record is created and is kept for identification and to ensure the legality of
criminal casefile No. _____, dated _____.

The inscription of this record was finished at _____ o'clock on the above
mentioned date.

Signatures

Plaintiff Offender Expert Deliverer Recipient

•
•

Witnessed

Date: _____

Prosecutor

Item 2

**Kingdom of Cambodia
Nation - Religion - King**

Prey Veng Provincial
Prosecutor's Office

Order to Keep Evidence

Ordinal No. _____

We _____, Municipal Provincial Prosecutor of
_____,

request that the Municipal Provincial Prosecutor's Clerk of _____ to
receive and keep the evidence cited in to Register Order Number _____,
dated _____, _____.

Accused's name _____, sex _____, age _____,

charge _____,

act committed at _____,

Name of civil plaintiff _____,

Source of Evidence:

_____ Police

_____ Military

_____ Prosecutor

_____ Investigating Judge

Registered at _____, on _____.

Prosecutor

Item 5

Temporary Release of Evidence

Case Number _____

Date Removed _____

Expected Return
Date _____

	Item	Description	Shelf
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

Reason for Removal: _____

Judge Requesting Removal: _____

Signatures

Judge

Prosecutor

Date: _____

Date: _____

	Check OUT	Check IN
Judge's Clerk		
Evidence Room Clerk		
Date		

APPENDIX K

CODE OF CONDUCT FOR COURT EMPLOYEES
KINGDOM OF CAMBODIA

Proper conduct by court employees to the citizenry of Cambodia is essential to the administration of justice. It inspires public confidence and trust in the courts. We therefore commit ourselves:

1. to serve the citizens having business with the court courteously, efficiently and with respect
2. to provide accurate information and advice in a competent, co-operative and timely manner
3. to refuse any gifts or offers of gifts
4. to safeguard confidential information
5. to refuse any outside employment that conflicts with the courts duties
6. to avoid the misuse of court time, equipment, supplies, or facilities for personal business
7. to refrain from any act of discrimination or bias based on race, gender, age, religion, national origin, language, appearance or sexual orientation
8. to acknowledge and act promptly on complaints and suggestions.

A code of conduct cannot possibly anticipate every moral dilemma that may arise in the execution of one's day-to-day professional responsibilities. Personal discretion in the interpretation of this code of conduct is both necessary and desirable.

APPENDIX L



លេខាធិការអង្គការសហប្រជាជាតិ

អង្គការសហប្រជាជាតិ មជ្ឈមណ្ឌលសិទ្ធិមនុស្ស អង្គការសហប្រជាជាតិ ខ្មែរកម្ពុជា



ADVISMENT OF RIGHTS

Under the Constitution and existing criminal law you have the following rights

- 1 You are presumed innocent until final judgment by the court (Constitution Article 38. 1992 Criminal Law Article 25)
- 2 The law guarantees that there can be no physical abuse against you. Coercion, physical ill treatment or any treatment that imposes additional punishment is prohibited. Persons who commit, participate or conspire in such acts shall be punished (Constitution Article 38)
- 3 Confessions obtained arising from physical or mental force shall not be admissible as evidence of guilt (Constitution Article 38. 1992 Criminal Law Article 243)
- 4 You have the right to assistance of an attorney or defender. You may not be detained for more than 48 hours without access to an attorney or defender (1992 Criminal Law Article 10.)
- 5 You must be brought before a judge within 48 hours ^{of being detained} (1992 Criminal Law Article 13)

Before the judge.

A. You have the right to have the charge against you read and explained (1993 Criminal Procedure Law, Article 75)

B. You have the right not to answer questions in the absence of an attorney or defender present (1993 Criminal Procedure Law, Article 75)

6. You have the right to apply for pretrial release before the judge. (1993 Criminal Procedure Law, Article 79. 1992 Criminal Law Article 14.2)

APPENDIX M

JUDICIAL EDUCATION STRATEGIES

Attainable and Sustainable Results Framework

This framework of results is defined in order of priority, and is physically measurable at two levels:-

- a) **Process results** - these are the *means* for the delivery of continuing professional development which will increase the competence of Khmer judges and prosecutors on an ongoing basis; and,
- b) **Outcome results** - these are the tangible *products* which Khmer judges and prosecutors can use on an ongoing basis.

PRIORITIES

as agreed on 6 December 1996

1. Form a Judicial Education Committee of judges and prosecutors by January 1997 which will meet monthly
2. Produce a Train-the-Trainer Handbook for faculty development by January 1997
3. Commence judicial faculty development, and conduct 2 series of *Train-the-Judge-Trainer* workshops for 24 judges and prosecutors to be trained by December 1997
4. Produce and publish a Judicial Bench Book on law, procedure and practice - manage an actively collaborative process of commissioning, writing and editing materials from CCTP, CDP, UNCHR, Faculte de Droit and USF projects by December 1997
5. Conduct first National Judicial Conference on judicial independence in April 1997
6. Introduce 2-series of 4 regional judicial workshops (8 workshops) for the exchange of professional experience between peers during 1997
7. Consult and integrate all judges and prosecutors through interviews, focus groups and survey before March 1997
8. Induct Education Committee to manage process of planning curriculum for the delivery of ongoing training in civil, family, land, contract and commencial law and practice.

CHARTER

JUDICIAL EDUCATION COMMITTEE

[Revised Draft # 8-Dec-96]

Notes: This document provides a means to define the role of the Education Committee once established. It may need the following refinements: it may be necessary to define and include a role for the Minister for Justice. It needs to be "Khmerized". It could be linked to the CCTP's Results Framework; and it could also include a succinct statement of the needs for judicial education, in priority order.

MISSION

The purpose of this program of continuing education, training and development is to improve the quality of justice in the courts of Cambodia by assisting judges and prosecutors to develop professional competence and to perform their duties to the highest standards.

OBJECTIVES

This mission comprises the following principal objectives:-

1. promote knowledge and understanding of legal process
2. increase the practical skills of judging and prosecuting in accordance with law
3. develop awareness of and encourage adherence to professional ethics, conduct and attitudes
4. support the application of principles of equal access to a fair and independent trial, and resolution of disputes according to the rule law
5. improve the efficiency and effectiveness of judicial administration

ORGANIZING PRINCIPLES

The integrity and effectiveness of any strategy of judicial education, training and development rests on the application of the following:-

- a) *Cambodian* - The program must be designed for the Cambodian courts in order to meet the needs of the Cambodian people and judiciary.
- b) *Judiciary-led* - The program must be developed by, for and with the judges and prosecutors of the Cambodian courts, and actively endorsed by leaders of the Cambodian judiciary. This program provides visible leadership in demonstrating the concern of the judiciary for the highest quality of justice.
- c) *Independent* - The program will instill and reinforce the imperative for a strong, independent and permanent judiciary operating free of influence from all quarters.

Self-sustaining - The program will encourage the participation of all judges and prosecutors, so that they can play an active and increasing role in its ongoing development.

SERVICE STRATEGIES

This program of continuing judicial education will include the following service strategies for judges and prosecutors of the courts of Cambodia:

Conferences, seminars and workshops - fora for the transfer of information, the exchange of professional experience, peer-group problem-solving and the development of a collegial judicial identity as judges and prosecutors, organized on a national, regional and local basis, and supported by written materials as required.

Publications - desk-top publishing in free-standing form of bench and bar books, guides or manuals to provide practical, up-to-date and accessible resource materials for judges and prosecutors in court, as required.

Mentoring and Advising - providing technical and professional assistance to judges and prosecutors on a personal and confidential basis, as required.

Collegial support - promotion and facilitation of informal peer-group support networks for judges and prosecutors.

Technical resourcing - providing access to primary sources of law (through the supply of statutes and important case decisions), and legal digests and commentary.

Technology support - providing electronic publishing, and computer training, subject to the availability of appropriate hard/software for the judiciary.

The *content* of these services will include principles of justice, substantive law and legal procedure, courtcraft and practical forensic skills (such as judicial investigation and decision-making skills), inter-disciplinary technical information, and judicial administration (that is, principles and techniques of trial and case-load management).

These *level* of these services which will be provided to judges and prosecutors include induction and orientation training, updating on a continuing basis, peer-group exchange of experience, specialist development and refresher training.

ROLES AND RESPONSIBILITIES

Judicial Education Committee, will consist of judges and prosecutors appointed by the President of the Supreme Court of Cambodia (?), and will be responsible to organize this program of (continuing ?) judicial education for judges and prosecutors according to this Charter.

Faculty of judges and prosecutors will be trained to play an active role in delivering this program of judicial education; both as presenters and writers, together with selected other experts, under the direction of the Judicial Education Committee.

Cambodian Court Training Project

JUDICIAL EDUCATION

CRITICAL PATH

It is useful to schedule the critical dates for completion of tasks which have been identified during the planning workshop on judicial education held on 30 November in order to accomplish the strategic objectives set for Phases 2 and 3 of this project. These tasks include the following:-

<i>No</i>	<i>Month</i>	<i>Critical Tasks</i>
13	DECEMBER	<p><i>PHASE 2 - ATTAINMENT (cont'd):</i></p> <ul style="list-style-type: none"> * Meeting with Minister of Justice to propose formation of Education Committee, faculty development training, planning first national judges' conference, regional seminars and bench book. * Review needs assessment: interviews, focus groups, and survey of all judges and prosecutors at MoJ conference * Refine administrative roles for members of Project team to include: conference administrator, bench book editor, faculty development co-ordinator, and training curriculum designer * Co-present MoJ conference * Continue writing training curriculum for Phase 2 * Review Budget
12	JANUARY	<ul style="list-style-type: none"> * Establish Judicial Education Committee, and finalise membership of judges and prosecutors (J&P's) * Convene first meeting of education committee - agenda to include:- <ul style="list-style-type: none"> * Propose/refine charter for education committee * Plan first national judges' conference, table of contents for bench book, program of activities including Regional Seminars * Co-ordinate faculty development and conduct Train-the-Trainer Workshop 1 for Group A, and brief speakers for nat conference * Complete review of needs in succinct statement of priorities
11	FEBRUARY	<ul style="list-style-type: none"> * Convene meeting of Education Committee - agenda to include:- <ul style="list-style-type: none"> * Finalise planning of national judicial conference: program content and formats, speakers, materials, venue, speaker briefing * Detailed planning of bench book: table of contents, writers guide, publishing style, and production schedule * Detailed planning of regional seminars: program content and formats, speakers, materials, venue etc
10	MARCH	<ul style="list-style-type: none"> * Convene meeting of Education Committee * Commence detailed planning of training curriculum for Phase 3 * Commence detailed writing and editing of bench book * Complete writing training curriculum for Phase 2
9	APRIL	<ul style="list-style-type: none"> * Convene meeting of Education Committee * Conduct first national judges' conference

		<ul style="list-style-type: none"> * Faculty debrief for Group A, and brief for first-series of regional seminars * Commence writing of training curriculum for Phase 3
5	MAY	<ul style="list-style-type: none"> * Convene meeting of Education Committee * Conduct first regional seminars (x4) * Faculty debrief for Group A * Plan proposed role in MoJ '97 conference
4	JUNE	<ul style="list-style-type: none"> * Convene meeting of Education Committee * Monitor progress of writing training curriculum for Phase 3 * Review progress attained on completion of Phase 2 * Review Budget; and review options for additional/ alternate funding * Check and refine sustainability objectives for Phase 3 * Liaise re progress with MoJ
6	JULY	<p><u>PHASE 3 - SUSTAINABILITY (commences)-</u></p> <ul style="list-style-type: none"> * Explicitly transfer operational responsibilities to J&P's for Education Committee, educational activities, training curriculum, bench book and budget management * Facilitate/support meeting of Education Committee * Commence delivery of training curriculum for Phase 3 * Conduct Train-the-Trainer Workshop 2: Faculty development - actively support Group A to induct Group B * Commence delivery of training curriculum for Phase 3 using J&P's as faculty * Finalise planning for second Regional seminars
5	AUGUST	<ul style="list-style-type: none"> * Support meeting of Education Committee * Review progress of Bench book * Support faculty development of Group B, and briefing for second-series of regional seminars * Follow-up on alternate/additional funding
4	SEPTEMBER	<ul style="list-style-type: none"> * Support meeting of Education Committee * Conduct second Regional seminars (x4) * Faculty development feedback and support for Groups A & B
3	OCTOBER	<ul style="list-style-type: none"> * Support meeting of Education Committee * Finalise writing/editing of Bench book * Special training on budget management and cost control
2	NOVEMBER	<ul style="list-style-type: none"> * Support meeting of Education Committee * Facilitate final faculty briefing for MoJ conf, etc * Finalise production of Bench book
1	DECEMBER	<ul style="list-style-type: none"> * Support meeting of Education Committee * Participate in MoJ conference as planned * Evaluate progress of project * Liaise re progress with MoJ * Co-ordinate final hand-over to J&P's * Liaise for continuity of project with other providers (AusAID?)
0		<p><u>PHASE 3 terminates -</u></p> <ul style="list-style-type: none"> * Project completion, or, commencement of Phase 4 ?

SURVEY

JUDICIAL EDUCATION

[Draft - 8-Dec-96]

Note 1 - The purpose of this survey is two-fold: first, to ascertain information from judges and prosecutors relevant for professional development purposes, with which to test and refine existing project objectives and priorities; second, and potentially more important for sustainability, to be visibly seen to actively consult and listen to the clients of the project.

Note 2 - This draft needs to be refined in four (4) stages, to:

- a focus on your key *issues*.
- b edit into simple and precise question format
- c "khmerized" in both content and format with help from our translators, and terms of art (do we use "training" for example - Sukhan J observes that judges actually find this term insulting)
- d pilot-testing on several judges and prosecutors, *before* general circulation

Note 3 - Consideration is required to be given to *how* this process is to be administered: (a) in a group at a conference, (b) personally in a mentoring session, or (c) remotely (which is *not* recommended).

The International Human Rights Law Group is assisting the (Ministry of Justice / Courts of Cambodia) to plan a program of continuing education which will help you to work as a judge or prosecutor.

Please answer the following questions, and return this survey to before (?) Your answers will be confidential:-

Part A - Your Background

1. Where is your court? (PP, provincial, rural)
2. How many judges and prosecutors work in your court
3. Describe your role: (Select: Judge / Prosecutor
4. How many years have you been a judge/ prosecutor?

(Fields: 0-11mths, 1-3 years, 4-10 years, more)

5. What are your qualifications (Tick box: Post grad, graduate, matric, partial schooling)

6. What is your discipline (lawyer, teacher, administrator, other - specify)
7. What languages can you read (Khmer, French, English, other - specify)
8. What training in law did you receive before becoming a judge/prosecutor
9. What training in law have you received since becoming a judge/prosecutor
10. Describe the one (1) most useful judicial training you have ever received

Part B - Your Tasks and Role

11. Describe how much of your time (on average / in the past month) is spent in the following activities (add to 100%)

	Hours	% of Total
total hours worked each week		
working on judicial duties "after hours" (or weekend)?		
traveling to/from work duties		
sitting in court trying cases as sitting judge		
researching the law "in chambers" (?) for a specific case		
investigating a case		
visiting prisons		
conducting investigations		
undertaking administrative tasks (what?)		
consulting with judicial/professional colleagues		
consulting with officials of the Ministry of Justice		
consulting with the Governor		
consulting with police officials of the Ministry of Interior		
supervising judicial police		
other (what?)		

Part C - Your Needs

12. What professional resources/equipment *do* you have access to in your role

- statutes and government regulations (specify)
- texts books on the law, procedure and practice
- clerical support/assistance
- professional mentoring assistance

13. What professional resources/equipment do you *not* have access to in your role which you need:- ...

14. How confident do you feel that you are trained to perform your role: (Scale 100 - 0%)

15. If not, describe what assistance you need to help you: ...

16. Describe what do you like about your judicial role: ...

17. Describe what do you dislike about your judicial role: ...

Part D - Your Feedback

18. In the past 12 months, have you participated in any of the following professional development:

(conferences)*

attended the annual judicial conference conducted by the MoJ
attended training in your court provided by the IHRLG
undertaken special training provided by the MoJ
undertaken any other judicial training - specify what

(mentoring)*

received mentoring in your court provided by the IHRLG
received mentoring in your court provided by the UNCHR

(advice)*

requested advice on a case from the MoJ
networking with judicial colleagues
requested advice on a case from any other expert - specify who

(research)*

read Cambodian statute laws
read legal and judicial text book
read Cambodian case judgments

19. Select in order (1-2-3), which was the most useful for you

20. Describe the general level of training provided by IHRLAW:- (4 point Scale)

much too complex - sometimes too difficult - sometimes too basic - much too basic

21. Select in order (1-2-3), three (3) forms of new assistance which would be most useful:

regional seminars of judges and prosecutors from other courts to exchange experience
bench book (define: manual of law and procedures)

more mentoring with IHRIG / UNCHR
mentoring with experienced Cambodian judge/prosecutor
networking with judicial colleagues
improved access to all Cambodian statutes
improved access to Cambodian court judgments
improved access to law books and texts
better trained court support staff
other - specify what

22. Rank in order (1-6). instructors for judicial training in your preferred order

experienced Cambodian judge/prosecutor
IHRIG / UNCHR and other foreign experts
MoJ
Faculte de Droit
Cambodian Lawyers
Mol

23. Rank in order (1-9). what is your most important reason for wanting judicial training

acquire theoretical knowledge of law and procedure
acquire practical skills as judge/prosecutor
improve understanding of professional role as judge/prosecutor
solve day to day problems in actual cases
keep up to date with recent developments and new laws
exchange professional experience with colleagues
personal interest and intellectual challenge
sense of civic responsibility

24. Rank in order (1-7), the most important content of judicial training

law
court procedure
case management
professional skills (for example, investigation techniques or decision-making)
personal skills (for example, foreign language training or computer skills)
ethical conduct
social issues (for example, democratic principles or HIV)

25. List any specific topics which you need for training: ...

26. Rank in order (1-4), the most useful format of training

national conference of all judiciary (c 130)
small groups (c 10-20) judges and prosecutors
individual mentoring (1:1)

self-directed reading (solo)

27. Do you prefer to participate in training with:

judges only

prosecutors only

judges and prosecutors

judges, prosecutors and court clerks

judges, prosecutors, court clerks and judicial police

28. Would you like to present at Court seminars

29. Would you like to assist in the production of educational materials for the court

30. Do you wish to add any other comments about training for judges and prosecutors: ...

31. (OPTIONAL) -

What is your name: ...

What is your address: ...

What is your telephone number: ...

What is your fax number (if any): ...

Thank you very much for your assistance!

Your comments will contribute with those of other judges, prosecutors to identifying educational priorities for the Provincial Courts of Cambodia.

* * *

JUDICIAL BENCH BOOK*

On 6 December 1996, it was agreed by the project team that the publication of a bench book for judges and prosecutors of the Cambodian Courts was to be a priority of the judicial training strategy.

The rationale for this priority is the dearth of any textual materials within the courts to assist judges and prosecutors to undertake their roles effectively on a day-to-day basis. Significant portions - if not all - of this resource could potentially be made available to others in the court and indeed to all law professionals. Of particular significance, the bench book will have enduring sustainability. This project has therefore significant importance.

*A bench book is a manual which provides practical assistance to judges in court. Because this manual should assist both judges and prosecutors, it might be called a bench and bar book, or alternatively a judicial manual. Whatever its name, its specific purpose and actual content should be determined by the education committee and/or court. Content is likely to consist of some combination of selected extracts of essential law, checklists of common procedures, handy hints on predictable problems and some model forms.

Production and publication of a bench book for the courts by December 1997 is however an ambitious undertaking. It will require substantial commitment by the project team and rigorous management support.

Management of this publication process should focus on the following key elements:-

1. *Authority* - This project needs endorsement from the pinnacle of the justice system: preferably the President of the Supreme Court but, potentially, the Minister for Justice - or, both, who should provide a written *Imprimatur* for the fly-leaf.
2. *Management* - Day-to-day responsibility to manage the process should be vested as much as possible in/through the judicial education committee (for example, to sign off on the table of contents, and to nominate/approve writers and manuscript).
3. *Appointment of Editor* - It is imperative that one person from CCTP staff should be appointed with overall operational responsibility to manage this production process, under the direction of the education committee.
4. *Objectives and Readers' Guide* - A clear explicit statement of the purpose and scope of the manual should be presented at the front, together with what amounts to a readers' guide, that is, directions on how the manual should be used and not used (for example, in the West we would probably extol judges not to substitute a bench book for research of primary sources of law - this might not however be appropriate in Cambodia where access to primary sources is often be difficult or impossible).

5. *Table of Contents* - It is essential that the users of the manual, that is judges and prosecutors, nominate and/or approve the content of material. This should happen through the education committee. It would be useful to co-ordinate conference and publication strategies, so that the material output of CCTP training seminars could be included in the manual, with appropriate editing. Similarly, topics selected for inclusion in the bench book should be integrated into the training curriculum and supported through seminar instruction.
6. *Writers' Style-Guide* - For commissioned new work, it is useful to provide writers with a description of their role and the preferred format of their contributions. This will reduce briefing time, promote uniformity of approach, and (hopefully) reduce editing of manuscript.
7. *Sources of Material* - Because commissioning new work is extremely labor-intensive, it is recommended that consideration be given to collating existing material which may be already available in other projects. Preliminary inquiries indicate a willingness to co-operate in the production of this resource on the part of UNCHR, USF and La Faculte de Droit.
8. *Collaborative Production* - While it is compelling to conceive this production as a collaborative joint-venture, this approach is also more challenging, and will need to be *managed by CCTP*. Special procedures will need to be introduced to check what material is available, assess its quality and compatibility with this manual, and to co-ordinate production of potentially diverse and decentralised writers in a way which minimizes competition, duplication and gaps. I suggest a round-table of potential contributors be convened (probably including the MoJ?), to meet on a regular basis, as soon as possible.
9. *Publishing Standards* - The editor of the bench book should define how this publication will be produced and formatted - I suggest reference should be made to any reputable professional journal as a basis.
10. *Production Schedule* - In order to attain the publication date of November 1997, a week-by-week time-line is essential which identifies exactly *who* will do *what* by *when*. Be warned: without this level of planning, you will certainly collide with production bottle necks.
11. *Budget* - A budget of direct production costs, together with human and equipment resource needs should be prepared from the outset - for example, do you need to dedicate a high-powered desk-top work station? Who (you need to work in pairs) is going to do the very time consuming proof-reading? This budget could also be used for a grant application?
12. *Updating* - In due course, a quality assurance procedure of monitoring, revising and updating the bench book will of course need to be introduced.

This is just the start. Obviously we will need to do plenty of work on this project on my next visit. This is a very exciting project which has the immediate potential to assist all law and justice professionals in Cambodia!

FACULTY DEVELOPMENT

The faculty development strategy of this project is recognized by the project team as being of top priority in terms of its importance and its sustainable benefit, second only to the formation of the judicial education committee.

Relationship between Faculty and Education Committee Roles

This strategy is intimately complementary with the formation of the education committee, and it is likely and desirable that many of the Khmer judges and prosecutors will in practice wear both hats - that is, participate in the policy-setting and planning role of the education committee, and play an active role on the faculty in delivering training and writing materials.

These roles are, however, different and should be kept separate because there will be times when an individual may be a member only of the education committee (such as a chief judge or MoJ representative) but not available or suitable as a presenter and, vice versa, where a member may be an active member of the faculty (such as a pedagogical judge (!) - likely to be an ex-teacher, or perhaps an academic), who is not appointed to the education committee for "political" or other reasons, such as physical unavailability.

Supporting the Faculty Role

Faculty development and support is required in all aspects of the education program, that is:-

1. *Educational planning* - sound planning at the level of the judicial education committee, which results in good macro-level programs, *never* just happens!
2. *Presentation skills* - training in session design, preparation and delivery at a micro level.
3. *Curriculum development* - training in writing the materials either to support live instruction or as stand-alone resources in a bench book or other document.

Priorities

In discussion, it has been agreed that (2) is the initial priority - that is, to assist judges and prosecutors to acquire and develop the skills to present live sessions early in 1997.

Assistance with educational planning will be undertaken in Phase 3 of the project between July-December 1997. Curriculum development of writers will form part of the distinctly separate bench book production process but will, of course, intersect.

It has also been agreed that faculty development will consist of two cohorts of trainees. Group "A" will be initiated in about January and, subject to satisfactory progress, will be involved in inducting Group "B" in about July.

How it will work

Training will commence with a Train the Trainer of Trainers, that is a "TTTTT" workshop in about January, followed by the first of two Train the Trainer, that is a "TTT" workshop, in January-March - (*Clear? Is this guy mad? - Never, he just has twenty-five minutes to catch his plane home*).

The training curriculum will consist of the following principal elements:-

- a) Concepts of adult learning
- b) Strategies and techniques for preparing and conducting a 1/2 day session

I understand that the priority is to train judges and prosecutors to perform effectively as court-based, small group seminar leaders.

There is however a variety of new instructional formats proposed for introduction into the education program at a macro level during 1997. This program will include large formal national *conferences* (primarily didactic or socratic); the existing training *seminars* (combining theory and application in formats integrating didactic, problem-solving and exchanging experience); and regional *workshops* (primarily practical application, problem-solving and exchanging experience).

As a result, it would be useful to induct the faculty across this spectrum of instruction design and delivery techniques, from the formal didactic lecture to the informal facilitated discussion.

Faculty Handbook

This is of course the key element in sustaining quality assurance: the manual will be passed from the trainers of the trainers to Group A in the first-series of TTT workshops in Phase 2, and then from Group A to Group B in the second-series of TTT workshops in Phase 3, and on and on it will go, being refined along the way as required.

We have agreed that the broad format of the Faculty Handbook should comprise:-

- Part A* - General introduction to educational principles, applicable to all presenters
- Part B* - Presenting at conferences (national level)
- Part C* - Presenting at seminars (court-based)
- Part D* - Presenting at workshops (regional level)

I have left a copy of my materials - sorry, but I've just run out of time on this trip: I will be delighted to work it up with you before the training commences in the New Year!

PLANNING MATRIX

This matrix is useful in planning both a program of activities at the *macro* level, and specific sessions of instruction or materials at the *micro* level.

The matrix is not magic - you simply fill in the box(s) which best describe what you are doing. While this is very straight forward, it imposes a discipline of reflection. The matrix shows you very clearly what you are actually doing and, as a result, provides you with the opportunity to check whether what you are actually doing is what you said you would or should do.

<i>Content → Level ↘</i>	Substantive Law	Skills	Disposition Attitudes and Values	Management and administration	Inter-disciplinary	Method/ Format(s) conference. seminar. workshop	Date(s)
Introductory Systemic Induction							
Advanced							
Specialist							
Change							
Law Development and/or Reform							
Refresher							

APPENDIX N

INVENTORY LIST OF CCTP OFFICE

No	Items	Location / User	Quantity	Model No / Serial	Condition	Other
A	Desktop Computer		8			
	Desktop Computer #1	Room 3 / L Sunlina		Compaq Prolinea Model 472P / Serial No 51505277M888	Fair	
	Desktop Computer #2	Room 3 / H Sochivin		Compaq Prolinea 4100 Model 473 / Serial No 526AF05CA221	Fair	
	Desktop Computer #3	Room 2 / T Malay		Compaq Prolinea 466 Model 472P / Serial No 51105277U042	Fair	
	Desktop Computer #4	Room 2 / Staff		Compaq Prolinea 466 Model 472P / Serial No 52705277U034	Fair	
	Desktop Computer #5	Room 2 / P Sorya		Compaq Prolinea 486 Model.... / Serial No 51105277L957	Good	
	Desktop Computer #6	Upstair / Staff		Compaq Model 461 / Serial No 3104530K674	Fair	
	Desktop Computer #7	Room 7 / Michael		Compaq Despro Model.... / Serial No	New	
	Desktop Computer #8	Room 11 / Thierry F		Compaq Model... / Serial No 51105277A946	Fair	
B	Laptop Computer		9			
	Laptop Computer #1	Room 8 / Sophie P		IBM Thinkpad Serial No.23L3973	Fair	Sophie
	Laptop Computer #2	Room 3 /Adm		IBM Thinkpad Serial No 23L4212	Poor	Sochivin
	Laptop Computer #3	Room 3 / Adm stock		IBM Thinkpad Serial No 23L4047	Fair	Dermot / Kratie >>Thierry 10 Sept 97
	Laptop Computer #4	Room 3 / Adm stock		IBM Thinkpad Serial No 23L3990	Fair	from Kraties / Adm Stock
	Laptop Computer #5	Room 3 / Adm stock		IBM Thinkpad Serial No 23L3979	Poor	from Sophie Aug. 97 / Adm Stock
	Laptop Computer #6	Room 3 / Adm stock		IBM Thinkpad Serial No 23L3928	Broken	Unrepairable
	Laptop Computer #7	Room 3 / Adm stock		IBM Thinkpad Serial No 23L3892	Broken	Unrepairable

No	Items	Location / User	Quantity	Model No / Serial	Condition	Other
	Laptop Computer #8	Room 3 / Adm stock		IBM Thinkpad Serial No 23L4045	Broken	Unrepairable
	Laptop Computer #9	Room 3 / Adm stock		Compuadd Serial No LX1200100469	Broken	Unrepairable
	Laptop Computer #10	????		Compuadd Serial No LX1200100470		???????
C	Printer		12			
	Printer #1	Room 2 / Adm staff		HP Laser 4 Plus / C2037A Serial No JPFQ31472	Fair	
	Printer #2	Room 2 / Adm stock		HP Deskjet 520 Serial No (?)	Broken	
	Printer #3	Room 3 / L Sunlia		HP Deskjet 660C / C2164A Serial No SG5A5131J4	Fair	
	Printer #4	Room 2 / Sorya		HP Deskjet 600 Serial No SG7R1J9	Good	
	Printer #5	R. Upstair / staff		HP Deskjet 5P Serial No SGDB002254	Fair	
	Printer #6	Room 7 / Michael R		Laser 5 Model... / Serial No	New	
	Printer #7	Room 11 / Thierry F		HP Deskjet 660C SG59L132YW	Fair	
	Printer #8	Room 3 / Adm stock		HP Deskjet 320 Serial No SG53N3102T	Fair	
	Printer #9	Room 3 / Adm stock		HP Deskjet 340 Serial No SG5BK13CB	Fair	
	Printer #10	Room 2 / Adm stock		HP Deskjet 500 Serial No (?)	Broken	from the former Office
	Printer #11	Room for Guard / Adm		HP Deskjet 500 Serial No (?)	Broken	
	Printer #12	Room 3 / Adm stock		Canon BJ-200 ex Serial No TTM11273	Fair	From K Thom July / 97
D	Uninterrupted Power Supply (UPS)		6			
	UPS #1	Room 3 / Sunlia+Chivin		UPS 486 Serial No 95130L2875	Fair	
	UPS #2	Room 2 / P Sorya		UPS 586	Fair	

No	Items	Location / User	Quantity	Model No / Serial	Condition	Other
	UPS #3	Room 4 / Sorya		Serial No 951302840 UPS 486	Good	
	UPS #4	R.Upstair / staff		Serial No 944000202 SUNPAC UPS500	Fair	
	UPS #5	Room 7 / ?		Serial No 179278 UPS 486	New	
	UPS #6	Room 11 / Thierry F		Serial No UPS 586 Serial No 951302800	Fair	
E	Auto Voltage		12			
	Auto Voltage #1	Room 1 / Janet W		Autovol Model No AV 500W	Fair	
	Auto Voltage #2	Room 2 / Adm staff		Autovol Model No AV 500W	Fair	
	Auto Voltage #3	Room 2 / Adm staff		Zhan Hua Model No SVC - 5000W	Fair	
	Auto Voltage #4	Room 2 / P Sorya		Zhen hua Model No SVC - 1000W	Fair	
	Auto Voltage #5	R Upstair / staff		Autovol Model AV - 100W	Fair	
	Auto Voltage #6	Room 7 / Michael R		Autovol Model No AV - 500W	New	
	Auto Voltage #7	Room 8 / Sophie P		Autovol Model No AV - 500W	Fair	
	Auto Voltage #8	Room 6 / Camille C		Autovol Model No AV - 500W	Fair	
	Auto Voltage #9	Room 3 / Adm		Autovol Model No AV - 500W	Fair	
	Auto Voltage #10	Room 3 / Adm stock		Autovol Model No AV - 500W	Fair	from upstairs/ Babara
	Auto Voltage #11	Room 11 / Thierry F		Autovol Model No AV - 500W	Fair	
	Auto Voltage #12	Room 3 / Adm stock		Autovol Model No AV - 500W	Fair	From Kampong Thom July 97
	5 Broken Auto Voltages were allowed (By Janet & Thierry) to cut off from Inventory list					
F	Filling Cabinet		20			

12/09/97 11:21

No	Items	Location / User	Quantity	Model No / Serial	Condition	Other
	Filling Cabinet #1	Room 3 / L Sunlina		Leeco, 4 drawers mental File Cabinet Key No 097	Fair	
	Filling Cabinet #2	Room 3 / H Sochivin		Leeco, 4 drawers mental File Cabinet Key No 078	Fair	
	Filling Cabinet #3	Room 3 / Admin		Leeco, 4 drawers mental Filling Cabinet Key No 017	Fair	
	Filling Cabinet #4	Room 2 / P Sorya		Leeco, 4 drawers mental Filling Cabinet Key No 053	Fair	
	Filling Cabinet #5	Room 2 / Admin		Leeco, 4 drawers mental Filling Cabinet Key No 004	Fair	
	Filling Cabinet #6	Room 2 / Admin		Leeco, 4 drawers mental Filling Cabinet Key No 001	Fair	
	Filling Cabinet #7	Room 1/ Janet W		Leeco, 2 drawers lateral Key No	Fair	
	Filling Cabinet #8	Room 4 / ?		Leeco, 2 drawers lateral Key No 093	Fair	
	Filling Cabinet #8	Room 4 / ?		Leeco, 4 drawers mental Filling Cabinet Key No 160	Fair	
	Filling Cabinet #9	Room 5 / Y Roth		Leeco, 4 drawers mental Filling Cabinet Key No 067	Fair	
	Filling Cabinet #10	Room 5 / L Sok		Leeco, 4 drawers mental Filling Cabinet Key No 097	Fair	
	Filling Cabinet #11	Room 5 / S Sing		Leeco, 4 drawers mental Filling Cabinet Key No 072	Fair	
	Filling Cabinet #12	Room 13 (Ki) / Admin		Leeco, 3 drawers mental Filling Cabinet Key No 014	Fair	
	Filling Cabinet #13	Rroom for guard / Adm		Lienheng, 4 drawers mental Filling Cabinet Key No 300	Fair	
	Filling Cabinet #14	Rroom for guard / Adm		Lienheng, 4 drawers mental Filling Cabinet Key No 233	Fair	
	Filling Cabinet #15	R Upstair / S Samnang		Leeco, 4 drawers mental Filling Cabinet Key No 100	Fair	from K Thom
	Filling Cabinet #16	Room 6 / Camille C		Leeco, 4 drawers mental Filling Cabinet Key No 286	Fair	
	Filling Cabinet #17	Room 7 / Michael R		Leeco, 4 drawers mental Filling Cabinet Key No 025	Fair	
	Filling Cabinet #18	Room 8 / Sophie P		Leeco, 4 drawers mental Filling Cabinet Key No 013	Fair	

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FROM : CCTP-CAMBODIA

No	Items	Location / User	Quantity	Model No / Serial	Condlction	Other
G	Filling Cabinet #19	Room 11 / Thierry F	7	Leeco, 4 drawers mental Filling Cabinet Key No 081	Fair	
	Filling Cabinet #20	Room 10 / staff		Leeco, 4 drawers mental Filling Cabinet Key No 030	Fair	
	Storage Cabinet #1	Room 3 / Admin staff		Leeco, Locking steel Storage Cabinet (90 X 180 cm) Key No 035	Fair	
	Storage Cabinet #2	Room 2 / Admin staff		Leeco, Locking steel Storage Cabinet (90 X 180 cm) Key No 058	Fair	
	Storage Cabinet #3	Room 2 / Admin staff		Leeco, Locking steel Storage Cabinet (90 X 180 cm) Key no 130	Fair	
	Storage Cabinet #4	Room 2 / Admin staff		Leeco, Locking steel Storage Cabinet (90 X 180 cm) Key No 164	Fair	
	Storage Cabinet #5	Room 2 / Admin staff		Leeco, Locking steel Storage Cabinet (90 X 180 cm) Key No 038	Fair	
	Storage Cabinet #6	Room 2 / Admin staff		Leeco, Locking steel Storage Cabinet (90 X 180 cm) Key 248	Fair	
	Storage Cabinet #7	Room 13 (Kr) / Admin		Leeco, Locking steel Storage Cabinet (90 X 180 cm) Key No 346	Fair	
	Storage Cabinet #8	Room 9 / ?		Leeco, Locking steel Storage Cabinet (90 X 180 cm) Key No 347	Fair	
H	Open Shelf		7			
	Open Shelf #1	Room 3 / Admin	Leeco, 2 open shelf steel binder storage cabinet	Fair		
	Open Shelf #2	Room 2 / Admin	Leeco, 2 open shelf steel binder storage cabinet	Fair		
	Open Shelf #3	Room 2 / Admin	Leeco, 2 open shelf steel binder storage cabinet	Fair		
	Open Shelf #4	Room 1 / Janet W	Leeco, 2 open shelf steel binder storage cabinet	Fair		
	Open Shelf #5	Room 4 / ?	Leeco, 2 open shelf steel binder storage cabinet	Fair		
	Open Shelf #6	Room 6 / Camille C	Leeco, 2 open shelf steel binder storage cabinet	Fair		
	Open Shelf #7	Room 8 / Sophie P	Leeco, 2 open shelf steel binder storage cabinet	Fair		

No	Items	Location / User	Quantity	Model No / Serial	Condition	Other
I	Bookshelf		8			
	Bookshelf #1	R Downstair / staff		Wooden mail box (Dimension 120 x 140 cm)	Fair	
	Bookshelf #2	Room 5 / Transtors		Rallen bookshelf (Dimension 100 x 150 cm)	Fair	
	Bookshelf #3	Room 5 / Transtors		Rallen bookshelf (Dimension 100 x 150 cm)	Fair	
	Bookshelf #4	Room 7 / Michael R		Rallen bookshelf (Dimension 100 x 150 cm)	Fair	
	Bookshelf #5	Room 8 / Sophie P		Rallen bookshelf (Dimension 100 x 150 cm)	Fair	
	Bookshelf #6	Room 8 / Sophie P		Rallen bookshelf (Dimension 100 x 150 cm)	Fair	
	Bookshelf #7	Room 6 / Cornille C		Rallen bookshelf (Dimension 100 x 150 cm)	Fair	
	Bookshelf #8	Room 6 / Cornille C		Rallen bookshelf (Dimension 100 x 150 cm)	Fair	
G	Office Equipment					
	Photocopier	Room 2 / CCTP	1	NP6030 PRE02360	Fair	
	Telephone #1 (Line 023 428 848)	Room 2 / CCTP	1	Panasonic - 2 Lines System Serial No 4BCHB127990	Good	
	Telephone #2 (Broken)	Room 2 / Adm	1	AT&T Serial No...	Broken	
	Fax machine / Phone (Line 023 362 665)	Room 2 / CCTP	1	Panasinc KX - F707 Serial No	Good	
	Fax machine / Phone (Broken)	Room 2 / Adm	1	Panasinc KX - F230 Serial No	Broken	
K	Safe		3			
	Safe #1	Room 1 / Janet W		Leeco / safe 50 Key No 81334	Good	
	Safe #2	Room 2 / Admin		Leeco / Safe 50	Good	

No	Items	Location / User	Quantity	Model No / Serial	Condition	Other
	Safe #3	Room 3 / L Sunlina		Key No 85512 Leeco / Safe 50 Key No 71512	Good	
L	WoodenTable		35			
	Table #1	Front desk / Guard		Single pedestal desk (Dimension 55 x 115 cm)	Fair	
	Table #2	Front desk / Guard		Wooden table (Dimensions 90 x 90 cm)	Fair	from K Thom
	Table #3	Room 1 / Janet W		Wooden table (Dimensions 80 x 160 cm)	Fair	
	Table #4	Room 1 / Janet W		Wooden table (Dimensions 80 x 120 cm)	Fair	
	Table #5	Room 2 / Admin		Wooden table (Dimensions 100 x 200 cm)	Fair	
	Table #6	Room 2 / Admin		Wooden table (Dimensions 100 x 200 cm)	Fair	
	Table #7	Room 2 / Admin		Wooden table (Dimensions 80 x 160 cm)	Fair	
	Table #8	Room 2 / Admin		Single pedestal desk (Dimension 55 x 115 cm)	Fair	
	Table #9	Room 2 / Admin staff		Single pedestal desk (Dimension 55 x 115 cm)	Fair	
	Table #10	Room 2 / Admin staff		Single pedestal wooden desk (Dimens.55 x 115 cm)	Fair	
	Table #11	Room 3 / H Sochivin		Single pedestal wooden desk (Dimens.55 x 115 cm)	Fair	
	Table #12	Room 3 / H Sochivin		Single pedestal wooden desk (Dimens.55 x 115 cm)	Fair	
	Table #13	Room 3 / Sunlina		Leeco, Lammated wood Single pedestal desk (Dimension 70 x 180 cm) Key No 676	Fair	
	Table #14	Room 4 / ?		Double pedestal wooden desk (Dimens.80 x 160 cm)	Fair	
	Table #15	Room 4 / ?		Wooden table (Dimensions 60 x 100 cm)	Fair	
	Table #16	Room 5 / Sok, Y Roth, Sing		Single pedestal wooden desk (Dimens.55 x 115 cm)	Fair	
	Table #17	Room 5 / Sok, Y Roth, Sing		Single pedestal wooden desk (Dimens.55 x 115 cm)	Fair	

No	Items	Location / User	Quantity	Model No / Serial	Condition	Other
	Table #18	Room 5 / Sok, Y Roth, Sing		Wooden table (Dimensions 80 x 120 cm)	Fair	
	Table #19	Room 5 / Sok, Y Roth, Sing		Wooden table (Dimensions 80 x 160 cm)	Fair	
	Table #20	Room 5 / Sok, Y Roth, Sing		Wooden table (Dimensions 80 x 160 cm)	Fair	
	Table #21	Room 13 (Ki) / Adm		Wooden table (Dimensions 55 x 100 cm)	Fair	
	Table #22	Room 13 (Ki) / Adm		Round rattan table w/ glass top (Dimens 100cm)	Fair	(included 4 rattan chairs)
	Table #23	R Upstair / CCTP staff		Wooden table (Dimensions 120 x 250 cm)	Fair	
	Table #24	R Upstair / S Samnang		Wooden table (Dimensions 100 x 200 cm)	Fair	
	Table #25	Room 6 / Camille C		Wooden table (Dimensions 80 x 160 cm)	Fair	
	Table #26	Room 6 / Camille C		Single pedestal wooden desk (Dimens. 55 x 115 cm)	Fair	
	Table #27	Room 7 / Michael R		Single pedestal wooden desk (Dimens. 55 x 115 cm)	Fair	
	Table #28	Room 7 / Michael R		Wooden table (Dimensions 80 x 160 cm)	Fair	
	Table #29	Room 7 / Michael R		Wooden table (Dimensions 80 x 160 cm)	Fair	
	Table #30	Room 8 / Sophie		Wooden table (Dimensions 80 x 160 cm)	Fair	
	Table #31	Room 8 / Sophie		Wooden table (Dimensions 80 x 160 cm)	Fair	
	Table #32	Room 9 / ?		Wooden table (Dimensions 80 x 160 cm)	Fair	
	Table #33	Room 9 / ?		Wooden table (Dimensions 80 x 160 cm)	Fair	
	Table #34	Room 10 / Staff		Wooden table (Dimensions 80 x 160 cm)	Fair	
	Table #35	Room 11 / Theirry F		Wooden table (Dimensions 80 x 160 cm)	Fair	
M	Reception & conference furniture		7 tables 7 Armch			

No	Items	Location / User	Quantity	Model No / Serial	Condition	Other
	Conference Table #1	R Downstair / Guest		Wooden & valuable table (Dimension 40 x40cm)	Fair	
	Conference Table #2	R Downstair / Guest		Wooden & valuable coffee table (Dimens 45 x100 cm)	Fair	
	Conference Table #3	R Upstair / Guest		Wooden conference table (Dimens 70 x120 cm)	Fair	
	Conference Table #4	R Upstair / Guest		Wooden conference table (Dimens 70 x120 cm)	Good	
	Conference Table #5	R Upstair / Guest		Wooden conference table (Dimens 70 x120 cm)	Good	
	Conference Table #6	R Upstair / Guest		Wooden conference table (Dimens 70 x120 cm)	Good	
	Conference Table #7	R Upstair / Guest		Wooden conference table (Dimens 70 x120 cm)	Good	
	Armchair #1	Downstair / Guest		Wooden armchair w / loose curshin (D 55 x 60 cm)	Good	
	Armchair #2	Downstair / Guest		Wooden armchair w / loose curshin (D 55 x 60 cm)	Good	
	Armchair #3	Downstair / Guest		Wooden armchair w / loose curshin (D 55 x 60 cm)	Good	
	Armchair #4	R Upstair / Guest		Wooden armchair w / loose curshin (D 55 x 60 cm)	Good	
	Armchair #5	R Upstair / Guest		Wooden armchair w / loose curshin (D 55 x 60 cm)	Good	
	Armchair #6	R Upstair / Guest		Wooden 2 seat sofa w / loose curshin (D 55 x 100cm)	Good	
N	Desk Chair		27			
	Swivel Chair #1	Room 1 / Janet W		Desk Chair on casters		
	Swivel Chair #2	Room 2 / Adm staff		Desk Chair on casters	Fair	
	Swivel Chair #3	Room 2 / Adm staff		Desk Chair on casters	Fair	
	Swivel Chair #4	Room 2 / Adm staff		Desk Chair on casters	Fair	
	Swivel Chair #5	Room 2 / Adm staff		Desk Chair on casters	Fair	

No	Items	Location / User	Quantity	Model No / Serial	Condition	Other
	Swivel Chair #6	Room 2 / Adm staff		Desk Chair on casters	Fair	
	Swivel Chair #7	Room 3 / Adm staff		Desk Chair on casters	Fair	
	Swivel Chair #8	Room 3 / Adm staff		Desk Chair on casters	Fair	
	Swivel Chair #9	Room 3 / Adm staff		Desk Chair on casters	Fair	
	Swivel Chair #10	Room 4 / Tony P		Desk Chair on casters	Good	
	Swivel Chair #11	Room 4 / Tony P		Desk Chair on casters	Good	
	Swivel Chair #12	Room 4 / Tony P		Desk Chair on casters	Good	
	Swivel Chair #13	Room 5 / Sok Roth Sing		Desk Chair on casters	Fair	
	Swivel Chair #14	Room 5 / Sok Roth Sing		Desk Chair on casters	Fair	
	Swivel Chair #15	Room 5 / Sok Roth Sing		Desk Chair on casters	Fair	
	Swivel Chair #16	Room 5 / Sok Roth Sing		Desk Chair on casters	Fair	
	Swivel Chair #17	Room 5 / Sok Roth Sing		Desk Chair on casters	Fair	
	Swivel Chair #18	Room 6 / Camille C		Desk Chair on casters	Fair	
	Swivel Chair #19	Room 7 / Michael R		Desk Chair on casters	Fair	
	Swivel Chair #20	Room 8 / Sophie P		Desk Chair on casters	Fair	
	Swivel Chair #21	Room 9 / Phillis C		Desk Chair on casters	Fair	
	Swivel Chair #22	Room 11 / Theirry F		Desk Chair on casters	Fair	
	Swivel Chair #23	Upstair / Staff		Desk Chair on casters	Fair	
	Swivel Chair #24	Upstair / Staff		Desk Chair on casters	Fair	
	Swivel Chair #25	Upstair / Staff		Desk Chair on casters	Fair	

No	Items	Location / User	Quantity	Model No / Serial	Condictlon	Other
	Swivel Chair #26	Front Desk / Guard		Desk Chair on casters	Poor	
	Swivel Chair #27	Front Desk / Guard		Desk Chair on casters	Poor	
O	Wooden Chair		22			
	Wooden Chair #1	Room 1 / Janet W			Fair	
	Wooden Chair #2	Downstair / CCTP			Fair	
	Wooden Chair #3	Downstair / CCTP			Fair	
	Wooden Chair #4	Downstair / CCTP			Fair	
	Wooden Chair #5	Up stair / CCTP			Fair	
	Wooden Chair #6	Up stair / CCTP			Fair	
	Wooden Chair #7	Up stair / CCTP			Fair	
	Wooden Chair #8	Up stair / CCTP			Fair	
	Wooden Chair #9	Up stair / CCTP			Fair	
	Wooden Chair #10	Up stair / CCTP			Fair	
	Wooden Chair #11	Up stair / CCTP			Fair	
	Wooden Chair #12	Room 8 / Sophie			Fair	
	Wooden Chair #13	Room 8 / Sophie			Fair	
	Wooden Chair #14	Room 7 / Micheal R			Fair	
	Wooden Chair #15	Room 7 / Micheal R			Fair	
	Wooden Chair #16	Room 10 / CCTP			Fair	

No	Items	Location / User	Quantity	Model No / Serial	Condition	Other
	Wooden Chair #17	Room 10 / CCTP			Fair	
	Wooden Chair #18	Room 10 / CCTP			Fair	
	Wooden Chair #19	Room 10 / CCTP			Fair	
	Wooden Chair #20	Room 10 / CCTP			Fair	
	Wooden Chair #21	Room 10 / CCTP			Fair	
	Wooden Chair #22	Room 10 / CCTP			Fair	
P	Rattan Chair		7			
	Rattan Chair #1	Room 01 / Janet		Rattan chair	Fair	
	Rattan Chair #2	Room 8 / Sophie		Rattan chair	Fair	
	Rattan Chair #3	Room 8 / Sophie		Rattan chair	Fair	
	Rattan Chair #4	Room 10 / Staff		Rattan chair	Fair	
	Rattan Chair #5	Room 10 / Staff		Rattan chair	Fair	
	Rattan Chair #6	Room 10 / Staff		Rattan chair	Fair	
	Rattan Chair #7	Room 10 / Staff		Rattan chair	Fair	
Q	Folding Chair		10			
	Fold up Chair #1	Room 3 / Admin Staff		Leeco	Fair	
	Fold up Chair #2	Room 3 / Admin Staff		Leeco	Fair	
	Fold up Chair #3	Up stair / CCTP		Leeco	Fair	
	Fold up Chair #4	Up stair / CCTP		Leeco	Fair	

No	Items	Location / User	Quantity	Model No / Serial	Condition	Other
	Fold up Chair #5	Room 10 / CCTP		Leeco	Fair	
	Fold up Chair #6	Room 10 / CCTP		Leeco	Fair	
	Fold up Chair #7	Room 10 / CCTP		Leeco	Fair	
	Fold up Chair #8	Room 10 / CCTP		Leeco	Fair	
	Fold up Chair #9	Room 10 / CCTP		Leeco	Fair	
	Foid up Chair #10	Room 9 / Phillis C		Leeco	Fair	
R	White / Bulletin board		19			
	Wh / Bulletin board #1	Room 3 / L Sunlina		Blue buletin board (Dimens 80 x 120 cm)	Good	
	Wh / Bulletin board #2	Room 2 / Adm staff		Blue buletin board (Dimens 80 x 120 cm)	Good	
	Wh / Bulletin board #3	Room 5 / Trantors		Blue buletin board (Dimens 80 x 120 cm)	Good	
	Wh / Bulletin board #4	Room 5 / Trantors		White board (Dimens 120 x 150 cm)	Fair	
	Wh / Bulletin board #5	Room 5 / Trantors		White board (Dimens 80 x 120 cm)	Fair	
	Wh / Bulletin board #6	Room 5 / Trantors		White board (Dimens 80 x 120 cm)	Fair	
	Wh / Bulletin board #7	Room 1 / Janet W		White board (Dimens 80 x 120 cm)	Fair	
	Wh / Bulletin board #8	Downstair / Guard		White board (Dimens 80 x 120 cm)	Fair	
	Wh / Bulletin board #9	Downstair / Admin staff		White board (Dimens 80 x 120 cm)	Fair	
	Wh / Bulletin board #10	Downstair / Admin staff		White board (Dimens 80 x 120 cm)	Fair	
	Wh / Bulletin board #11	Downstair / Admin staff		Blue buletin board (Dimens 80 x 120 cm)	Good	
	Wh / Bulletin board #12	Room 4 / ?		Blue bulntin board (Dimens 80 x 120 cm)	Good	

No	Items	Location / User	Quantity	Model No / Serial	Condition	Other
	Wh / Bulletin board #13	Room 6 / Camille		Blue bulletin board (Dimens 80 x 120 cm)	Good	
	Wh / Bulletin board #14	Room 6 / Camille		White board (Dimens 80 x 120 cm)	Fair	
	Wh / Bulletin board #15	Room 7 / Micheal R		Blue bulletin board (Dimens 80 x 120 cm)	Good	
	Wh / Bulletin board #16	Room 8 / Sophie		Blue bulletin board (Dimens 80 x 120 cm)	Good	
	Wh / Bulletin board #17	Room 9 / Phills C		Blue bulletin board (Dimens 80 x 120 cm)	Good	
	Wh / Bulletin board #18	Room 10 / CCTP		White board (Dimens 80 x 120 cm)	Good	
	Wh / Bulletin board #19	Room 11 / Theirry F		White board (Dimens 80 x 120 cm)	Good	
S	Fan		6			
	Flour fan #1	Room 5 / Sok, Roth, Sing		Fuji	Poor	
	Flour fan #2	Room 5 / Sok, Roth, Sing		Super Deluxe	Poor	
	Flour fan #3	Room 5 / Sok, Roth, Sing		Okkling	Broken	
	Flour fan #4	Room for guard / Guards		Super Deluxe	Fair	
	Flour fan #5	Up stair / CCTP		Windy	Fair	
	Flour fan #6	Up stair / CCTP		Windy	Fair	
T	Television		4			
	TV #1	Room13 (Ki) / Adm		JVC AV- 21TE Serial No 12004404	Fair	
	TV #2	Room 3 / Adm		JVC AV- 21TE Serial No 12004396	New	
	TV #3	Room 5 / Translators		JVC AV- 21TE Serial No 12004403	Fair	
	TV #4	Thierry's home / Thierry		JVC AV-21TE Serial No	Fair	from Prey Veng
	TV #5	???				

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FROM : CCTP-CAMBODIA

No	Items	Location / User	Quantity	Model No / Serial	Condition	Other
V	Video Casette Recorder		3			
	V C R #1	Room 5 / Translators		Sharp M3 serial No 411322179	Fair	
	V C R #2	Room 3 / Adm		VC M 3B Serial No 12004403	New	For Kampol Pro >> Room3
	V C R #3	Room 2 / Adm		VC M 3B Serial No 411321176	New	For Prey Veng Pro. >> Room2
	V C R #4	???				
W	Video Camera		2			
	Video Camera #1	Room 3 / Adm		Model No CCD - TR380E / AC-V25C C 010448	Good	Thierry home late July 97
	Video Camera #2	Room 3 / Adm		Model No CCD - TR670E / AC-V25C C 025415	Good	
X	Photo Camera		1			
	Photo Camera #1	Room 1		Canon EOS Rebel	Good	
Y	Refrigerator		1			
	Refrigerator	Room 13 (Kit) / CCTP		Whirlpool Serial No 29016	Fair	
AA	Mobile phone		10-CCTP 2-CDP			
	Samart222 #1	Thierry F		015 91 8886	Fair	Thierry
	Samart222 #2	Camille C		015 92 0069	Fair	Admin 09.9.97 (from CC/ Malay)
	Samart222 #3	Janet W		015 91 4138	Fair	Janet
	Samart222 #4	L Sunlina		015 91 8591	Fair	Sunlina
	Samart222 #5	Sophie		015 91 7518	Fair	Sophie >> Adm stock 10 Sept 97
	Samart222 #6	Micheal R		015 92 0118	Fair	Thierry stock

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No	Items	Location / User	Quantity	Model No / Serial	Condition	Other
	Samar1222 #7	CCTP / Adm stock		015 91 8879	Fair	Adm 01 Sept 97 (from Sophie / Jenefer)
	Samar1222 #8	CCTP / Adm stock		015 91 7390	Fair	Adm 01 July 97 (pick up at Room6)
	Samar1222 #9	CCTP / Adm stock		015 91 7633	Fair	Adm 20 Aug 97 (from Sonya)
	Samar1222 #10	H Sochivin		015 91 8803	Fair	Sochivin
	Samar1222 #11	CDP / Skip Gang >>Visal		015 91 7670	Fair	>> Visal CDP July 97
	Samar1222 #12	Tinan / >> Thierry Stock		015 91 7519	Fair	CDP >> CCTP July 97 Thierry stock
	Samar1222 #13	CDP / Vanna		015 91 8586	Fair	>> Vanna CDP August 97
AB	Water Cooler		4			
	Water Cooler #1	Downstair / staff		AP Standard	Fair	
	Water Cooler #2	Room 13 (Ki) / Adm		AP Standard	Fair	from Prey Veing
	Water Cooler #3	Room 13 (Ki) / Adm		AP Standard	Fair	from ?
	Water Cooler #4	R Upstair / staff		AP Standard	Fair	
AC	2-Burner Gas Cook Tap		2			
	2-Burner Gas Cook #1	Room 13 (Kit) / Maid		SEIKI	Fair	
	2-Burner Gas Cook #2	Room 13 (Kit) / Maid		SEIKI	Fair	
AD	Pumping Motor		1			
	Pumping Motor					
AE	Vehicle Battery		3			
	Vehicle Battery #1	R Downstair / Adm		GS	Fair	

No	Items	Location / User	Quantity	Model No / Serial	Condition	Other
	Vehicle Battery #2	R Downstair / Adm		100 Tokyo	broken	
	Vehicle Battery #3	R Downstair / Adm		120 A FB 120A	broken	
AF	DC-AC In. Charger		3			
	DC-AC In. Charger #1	Room 2 / CCTP		MSI - 300P	Fair	
	DC-AC In. Charger #2	R Downstair / Adm		SI 500 V A Serial No ...	Fair	
	DC-AC In. Charger #3	Room 3 / Adm		MSI 300P Serial No	Fair	from Kampong Thom June 97
AG	Generator		1			
	Airmen Generator	Garden / CCTP		195-020094 195-020094	Fair	
AH	Transceiver Radio		7			
	Hand Held Transceiver	/ Sophie-Thierry		Motorola / Mobile or Hand held transceiver Serial No	Good	
	Transceiver Radio #1	Room 3 / Admin		Model M33GMC20D2AA Serial No 159TVGB578	Poor	Removed from Camry car
	Transceiver Radio #2	R Downstair / Adm		SLIMPARK Serial No...	Fair	
	Transceiver Radio #3	Jeep No 2136(blue)		SLIMPARK Serial No...	Fair	
	Transceiver Radio #4	Jeep No 2137(white)		SLIMPARK Serial No...	Fair	
	Transceiver Radio #5	Jeep No 2138(tan)		SLIMPARK Serial No...	Fair	
	Transceiver Radio #6	Jeep No 2139 (green)		SLIMPARK Serial No...	Fair	
AI	Vehicle					

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No	Items	Location / User	Quantity	Model No / Serial	Condition	Other
	Jeep1995 (6 Cyns) #1	CCTP staff		504Mx11 1J4FJ68S5SL636277	Fair	attached with a tranceiver each
	Jeep1995 (6 Cyns) #2	CCTP staff		504Mx12 1J4FJ68S8SL636273	Fair	attached with a tranceiver each
	Jeep1995 (4 Cyns) #3	CCTP staff		504Mx2 1J4FJ68P1SL635915	Fair	attached with a tranceiver each
	Jeep 1995 (4 Cyns) #4	CCTP staff		504Mx11 1J4FJ68P8SL635913	Fair	attached with a tranceiver each
	Motocycle C-100	CCTP staff		C-100 / black Machine No C-100 MNE 0082605	Fair	
AJ	Fire Extinguisher		6			
	Fire Extinguisher #1	Room 2 / CCTP staff		Big bottle	Good	
	Fire Extinguisher #2	Room 2 / CCTP staff		Big bottle	Good	
	Fire Extinguisher #3	Garden / CCTP staff		Big bottle	Good	
	Fire Extinguisher #4	Garden / CCTP staff		Big bottle	Good	
	Fire Extinguisher #5	R Downstair / staff		Small	Good	
	Fire Extinguisher #6	R Upstair / staff		Small	Good	
AK	Electric Tools					
	Wire 2 x 1	Room for gard / Khy	40 m			
	Wire 2 x 1.5	Room for gard / Khy	50 m			
	Wire 2 x 6	Room for gard / Khy	6 m			
	Condansator	Room for gard / Khy	1box			
	Driller	Room for gard / Khy	1box			
	Wall nail	Room for gard / Khy	2 boxes			

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No	Items	Location / User	Quantity	Model No / Serial	Condition	Other
	Iron sewer	Room for gard / Khy	1pc			
	Hammer	Room for gard / Khy	1			
	Car fixing tool	Room for gard / Khy	2 boxes			
AL	Kitchen tool					
	Oval plate	Room 13 (Kit) / Maids	12 pc	<i>Big oval plate</i>	Good	
	Oval plate	Room 13 (Kit) / Maids	10 pc	<i>Michem oval plat</i>	Good	
	Round plate	Room 13 (Kit) / Maids	8 pc	<i>Big round plate</i>	Good	
	Round plate	Room 13 (Kit) / Maids	2 pc	<i>Small round plate</i>	Good	
	Dish	Room 13 (Kit) / Maids	2 pc	<i>Big dish</i>	Good	
	Soup dish	Room 13 (Kit) / Maids	2 pc	<i>Soup dish with coover</i>	Good	
	Pot	Room 13 (Kit) / Maids	5 pc			
	Spoon	Room 13 (Kit) / Maids	12 pc			
	Fork	Room 13 (Kit) / Maids	10 pc			
	Garbage lank	Room 13 (Kit) / Maids	5 pc			
	TOTAL					

Done in Phnom Penh, _____
Signature

the 1990s, the number of people in the world who are under 15 years of age has increased from 1.1 billion to 1.3 billion. The number of people aged 65 and over has increased from 200 million to 300 million. The number of people aged 15–64 years has increased from 2.5 billion to 3.5 billion.

There are a number of reasons for the increase in the number of people in the world. One of the main reasons is the increase in life expectancy. People are living longer than ever before. This is due to a number of factors, including improved medical care, better nutrition, and a more stable environment. Another reason for the increase in the number of people in the world is the increase in the number of people who are having children. This is due to a number of factors, including a decrease in the number of people who are using contraception and a decrease in the number of people who are having abortions.

The increase in the number of people in the world has a number of implications. One of the main implications is the increase in the number of people who are dependent on others. This is because the number of people who are aged 65 and over is increasing, and the number of people who are aged 15–64 years is also increasing. This means that there are more people who are dependent on others than ever before. This has a number of implications, including the need for more social services and the need for more people to work.

Another implication of the increase in the number of people in the world is the increase in the number of people who are living in poverty. This is because the number of people who are living in poverty is increasing, and the number of people who are living in poverty is increasing. This is due to a number of factors, including a decrease in the number of people who are working and a decrease in the number of people who are receiving social services. This has a number of implications, including the need for more social services and the need for more people to work.

The increase in the number of people in the world has a number of implications for the environment. One of the main implications is the increase in the number of people who are using resources. This is because the number of people who are using resources is increasing, and the number of people who are using resources is increasing. This is due to a number of factors, including a decrease in the number of people who are using resources and a decrease in the number of people who are using resources. This has a number of implications, including the need for more resources and the need for more people to work.

Another implication of the increase in the number of people in the world is the increase in the number of people who are living in urban areas. This is because the number of people who are living in urban areas is increasing, and the number of people who are living in urban areas is increasing. This is due to a number of factors, including a decrease in the number of people who are living in rural areas and a decrease in the number of people who are living in rural areas. This has a number of implications, including the need for more social services and the need for more people to work.

The increase in the number of people in the world has a number of implications for the economy. One of the main implications is the increase in the number of people who are working. This is because the number of people who are working is increasing, and the number of people who are working is increasing. This is due to a number of factors, including a decrease in the number of people who are not working and a decrease in the number of people who are not working. This has a number of implications, including the need for more social services and the need for more people to work.

Another implication of the increase in the number of people in the world is the increase in the number of people who are living in poverty. This is because the number of people who are living in poverty is increasing, and the number of people who are living in poverty is increasing. This is due to a number of factors, including a decrease in the number of people who are working and a decrease in the number of people who are receiving social services. This has a number of implications, including the need for more social services and the need for more people to work.

The increase in the number of people in the world has a number of implications for the future. One of the main implications is the increase in the number of people who are living in poverty. This is because the number of people who are living in poverty is increasing, and the number of people who are living in poverty is increasing. This is due to a number of factors, including a decrease in the number of people who are working and a decrease in the number of people who are receiving social services. This has a number of implications, including the need for more social services and the need for more people to work.