CCHR Briefing Note – 14 July 2013

The Use of Pre-Trial Detention in Cambodian Courts

Executive Summary

This Briefing Note examines the use of pre-trial detention in domestic courts in the Kingdom of Cambodia ("Cambodia"), explores alternatives to pre-trial detention, and offers recommendations for reform to the current pre-trial detention system. The first section of this Briefing Note lays out the legal framework through which pre-trial detention or alternatives to detention can be imposed by the courts. The second section examines pre-trial detention in practice, analyzing specific cases where the discretion to impose pre-trial detention has been abused and where the law has not been properly applied. The third section examines political considerations and the wider social and criminological impact that excessive pre-trial detention can have on society.

This Briefing Note recommends six key areas of reform:

1. The adoption of guidelines and/or supplementary legislation addressing the issue of pre-trial detention;
2. Codification of the procedure for violations of Judicial Supervision Orders;
3. Logistical support for the supervision of Judicial Supervision Orders and maintaining records;
4. Establishment of a procedure for appealing pre-trial detention decisions to a higher court;
5. Establishment of a separate law/guidelines for juvenile accused; and
6. Training and guidance for members of the judiciary and members of the legal profession.

By implementing the reforms proposed in this Briefing Note, the Royal Government of Cambodia ("RGC"), and in particular the judiciary, can strengthen Cambodia's adherence to the rule of law and fair trial rights by providing greater legal protection and certainty to Cambodian citizens. This Briefing Note is written by the Cambodian Center for Human Rights ("CCHR"), a non-aligned, independent, non-governmental organization that works to promote and protect democracy and respect for human rights – primarily civil and political rights – throughout Cambodia.

Introduction

The presumption of innocence is a fundamental legal principle and a right that is protected under both international and Cambodian law.[1] Whilst it is sometimes necessary for the courts to impose pre-trial detention in order to assist in the proper administration of justice and to protect victims and witnesses,

[1] Art. 11(2) United Nations Universal Declaration of Human Rights ("UDHR"); Art. 38 Constitution of the Kingdom of Cambodia (the "Constitution").

the excessive use of pre-trial detention undermines the right of the accused to be presumed innocent until convicted by an impartial and competent tribunal.

2012 saw a worrying trend in the number of politically motivated arrests and violent crackdowns by the authorities on protesters in Cambodia. The inconsistent and arbitrary application of the law relating to pre-trial detention serves only to exacerbate this worrying situation. It would appear that in some cases pre-trial detention is being used not as a means to protect the public, but as a means to silence those who dare to speak out against the authorities. There have also been instances in which well-connected or high-ranking individuals who clearly pose a threat to the public have been allowed to walk free by the courts. These instances stand in stark contrast to the readiness with which pre-trial detention is imposed on ordinary citizens, who have neither wealth nor influence, and on critics of the RGC.

Legal Framework

Under Cambodian law, there is a presumption that a person accused of a criminal offense will retain his or her liberty. This presumption is rebuttable only in exceptional circumstances: when it is necessary to prevent the accused from interfering or undermining proceedings in any way; to secure and preserve evidence pertaining to the case; or for the protection of the victim, the witnesses, the general public or the accused. In addition, pre-trial detention can only be imposed in cases where the accused is charged with a felony or misdemeanor which is punishable by a term of imprisonment for at least one year.[2] Article 204 of the Code of Criminal Procedure of the Kingdom of Cambodia (the "CCPC") sets out the limited circumstances in which pre-trial detention can be used as follows:

- Where it is necessary to stop the offense or to prevent the offense from happening again;
- Where it is necessary to prevent the harassment of witnesses or victims, or prevent any collusion between the charged person and accomplices;
- Where it is necessary to preserve evidence or exhibits;
- Where it is necessary to guarantee the presence of the charged person at court;
- Where it is necessary to protect the security of the charged person; or
- Where it is necessary to preserve public order.

When there are no concerns in respect to any of the above issues, the accused person should retain his or her liberty throughout the proceedings of the case. Even in cases where some of these concerns may be apparent, it does not necessarily follow that the accused should be placed in detention pending trial. If a prosecutor or investigating judge believes that the considerations set out in Article 204 of the CCPC would be compromised if the accused were to be released, then the court has the discretion to impose obligations on the accused under a Judicial Supervision Order. Such an order allows the court to address any concerns it has by placing restrictions on the liberty of the accused, rather than denying liberty altogether.

Judicial supervision can only be imposed in cases where the accused is charged with an offense that is punishable by a term of imprisonment and it can be imposed on both adults and juveniles alike. Article

[2] Article 204, Code of Criminal Procedure of the Kingdom of Cambodia ("CCPC").

223 of the CCPC states that a person placed under judicial supervision can be subjected to one or more of the following obligations:

1. Not to go outside the territorial boundaries determined by the investigating judge;
2. Not to change residence without the authorization of the investigating judge;
3. Not to go to certain places determined by the investigating judge;
4. To present himself personally on fixed dates at the police office or military office specified by the investigating judge;
5. To respond to a summons from any person appointed by the investigating judge;
6. To provide all identity documents as requested to the clerk's office at the court;
7. Not to drive motor vehicles;
8. Not to associate with certain people identified by the investigating judge;
9. To deposit a bail surety determined by the investigating judge in accordance with the financial means of the accused;
10. Not to be in possession of any weapon and to forfeit all weapons in his possession to the clerk of the court;
11. To undergo a medical examination and/or treatment; or
12. To refrain from engaging in certain professional activities (although a judge may not prohibit parliamentary activities or any kind of union activities)

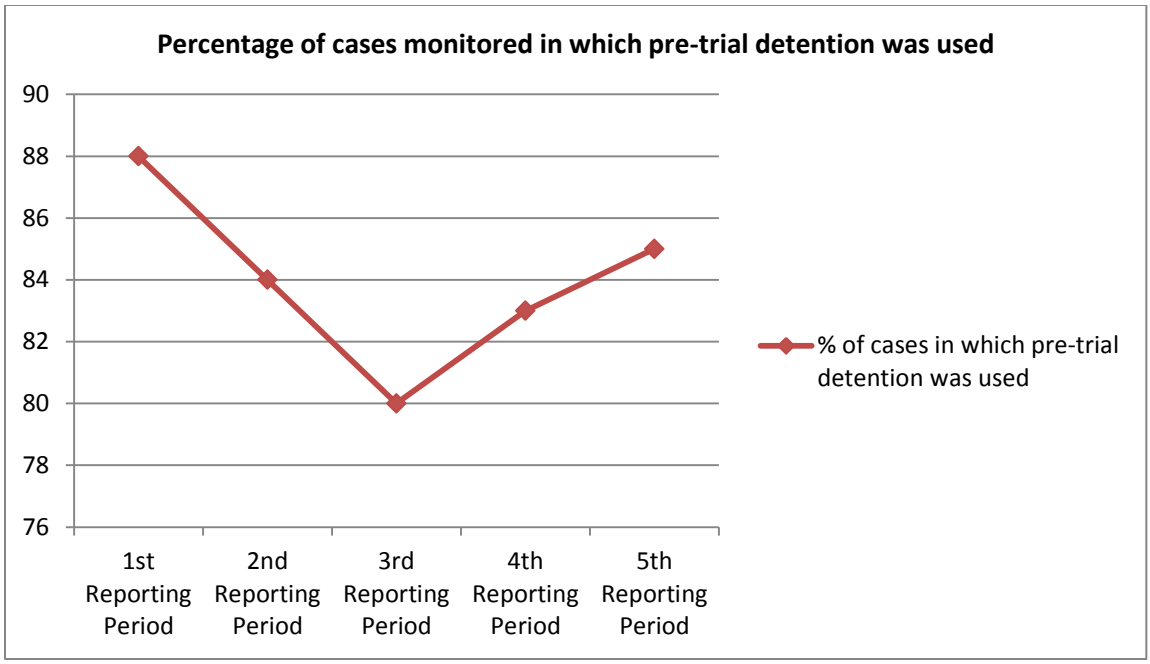
In cases where consideration is given to the imposition of pre-trial detention, the judge must weigh the risks posed by allowing the accused to retain his freedom against the safeguarding mechanisms provided for by the option of judicial supervision. Ultimately, the presumption of innocence should pervade any judicial considerations and the accused should retain his liberty, unless there are extremely strong arguments to the contrary which cannot be addressed by the imposition of judicial supervision.

The CCPC does not provide for any separate system of juvenile justice. The provisions regarding pre-trial detention and judicial supervision apply equally to adult and juvenile accused. It is of particular importance in the cases of juveniles that detention is only ever used as a measure of last resort. While no distinction is made under Cambodian law between adults and youths in respect of giving consideration to pre-trial detention, international law makes it clear that the detention of children, including pre-trial detention, should be avoided wherever possible.[3]

Pre-Trial Detention in Practice

Information gathered by CCHR's Trial Monitoring Project ("TMP") since August 2009 shows that pre-trial detention is imposed in an alarmingly high number of cases. It is of equal concern that since CCHR commenced the monitoring of criminal trials, there has been little change in the number of cases where the accused have been detained prior to trial. While there has been a decrease in the overall number of cases in which pre-trial detention was imposed, the levels remain worrying and do not reflect a presumption of liberty.

[3] Art. 37(b) United Nations Convention on the Rights of the Child.



As demonstrated in the graph above, there was an incremental decline from the first to the third reporting period,[4] from an initial figure of 88% (176 cases out of 199 total cases monitored) during the first reporting period, down to 80% (465 of 585 cases) during the third reporting period. However, the percentage of cases in which pre-trial detention was used increased to 83% and 85% in the fourth and fifth reporting periods, respectively.[5] These figures demonstrate that pre-trial detention is still used in the vast majority of cases, which suggests that judges are not giving full and proper consideration to alternatives to detention. With such high levels of pre-trial detention, it cannot be the case that the law is being applied correctly. If the starting point for the judge is that the accused must retain his liberty, the fact that pre-trial detention is being used in over 80% of cases is not only worrying, but is vastly incongruent with the law. During dialogues between CCHR and the judiciary, judges cited security issues as necessitating pre-trial detention and judges at Kandal Provincial Court stated that there is simply no capacity to replace pre-trial detention with Judicial Supervision Orders.[6]

Recent Examples of Pre-Trial Detention

The following examples were all taken from trials monitored by CCHR at the Phnom Penh Court of First Instance.

25June 2012: The female accused (adult) was on trial for a breach of trust offense, where it was alleged that she had pawned a car that did not belong to her. She had been held in pre-trial detention since 15 November 2011. Her eventual sentence was 8 months imprisonment (with time spent in pre-trial detention deducted).

[4] 1st reporting period: 10 August 2009-31 December 2009; 2nd reporting period: 1 January 2010-31 June 2010; 3rd reporting period: 1 July 2010-31 December 2010; 4th reporting period: 1 January 2011-30 June 2011; 5th reporting period: 1 July 2011-31 December 2011.
[5] 4th reporting period: 329 cases of 398 total cases monitored; 5th reporting period: 395 of 463 total cases monitored.
[6] CCHR 4th Bi-Annual Report, 'Fair Trial Rights 2009-2011,' 18.

25 June 2012: The adult male accused was on trial for stealing a motorbike. He had been detained since 27 January 2011 and was convicted and sentenced to 24 months imprisonment (time deducted).

13 June 2012: The adult male accused was on trial for theft of a mobile telephone from an unsecured parked vehicle. He had been held in provisional detention since 24 January 2012. His total sentence was 1 year, made up of 7 months in prison and 5 months on probation (time deducted). He was also fined one million riel.

6 June 2012: There were two juvenile accused; one was charged with theft of jewelry from the owner of the house where he worked, and the other was charged with handling stolen goods. One was in the 14-15 age group, while the other was in the 16-17 age group. Both accused had been placed in pre-trial detention (information on the date that detention commenced is unavailable). One received a 2 year sentence (1 year custody, 1 year probation), while the other received a sentence of 1 year imprisonment. Their parents were ordered to pay $2600 in compensation.

23 May 2012: The three male accused (all adult) were on trial for theft of a motorbike. It was alleged that they had pushed the victim before riding away on her bike. All three had been placed in provisional detention on 24 November 2011. Two of the three stated that they had been assaulted by the police and forced to confess. All three were convicted and sentenced to three years imprisonment.

In addition to the fact that there is little evidence to suggest that judges are giving consideration to alternatives to detention, there have been a number of concerning cases, which have been widely reported, where it would appear that the law in respect of pre-trial detention was misapplied. Individuals accused of committing very serious offenses have remained at liberty where there is a clear risk to their alleged victims and/or the witnesses in the case, and where the proper administration of justice has been put at significant risk as a result of the accused retaining their liberty.

Case Study 1: Chhouk Bandith

Chhouk Bandith, the ex-governor of Bavet, in Svay Rieng province, was accused of – and admitted to – shooting three female workers who were taking part in a protest outside the Kaoway Sports Ltd factory on 20 February 2012. He remains a free man. In the absence of any form of detention or any kind of protection offered to witnesses in this case, witnesses are afraid to come forward with Chhouk Bandith still at large.

On 16 March 2012, the Phnom Penh Post reported allegations that Bavet town officials had made attempts to buy the silence of all three of the victims, offering them between $500 and $1000 each to drop the charges. It was also reported, in the same article, that one of the victims, 21 year old Buot Chinda, had gone into hiding after filing a complaint against Bandith and feared for her personal safety, knowing that he remained at liberty.[7]*There were clear concerns under Article 205 of the CCPC, namely, that without the imposition of pre-trial detention – or at the very least, the imposition of a Judicial*

[7] C Chhay and D Boyle, 'Factory shooter confesses; Chhouk Bandith owns up, but still walks,' *The Phnom Penh Post* (Phnom Penh, 16 March 2012). See also, T May, "Still no summons for Chhouk Bandith", *The Phnom Penh Post* (Phnom Penh, 21 February 2013).

Supervision Order – there was a risk that Bandith or his representatives would harass the witnesses.[8] Although the Svay Rieng Provincial Court dropped Chhouk Bandith's case in December 2012, the Court of Appeal demanded in March 2012 that the charges be reinstated and his case was re-tried by the provincial court in June 2013, in abstentia. On 25 June 2013, Chhouk Bandith was found guilty of shooting Buot Chenda, Keo Near and Nuth Sakhorn and sentenced to 18 months in prison. He was also ordered to pay a 38 million riel fine. While Bandith failed to appear at his trial, the Court has issued an order for his arrest.

Bandith is not the only high-ranking official to walk free while the subject of pending serious criminal allegations. On 15August 2012, the *Phnom Penh Post* reported that four officials from the Ministry of Land Management accused of corruption charges concerning $2 million worth of bribes had received confirmation that they would be released from pre-trial detention.[9] It may well be the case that, having regard to all of the circumstances, the decision to release the accused was correct. However, this case sits incongruously with other instances in which people without political connections have been remanded in pre-trial detention whilst facing allegations of a much less serious nature. This disparity suggests that the courts are meting out entirely different decisions in different cases, based not upon the legal merits of the case, but upon the accused's social and political standing.

Case Study 2: Sebastian Reuyl

Sebastian Reuyl, a Dutch national, was charged in October 2011 with abusing five children, aged between 7 and 13 years old, in Siem Reap province. Although convicted in the Netherlands in 2003 on similar charges, Reuyl kept his liberty throughout the proceedings.

Siem Reap Provincial Court imposed a Judicial Supervision Order that included the condition that Reuyl must not have any contact with the alleged victims. However, Reuyl reportedly still lived with three of the young boys whom he was alleged to have abused, in violation of the Judicial Supervision Order, sparking fears that he was grooming the boys and their families in an attempt to persuade them to withdraw their allegations against him.

As with the Bandith case, there were very real concerns that victims were being pressured and coerced. The authorities failed to take any action in relation to these reports of witness interference, which, if true, could have been extremely damaging to the case against Reuyl. And, indeed, on 29 August 2012, Reuyl was acquitted by the Siem Reap Provincial Court due to a lack of evidence.[10]

The cases of Bandith and Reuyl highlight the courts' failures to apply the pre-trial detention law in cases where the protection of victims and witnesses is of specific importance as a result of their particular vulnerabilities. When ordinary Cambodian citizens accused of criminal offenses are detained at such consistently alarming rates, it is staggering that individuals such as Bandith and Reuyl are allowed to walk free.

[8] Art. 205(2) CCPC.
[9] S Meas, 'Bail granted for disgraced officials,' *The Phnom Penh Post* (Phnom Penh, 15 August 2012).
[10] B Woods and B Phorn, 'Dutch Pedophile Acquitted Because of Lack of Evidence,' *The Cambodia Daily* (Phnom Penh, 30 August 2012).

In other cases, pre-trial detention has been imposed on individuals who do not appear to pose any risk to the public whatsoever, and whose liberty would have no impact upon the court proceedings, either because there are no direct victims in the case or because there is no evidence to suggest that the accused would fail to appear in court for their trial. In these types of cases, pre-trial detention is clearly being used as a political weapon. Not only do such cases represent a violation of individual rights, they also illustrate a lack of judicial independence and separation of power.

Case Study 3: Yorm Bopha

Yorm Bopha, a 29-year-old mother and outspoken Boeung Kak community activist, was arrested on 4 September 2012 for allegations of her involvement in the assault of two motorbike taxi drivers. When 13 fellow activists were arrested and imprisoned after a peaceful land rights demonstration, Yorm Bopha emerged at the forefront of the campaign for their release. Following this episode, Yorm Bopha has since been targeted by authorities, and even verbally threatened and intimidated on multiple occasions. Yorm Bopha was told that she was "on the blacklist" and would be "in trouble soon". She was arrested on 4 September 2012 in connection with a fight that broke out at a drink shop.

Yorm Bopha was then charged with intentional violence with aggravating circumstances and was immediately put into pre-trial detention. Her husband, who was charged with the same offense, was immediately released on bail. Yorm Bopha and her husband were charged with the same crime using the same facts and circumstances; the only reason that Yorm Bopha was not released on bail is because authorities wanted to create an example out of her and instill fear in fellow activists and community leaders.

On 27 December 2012, Yorm Bopha, along with her husband and her two brothers, was found guilty and sentenced to three years in prison and ordered to pay 30 million riel to each victim. While her husband's sentence was fully suspended and he walked free from the courtroom, Yorm Bopha was ordered immediately back to prison to serve her full sentence.

The inconsistent treatment throughout the process between Yorm Bopha and her husband shows that Bopha was being targeted and punished for her community involvement and activism. Yorm Bopha's conviction was upheld on appeal on 14 June 2013, although her sentence was shortened by one year on the grounds that she did not directly commit violence. After the decision was rendered, Yorm Bopha was taken back to prison to carry out the remainder of her sentence. On 17 June 2013, Yorm Bopha filed an appeal with the Supreme Court in a bid to overturn or reduce her now, two-year prison sentence.

These case studies demonstrate that the legal considerations determining decisions regarding the grant of bail and imposition of pre-trial detention are not being applied objectively or consistently in Cambodia's criminal courts.

Political Considerations and Wider Impact

Political interference in the judicial process undermines the core principles set out in both the Cambodian Constitution and in international law, which state that each and every citizen is entitled to

the same protection under the law and to have the law applied equally and consistently.[11] The judiciary has a duty to apply the law fairly to everybody, a task that is made extremely difficult in the face of political intrusion.

An essential element of any real democracy is the separation of powers. As such, the judiciary must be entirely independent and distinct from the other branches of the state (the legislature and the executive), and judges must be free to make their own decisions autonomously and without outside influence. The cases of Chhouk Bandith and Yorm Bopha send out clear warnings that the separation of powers is not in operation in Cambodia and that fundamental constitutional values are being compromised. It seems that Bandith, a well-connected official, enjoyed the support of others who had power and influence, resulting in him being neither arrested nor detained, despite having shot and injured three unarmed females. That same class of people with power and influence appear to have been instrumental in the arrest and detention of Yorm Bopha, whose crime was to speak out against the actions of the RGC. The law is being used as a weapon to threaten dissidents and critics and the judiciary is being very selective in the way in which the law on pre-trial detention is being applied. The result is a legal system which appears to use its powers and discretion in an arbitrary and inconsistent fashion, in which a child can be held in pre-trial detention for allegedly stealing jewelry, yet a convicted pedophile walks free, despite reports that he is living with his victims in violation of a Judicial Supervision Order. It is a system that lacks transparency, and the way in which it is currently operating does nothing at all to improve its reputation for corruption and impunity.

There is also a wider social and criminological impact of the excessive use of pre-trial detention. It can be argued that where somebody has been held in pre-trial detention, particularly in cases where the statutory time limits have been exceeded, a judge is more likely to hand down a custodial sentence. CCHR court monitors have reported that in cases where the time limits have been exceeded, a judge will often try to mitigate this fact by imposing a custodial sentence commensurate with the period of pre-trial detention, so that in effect, the accused has already served his sentence by the time it is announced. This has a two-fold effect. First, accused are, in some cases, not serving any sentence beyond the date that the verdict is announced. This means that there is little value in the sentence, either punitive or rehabilitative. Second, custodial sentences may be imposed in cases that would not ordinarily warrant a period of imprisonment, which means that the judge is not giving proper consideration to alternatives to custodial sentences, that is, either probation or community service.

The high instance of custodial sentences appears to be linked to the high instance of pre-trial detention. This is of concern, particularly when dealing with juveniles, who should only ever be sentenced to imprisonment as a last resort, in exceptional circumstances, and when all other sentencing options have been exhausted. By using a blanket approach to the imposition of pre-trial detention, the courts are effectively turning the law on its head; retaining one's liberty in pre-trial proceedings has become the exception, rather than the rule. Exposing people unnecessarily to a custodial environment not only contributes to the criminalization and marginalization of those people, but it also constitutes a significant and unacceptable infringement of their rights.

[11] Art. 31 Constitution; Art. 7 UDHR.

Recommendations

Judicial reform – and in the long term, the protection of human rights for all – in Cambodia must include a reform of the current system and use of pre-trial detention.

Adoption guidelines and/or supplementary legislation: Currently, the law pertaining to the imposition of pre-trial detention is contained in Section 5 of the CCPC (Articles 203-18). While this legislation sets out the law and procedure regarding when pre-trial detention can be imposed, it lacks sufficient detail regarding what factors a judge must take into consideration when deciding whether pre-trial detention is necessary. As such, CCHR recommends the following:

- **Amend the CCPC to clarify the evidentiary grounds that must be met before a judge can be satisfied that pre-trial detention should be imposed. Judges should not only consider Article 205 of the CCPC, but should also consider the following:**
    - **Whether there are "substantial" grounds for believing that the accused should be held in pre-trial detention, e.g., whether the accused has previously absconded previously, failed to cooperate with the authorities, or has the means to abscond;**
    - **The nature and seriousness of the alleged offense and the likely sentence if convicted;**
    - **The accused's previous convictions and record of compliance with Judicial Supervision Orders;**
    - **The accused's community ties/associations; and**
    - **The strength of the evidence against the accused.**
- **Publish the evidentiary grounds for pre-trial detention as guidelines for the judiciary and members of the legal field, or as supplemental legislation to Article 205 of the CCPC; and**
- **The RGC should consider reforms to the pre-trial detention system, such as:**
    - **Formulating a clearer and narrower definition of the "necessary to preserve public order" factor as a condition permitting pre-trial detention;**
    - **Strengthening the presumption of innocence through enhanced guarantees to suspects during police remand;**
    - **Curbing the powers of the investigation judge in the pre-trial phase; and**
    - **Creating a commission to monitor the use of pre-trial detention in Cambodian courts.**

Codifying the procedure for violations of Judicial Supervision Orders: If Judicial Supervision Orders are to be considered as a realistic alternative to pre-trial detention, then both the judiciary and the public need to be able to have confidence in them and their ability to properly address any concerns raised regarding the conduct of the accused. If Judicial Supervision Orders are seen as 'toothless' (as in the case of Sebastian Reuyl), then they will never be relied upon as a means of diversion from pre-trial detention. As such, CCHR recommends the following:

- **Procedures must be implemented that define the consequences of an alleged violation of the terms of a Judicial Supervision Order;**
- **The judicial police must be required to investigate any allegations that an accused has breached the terms of a Judicial Supervision Order;**

- **If the judicial police determines that a breach may have occurred, the accused must be given a fair hearing in which he or she has the opportunity to respond to the allegations and the investigation, with the assistance of a lawyer if requested, and through the presentation of his own evidence and witnesses;**
- **Judges should have the discretion to continue the Judicial Supervision Order under the same conditions as previously imposed, add additional conditions to the Judicial Supervision Order, or revoke the Judicial Supervision Order and remand the accused into pre-trial detention.**

Providing logistical support for the supervision of Judicial Supervision Orders: If Judicial Supervision Orders are to offer a realistic means of protecting the public and placing legitimate restrictions on the accused, then it is essential that they are properly monitored. As such, CCHR recommends the following:

- **The judicial police should be given the express obligation to monitor compliance with Judicial Supervision Orders; and**
- **A national database should be established to allow law enforcement authorities and the courts to keep records of individual Judicial Supervision Orders. This database can then be accessed by judges when considering whether to impose pre-trial detention or allegations that an accused has violated a Judicial Supervision Order.**

Establishing procedures for appealing pre-trial detention: Once an accused has been remanded into pre-trial detention by a Court of First Instance/Provincial Court, he should have the opportunity to appeal to a higher court for release. Such a procedure would create added impartiality, transparency and objectivity to the process. As such, CCHR recommends the following:

- **In the case of decisions made by the Phnom Penh Court of First Instance, appeals of pre-trial decisions should be allowed to be made to the Court of Appeal;**
- **Proposals to open Provincial Courts of Appeal should be evaluated and implemented, allowing accused persons residing in the provinces the opportunity to challenge their pre-trial detention;**
- **Until provincial appeal courts are operational, applications for release should be permitted to be made in writing to the Court of Appeal in Phnom Penh;**
- **The Courts of Appeal should hold hearings during which the accused, through a lawyer if desired, and the prosecution can present evidence and arguments regarding the accused's pre-trial detention;**
- **Upon conclusion of the hearing, the Courts of Appeal should immediately decide the issue, providing reasons for the grant or denial of the accused's request; and**
- **At all stages of the proceedings, to encourage the exercise of fair trial rights, judges must remind the accused of their right to legal representation.**

Establishing separate law/guidelines for juveniles: Currently, there is no separate criminal law pertaining to juvenile criminal cases. Particular considerations need to be taken into account when dealing with juveniles; in particular, the focus in a juvenile case should be on rehabilitation rather than punishment.

The age of criminal responsibility in Cambodia is 18 years.[12] Theoretically, persons under the age of 18 should not be prosecuted at all, with the exception of cases where it is 'warranted by the circumstances of the offense or the character of the minor'. In reality, it is extremely common for minors aged between 14 and 18 to be subjected to criminal charges. As such, CCHR recommends the following:

- **Establish separate provisions tailored specifically to the needs of juveniles, which are focused on rehabilitation and not punishment;**
- **Provide comprehensive training to judges, prosecutors and law enforcement officials on these new provisions and juvenile fair trial rights as guaranteed under Cambodian and international law;**
- **Implement a 'Juvenile Supervision Order', which would focus on care and monitoring, as an alternative to pre-trial detention and Judicial Supervision Orders;**
- **Encourage judges and prosecutors to impose non-custodial Juvenile Supervision Orders rather than detention, where appropriate.**

Training members of judiciary and other legal professionals: The Ministry of Justice, the Bar Association of the Kingdom of Cambodia (the "BAKC"),and the Supreme Council of Magistracy must work together and offer training and guidance to members of the judiciary and members of the legal profession on the implementation of any new guidelines or statutes pertaining to pre-trial detention. As such, CCHR recommends the following:

- **The Ministry of Justice and Supreme Council of Magistracy should ensure that members of the judiciary are fully trained on existing and new pre-trial detention rules;**
- **The BAKC should provide regular training to its lawyers on Cambodian criminal law and fair trial rights, and should also create educational materials to be made available to the public; and**
- **The Supreme Council of Magistracy should address any disciplinary issues involving judges or prosecutors (including issues relating to allegations of political interference) comprehensively, transparently and expeditiously.[13]**

The implementation of these recommendations will assist both in the practical and day-to-day administration of justice, by providing clear guidance regarding legal and decision-making procedures. These recommendations will also be of wider benefit in that they will strengthen the independence of the judiciary, thereby maintaining the checks and balances system created by the separation of powers.

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[12] Art. 38 Criminal Code.
[13] See Art. 1 Law on the Organization of the Supreme Council of the Magistracy.