



TRIAL MONITORING & THE PROMOTION OF FAIR TRIALS

Justice for women: An analysis of women's fair trial rights in Cambodia

A Monthly Newsletter on Fair Trial Rights

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A MESSAGE FROM THE PRESIDENT

"It is with great pleasure that I join in the celebration of International Women's Rights day. It is important that the world recognises the rights of all women to equality in every facet of our society.

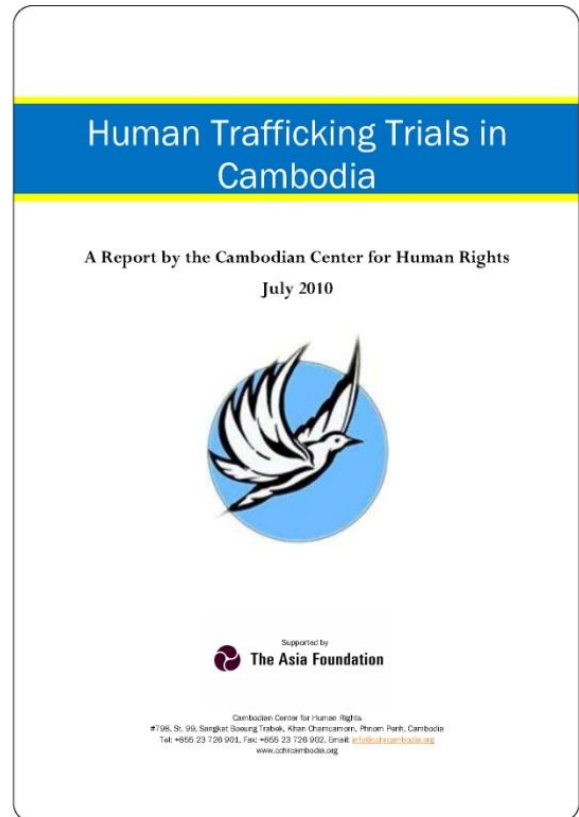
I welcome Cambodia's commitment to women's rights through its ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) which came into force on 12 January 2011. Ratification of the CEDAW Optional Protocol means that individuals and groups who believe their rights have been violated can now submit complaints to the UN Committee dealing with women's rights, subject to certain conditions. Individuals and groups now have an additional means of seeking redress for violations of women's rights.

It is important to acknowledge that women, particularly young women and girls, remain discriminated against on a massive scale. This includes discrimination within the legal system. With a view to addressing discrimination and promoting equality within the Cambodian justice system, the Cambodian Center for Human Rights (CCHR), as part of its Trial Monitoring Project, has monitored a number of issues regarding women rights in trials in Cambodia. Issue Two of the Trial Monitoring & the Promotion of Fair Trials newsletter entitled: 'Justice for women: An analysis of women's fair trial rights in Cambodia' looks at some of these issues."

~Ou Virak, President of the Cambodian Center for Human Rights (CCHR)



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CCHR Report: 'Human Trafficking Trials in Cambodia.'

THE PROJECT & WOMENS TRIAL RIGHTS

The CCHR, with the support of the United States Agency for International Development (USAID) and the East West Management Institute (EWMI), established the Trial Monitoring Project in 2009 with the aim of monitoring adherence to fair trial standards to improve the procedures and practices of courts in Cambodia. For female participants in the Cambodian justice system, promoting greater adherence to fair trial rights and principles incorporates a number of key areas. These include the application of gender sensitive processes to gender related crimes such as human trafficking. Examples of gender-sensitive approaches can include the provision of female lawyers, interpreters and other court personnel, particularly where there was a sexual element to the offence.

HOW THE PROJECT PROMOTES WOMEN'S RIGHTS

Between August & December 2009, Project staff collected data from 18 criminal trials related to the 2008 *Law on the Suppression of Human Trafficking and Sexual Exploitation*. With the support of The Asia Foundation, the data collected from 15 of these trials has since been compiled into a CCHR report entitled – 'Human Trafficking Trials in Cambodia' (the "Report"). The Report looks at a number of issues including gender-sensitivity and analyses the data, identifying areas in which the courts have done well and areas where the courts need to improve. The Report then makes recommendations to the courts based on these findings.

THE FINDINGS OF THE REPORT

- Statistics from the Report shows that the majority of trafficking victims are girls or young women. In the 15 trials monitored, 36 of the victims were female and 7 of the victims male. The Report concludes that the crime of human trafficking is not gender specific but it is gender related.

- Of the 15 trials, victims were represented by a female lawyer on 11 occasions and a male lawyer on 4 occasions. Of these occasions, victims represented by a female lawyer obtained a guilty verdict 8 times, whereas victims with a male lawyer only achieved a guilty verdict once. Whilst the CCHR is not trying to suggest that this is conclusive evidence of a correlation between the gender of a victim's lawyer and a conviction, CCHR does propose that the results may add weight to the notion that gender-sensitive legal representation is important insofar as it increases the likelihood of victim willingness to testify, and could contribute to the quality of such testimony.

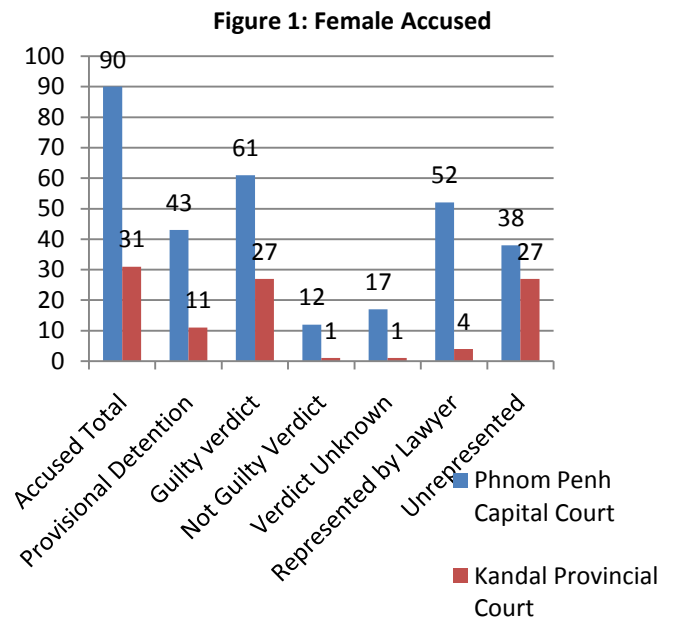
- The CCHR Trial Monitors monitored two trials in which the judge failed to handle sensitive topics in a suitable manner. In one trial the judge asked a young victim whether she experienced "*thrill & hurt*" during a violent sexual assault against her. In another case the judge asked the victim questions related to her work as a prostitute. These remarks appear to be representative of gender related stereotypes that violate the rights of female victims in this regard.

-The CCHR made a number of recommendations based on the Report's findings. This included recommending that the Royal Government of Cambodia and relevant ministries ensure that the Royal Academy for Judicial Professions is providing instructions to all judges and court officials on gender sensitivity, and requesting external assistance where necessary.

LOOKING TO THE FUTURE

The Project, when specifically looking at the fair trial rights of women, has in the past focused on female victims in human trafficking trials. In the future, the Project will be taking a more holistic approach to examining women's rights in trials in Cambodia, monitoring adherence to fair trial rights of women in all criminal trials. This will entail monitoring gender sensitivity in respect of all trials **involving female accused** as well as **female victims**, and the provision of female lawyers, interpreters and other court personnel, amongst other things.

The following chart (Figure 1) represents the raw data already collected by Trial Monitors in relation to 121 female accused monitored between July and December 2010.



Future Project reports will contain analysis of the data collected, as represented in Figure 1, with regards to, amongst other things, issues of gender sensitivity. The Project will also continue to develop monitoring techniques for issues involving women's rights in trials to work towards protecting and promoting the rights of women in trials in Cambodia.

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