



VIOLENCE AGAINST WOMEN IN CAMBODIA 2006

REPORT
March 2007



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LICADHO

CAMBODIAN LEAGUE FOR THE
PROMOTION AND DEFENSE OF HUMAN RIGHTS

VIOLENCE AGAINST WOMEN IN CAMBODIA 2006

My name is Srey Mom. I am 42 years old
and my husband beats me.
This is my story.

A LICADHO Report
March 2007



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LICADHO

CAMBODIAN LEAGUE FOR THE PROMOTION
AND DEFENSE OF HUMAN RIGHTS

Cambodian League for the Promotion and Defense of Human Rights (LICADHO)

LICADHO is a national Cambodian human rights organization. Since its establishment in 1992, LICADHO has been at the forefront of efforts to protect the rights in Cambodia and to promote respect for civil and political rights by the Cambodian government and institutions. Building on its past achievements, LICADHO continues to be an advocate for the people and a monitor of the government through wide ranging human rights programs from its main office in Phnom Penh and 12 provincial offices.

LICADHO pursues its activities through its seven program offices:

- The Human Rights Education Office provides training courses to target groups such as government officials, students, monks and provides dissemination sessions to the general public.
- The Monitoring Office investigates human rights violations and assists victims in the legal process. Specially trained staff also monitor 18 prisons to assess prison conditions and ensure that pre-trial detainees have access to legal representation.
- The Medical Office provides medical assistance to prisoners and prison officials in 18 prisons and provides medical care and referrals to hospitals for victims of human rights violations.
- Project Against Torture provides comprehensive rehabilitation services to victims of torture and conducts advocacy against torture.
- The Children's Rights Office educates the public on children's rights, creates child protection networks at the grassroots level, and investigates children's rights violations.
- The Women's Rights Office educates the public about women's rights, investigates women's rights violations and advocates for social and legal changes.
- The Documentation and Resource Office compiles case files into a central electronic database, so that accurate information can be easily accessed and analyzed.

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Executive Summary

Historically, Cambodians have suffered through a culture of violence perpetuated by the Khmer Rouge regime and other political groups. The impact of this violence continues to affect many people within Cambodia. One of the most vulnerable affected groups are the women of Cambodia. Violence against women – particularly in the form of domestic violence, rape, and human trafficking for the purposes of sexual exploitation – is one of the most serious human rights problems in Cambodia.

Although Cambodia is beginning to recognize the significance of violence against women, the extent of the Government's willingness to educate the judiciary, the police and the public on these issues, and to implement laws and policies that prevent such violence and protect victims, is still quite limited.

Cambodia ratified the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) in 1992 and committed to enforcing the Cambodian Millennium Development Goals (CMDG) in 2000. Both instruments contain provisions to reduce and eliminate violence against women, but there has been insufficient government action to implement them. Since 1992, the Government's progress in reducing and eliminating violence against women since 1992 has been slow and often inadequate. In 2006, the period covered by this report, no new laws or influential policies protecting women from violence were passed or implemented by the Government.

Domestic Violence

With the passing of the *Law on the Prevention of Domestic Violence and Prevention of Victims* on 24 October 2005, the Government provided some recognition of the problem of domestic violence. However, the law has yet to be widely enforced. This is due to problems with the wording of the law – specifically that it does not specify *which* authorities are responsible for taking immediate action to intervene in domestic violence cases – and to prevailing cultural and social beliefs. These beliefs about the inferiority of Cambodian women make it difficult for domestic violence to be recognized as a serious problem that families, friends and authorities should intervene in. There is an urgent need for a government-sanctioned campaign to educate the public, and law enforcement officials, against domestic violence.

Rape

One of the most severe crimes against Cambodian women is almost completely ignored in Cambodian society and similarly by the Government. Rape is perpetuated against numerous Cambodian women, many who have little or no means to legal or social redress. It is a crime that is characterized by unlawful compensation, corruption and impunity as perpetrators regularly pay victims to avoid criminal charges, as well as bribing legal and judicial authorities to escape punishment. This system leaves the victim alone, without any support, and allows the perpetrator to go unpunished. In addition, Cambodian culture perpetuates the idea that rape is often the fault of the victim. It is imperative that the Government educates the public and law enforcement officers that rape must be treated as a serious crime and punished according to the law, and that victims are not to blame.

Human Trafficking for the Purposes of Sexual Exploitation

Cambodia is a source, transit and destination country for victims of human trafficking for the purposes of sexual exploitation. Whilst the Government has acknowledged the growing severity of this situation, it has taken fairly limited action in combating the problem. The current anti-trafficking law is not strongly enforced, and there have been continual delays in the passing of a new draft *Law on Human Trafficking and Sexual Exploitation*. Even if the new law is passed, there will be little impact in combating trafficking unless there is a real commitment to enforcing it. Cambodia's endemic corruption, and the lucrative nature of the sex industry, means that perpetrators can often easily bribe their way out of trouble with the law. Police, military and government officials are widely believed to be implicated in all levels of human trafficking and forced prostitution in Cambodia. Until this impunity is directly addressed by the Government – and perpetrators are prosecuted regardless of who they are – the situation will sadly remain the same.

Recommendations

What is needed to reduce violence against women, is not further rhetoric by the Government, but real action. Current laws must be followed and properly enforced. Where necessary, laws should be revised – in particular the operation of the *Law on the Prevention of Domestic Violence* should be clarified, and the draft *Law on Human Trafficking and Sexual Exploitation* should be passed – but the need for new laws should not be used as an excuse not to enforce current ones. In addition, the Government must initiate specific policies to address violence against women in a systematic manner, including education campaigns to combat cultural and social attitudes towards rape and domestic violence. There is an obligation for the Government to make a concerted effort to implement these laws and policies by specified deadlines and if the Government chooses not to meet these deadlines, they must be held accountable by the international community and civil society within Cambodia, for failure to fulfill these goals.

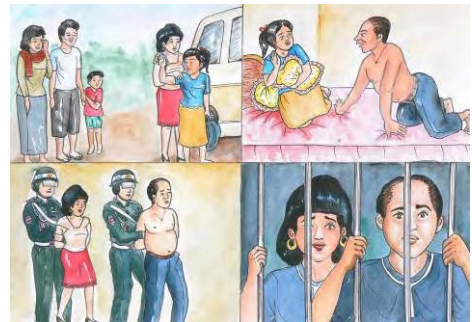
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1. Introduction

In 2006, LICADHO received over 300 complaints from Cambodian women about domestic violence, rape and sexual assault, or human trafficking for the purposes of sexual exploitation (HTS). For the past three years, the reporting of these violations has increased. It is difficult to measure whether higher awareness of women's rights and laws. However it is clear that whatever the reason behind increased reporting, violence against women is a serious problem and that every year, many Cambodian women suffer as a result of this violence.

Since 2001, LICADHO has issued reports on women's rights in Cambodia including rape and indecent assault in Cambodia, the situation of women in Cambodia and violence against women in Cambodia. These reports have highlighted the most serious women's rights violations and recommended many changes to better the situation of Cambodian women.

This report aims to provide a realistic account of the trauma suffered by Cambodian women from domestic violence, rape, and human trafficking for the purposes of sexual exploitation. The report is based on information from LICADHO's Women's Rights Office, based in Phnom Penh, and staff in 12 provincial offices, and it also features personal stories of violence from four Cambodian women. By drawing from client statements and observations and reports of LICADHO monitors, these stories are told in the first person using fictitious identities to protect the anonymity of clients.



Additional commentary on particular types of violence against women is also provided, as are the Government responses to the issues and statistical data of the cases reported to LICADHO in 2006.

The aim of this report is to target the international community and civil society in Cambodia to influence the Cambodian Government to fulfill its obligations under the *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*, and the Cambodian Millennium Development Goals (CMDG) with respect to violence against women issues.

The Cambodian Millennium Development Goal 3, Overall Target 8 states that the Government will reduce significantly all forms of violence against women and children, by implementing the following:

- Increasing the proportion of cases of domestic violence counseled by qualified personnel to 100 by 2015.
- Increasing the population percentage aware that violence against women is wrongful behavior and a criminal act to 100 by 2015.
- Developing and implementing laws against all forms of violence against women and children according to international requirements and standards by 2005.
- Collecting annual statistics to monitor violence against women by 2005.
- Developing and implementing a Prevention Plan by 2005.



In this report the stories of Srey Mom, Ly Viden, Deyt and Heng Nary are true accounts of violence based on client statements and investigations conducted by LICADHO monitors in 2006. The contents of each story were drawn from interviews with these clients and investigations conducted by LICADHO monitors. The stories of these four women were chosen because their cases are representative of violence against women in Cambodia and share similarities with many women reporting complaints of violence to LICADHO.

All names and identifying features have been changed to protect the confidentiality of our clients. Whilst all stories are based on clients' actual experiences, some additional fictional details have been added to the stories in order to present a more complete story.

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2. Domestic Violence

IN THIS CHAPTER...

Case Study 1: Domestic Violence

Domestic Violence Issues: Srey Mom's Story

- *Cultural inferiority*
- *Cycle of Domestic Violence*
- *What kind of help is available to Srey Mom?*
- *The Domestic Violence Law*

Reported Cases of Domestic Violence

Government Response to Domestic Violence

The *Law on the Prevention of Domestic Violence and the Protection of Victims (DV Law)*¹ defines domestic violence to include:²

- Acts affecting life;
- Acts affecting physical integrity;
- Torture or cruel acts;
- Harassment causing mental/psychological, emotional, intellectual harm;
- Mental/psychological and physical harm exceeding morality and the boundaries of the law;
- Sexual aggression (including violent sex, sexual harassment and indecent exposure);
- Threats aiming at frightening, shocking; and
- Acts affecting individuality and property.

The DV Law protects husbands, wives, dependant children and persons living under the roof of the house and who are dependants on the household.³

Case Study 1: Domestic Violence – Prolonged Abuse

My name is Srey Mom, I am 42 years old and my husband beats me. This is my story.

I married my husband Sokly, when I was 19 years old. I was very happy on our wedding day as I imagined my new life with Sokly and the children we would have.

After a year or so, I became pregnant and gave birth to our first child. I was very happy however Sokly decided that he needed to earn more money to raise our child so he went to work in a different province. I'm not sure what kind of work he was doing but he only sent a little money every few months, if we were lucky. My parents and family had to help support my child and I. After a year, Sokly came back home and did not work at all. I had to wash people's clothes to be able to buy food for us to eat. It was very difficult work.

¹ Enacted by the Royal Cambodian Government on 24 October 2005. The Domestic Violence Law complements existing legislation used to protect victims of domestic violence in Cambodia. Please refer to *Violence Against Women in Cambodia* (Jo-Ann Lim, LICADHO, January 2006), p 4 for further information.

² Articles 3 - 7, Law on the Prevention of Domestic Violence and the Protection of Victims.

³ Article 2, Law on the Prevention of Domestic Violence and the Protection of Victims.

Abandonment

I gave birth to our second child and this time Sokly left me again -- this time not to work, but to live with his mistress in another province. I was very upset and very sad, I did not know why Sokly would do this to me and I wanted him to come home. My parents advised me that he was still my husband, that I was lucky because I was married and I had two children and that I should not make any problems with Sokly or get angry with him. I was glad that I had listened to my parent's advice because after four years - Sokly came home. I was so surprised and happy and this time I was determined to be a good wife and to make a good home for Sokly and our two children.

I gave birth to our third child but just like the last time, Sokly left me again to live with his mistress. When he eventually came back, I guessed he had run out of money. By this time I had regular work washing people's clothes - enough to feed the children and myself but not enough to send the eldest children to school. I was very sad about this.

Physical Violence

I think I changed a bit after Sokly left me for the second time. I grew angry and was not so happy when he came back and I was not willing to forgive him for leaving his family for his mistress. However I was scared that he would leave us again and that I would again have to explain to our children, why their father kept abandoning them. My parents still kept telling me to be happy and that I should not make any problems with Sokly or get angry with him. They said he was the father of our three children and more importantly, he was my husband and that I needed to respect him. But I was angry and I did not want to listen to any more advice. One day I came into the house after washing many clothes. I was very tired and hungry. Sokly was there and he was drunk. I became very angry at him for being drunk, for abandoning, for not working and most of all for using the money I earned to feed our children, to spend on drinking wine! I started yelling at him. Sokly also became very angry and he picked up a bamboo stick and started to beat me. I tried to run away, but I couldn't. I suffered injuries on my right leg. When people asked me why my leg was bleeding, I lied and said I had fallen down because I was careless. Only my children knew the truth.

After that time, I was scared of Sokly but I decided to try and be a better wife. I decided that it was my fault that he was getting drunk and not working so I put a lot of energy into making Sokly happy. For a time this worked and I became pregnant with our fourth child.

Attempted murder

Then our lives became a living nightmare. Sokly became drunk every day and would argue with me. He would tell me that I was worthless, that I was a bad mother and a bad wife who could not satisfy him and that was why he had to keep leaving me for his mistress. I became more and more scared but I could not tell anyone what was happening. For the sake of my children I kept quiet. One day he got very drunk and I knew he was going to beat me again. He picked up a knife and tried to stab me with it. Our children were screaming and crying, begging him not to hurt me. I kept trying to escape from him. Then to my horror, he picked up an axe and tried to chop me with it. I think because he was drunk his aim was not so good and he kept missing me and I was able to escape with our children. We ran to my parents' house and I begged them to let us stay with them and to let me divorce Sokly. I told them about his increasing violence and how I was scared he would kill me. My parents let us stay with them for one night but in the morning my parents told me they expected me to return to Sokly and to continue our marriage. They made it very clear that I was not allowed to tell anyone about Sokly's violence. So we went home.

I became pregnant with our fifth and last child. All through the pregnancy I was very scared, I tried not to be alone with Sokly because I was very worried that he would try to hurt me whilst I was pregnant. Two weeks after I gave birth to the last child, I was inside the house sleeping with the baby. The children were outside somewhere and I was trying to get some rest. I woke up suddenly and

smelled smoke. I thought maybe someone was cooking. I picked up the baby and went to the door and started screaming – smoke was everywhere and the house was on fire! I ran outside the house and then I saw that Sokly was outside, looking at me with a strange expression on his face. I learned later, after neighbors had helped us put out the fire – that Sokly had set fire to the house himself – knowing that I was inside it with our baby. I think that he wanted to kill me.

Seeking help

Sokly began to beat me more after the house fire incident, for not cooking his chicken properly, for making mistakes when calculating money for his expenses, for many mistakes he said I made. And the worst thing of all – he started to beat all the children. I think that I could have stayed with him and kept quiet if he was only hurting me, but I could not let him hurt my children. One day he beat our 18 year old daughter very badly – for no reason at all. She was injured and I decided that it was enough! That Sokly should not be allowed to hurt my children or me. I took my daughter and we went to an NGO to tell someone what Sokly had been doing to us.

I had never before reported his violence to any local authorities, after all the times he beat me or the times he tried to kill me. The only people I had ever told were my parents. But on that day I decided that it was time for Sokly to stop hurting us all. It was time for me to be strong for my children and to let Sokly know that what he was doing, what he had been doing for over ten years – was wrong.

I want to divorce Sokly. I don't want to bring up my children with him, I don't want to live with him in fear, wondering every day – will he try and beat me today? Or worse – will he try and kill me?

Domestic Violence Issues: Srey Mom's Story

Cultural inferiority

Like many other Cambodian women, Srey Mom suffered domestic violence for years without telling her extended family or friends or trying to seek assistance. Often the shame of exposing marital problems to outsiders is enough to make many women keep silent. In addition, Cambodian culture promotes a culture of female inferiority. Women who experience domestic violence will often blame themselves for their partner's violence.

Cambodia maintains a traditional moral code of behavior⁴, the *Chbab Srey*, that states that women must serve and respect their husbands at all times. Advice includes 'never tattle anything to your parents about your husband or this will cause the village to erupt'; 'never turn your back to your husband when he sleeps and never touch his head without first bowing in honour'; and 'have patience, prove your patience, never respond to his excessive anger.' Culture and tradition dictates that women striving to attain this behaviour will be rewarded.⁵

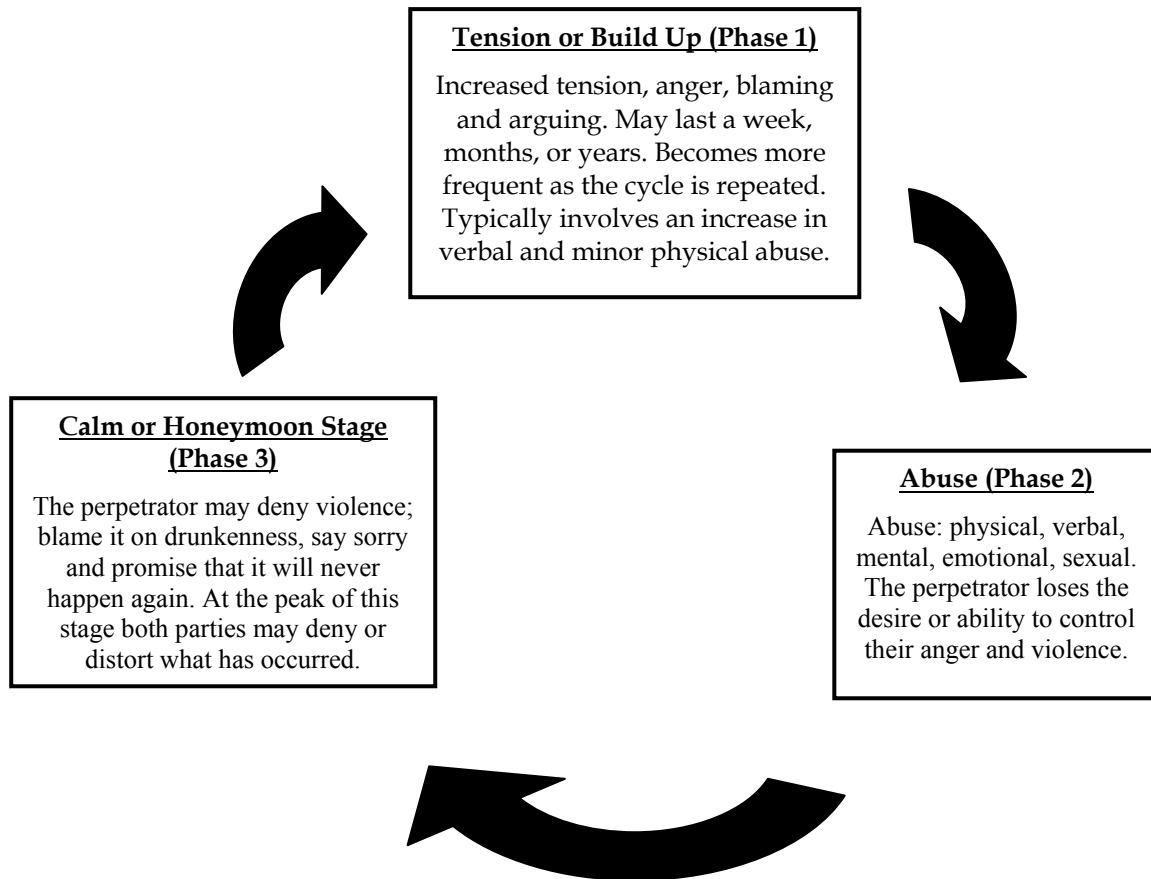


⁴ The *Chbab Srey* is a traditional moral code of conduct for Cambodian women that has been passed down from each generation to the next.

⁵ Please refer to *Violence Against Women in Cambodia* (Jo-Ann Lim, LICADHO, January 2006), p.5 for further information.

Cycle of domestic violence

Srey Mom's story shows the cycle of domestic violence and the escalation that ensues. Domestic violence usually follows a cycle that repeats itself continually. This cycle consists of the following three stages:⁶



The cycle of domestic violence can be seen in Srey Mom's story where her husband, Sokly, becomes increasingly violent towards her over a number of years. At first Sokly abuses her by having a relationship with his mistress, then begins verbally abusing her. This violence then increases to physical abuse, with Sokly using increasingly dangerous weapons that range from a bamboo stick to a knife to an axe. Finally the violence escalates when Sokly tries to kill Srey Mom. Just before each increasing episode of violence there were episodes of increasing tension. After each episode of violence, there were periods of quiet, however these periods became less frequent. It is interesting to note that even this act of violence does not force Srey Mom to acknowledge her situation to someone who can help her. It is only when Sokly violently abuses their daughter that Srey Mom is compelled to seek assistance.

What kind of help is available to Srey Mom?

Whilst Srey Mom did not seek assistance for many years, theoretically she could have gone to an NGO, the police or local authorities such as her village or commune chief for help. Under the law, Srey Mom could have lodged a criminal complaint against her husband for assault and attempted murder, sought compensation for her injuries, and/or filed for a divorce .

⁶ <http://www.umass.edu/fsap/issues/violence.html>

Unfortunately for women in Srey Mom's position the strength and influence of the *Chbab Srey*, the stigma surrounding domestic violence and the limited social services available to a single mother will usually discourage her from ever seeking the above options.

Furthermore, victims who do approach the police or other local authorities are unlikely to receive much assistance. Because of prevailing attitudes that domestic violence is a family matter, to be resolved within the family, authorities are often reluctant to intervene. In reality, many believe that acts such as physical assault or rape are not crimes if they occur within the home. As such, victims are likely to be simply advised to return to their homes – where they will face more violence.

The Domestic Violence Law

The DV Law passed in 2005 expands the options available for victims of domestic violence like Srey Mom.⁷ Rather than putting the onus on victims to come forward, under the DV Law a duty is imposed on the *authorities in charge* to intervene in domestic violence situations that they become aware of, including by:

- Seizing the weapons or objects that have been used or could be use by the perpetrators;
- Moving the perpetrators from the scene or moving the victims from the scene; and
- Offering the appropriate assistance to the victims in accordance with their circumstances, especially providing temporary shelter in which safety can be guaranteed and urgent medical assistance.

Also the *authorities in charge* or the victim may apply to the courts for a protection order which can:

- Prohibit the perpetrator from committing domestic violence;
- Prohibit the perpetrator from approaching or entering the shared house or the places where the victims stay or work
- Prohibit the perpetrator from contacting the victims through any means; and
- Prohibit the perpetrator from destroying joint properties or arranging to put on sale the victims' or the victims' relatives' properties.

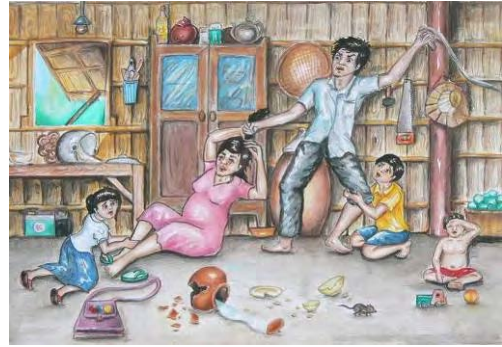
The DV Law, by obligating the *authorities in charge* (or the *nearest authorities*) to take action, effectively makes breaking the cycle of domestic violence the responsibility of society and not just the responsibility of the victim to speak out. However, the law has not been widely used in Cambodia, and therefore victims have been largely deprived of its protections. The lack of enforcement of the law is likely due to engrained attitudes among members of the authorities that domestic violence is not something they should interfere with. Furthermore, the fact that the DV Law does not clearly define the term *authorities in charge* is another problem; the practical effect is that the responsibility of protecting victims from domestic violence is placed on an undefined person – or simply nobody.

The Government need only provide clarification in a sub-decree of the definition of the *nearest authorities* and *authorities in charge* that can intervene during domestic violence situations. A sub-decree is currently being drafted, however to date the text of the sub-decree has not been made public.

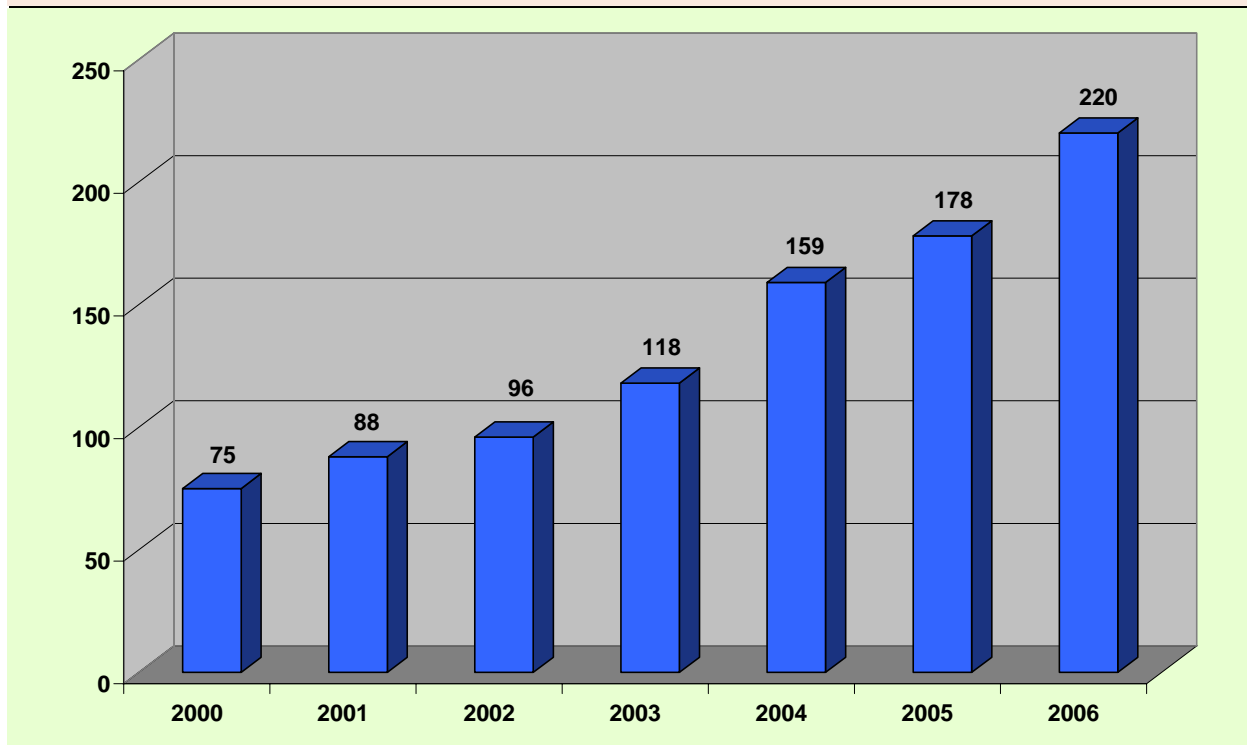
⁷ Chapter 4-5.

Reported Cases of Domestic Violence

Srey Mom's story is one that is all too familiar for thousands of women living in Cambodia.⁸ In 2006, 220 women came to LICADHO to report similar stories of abuse by their husbands or partners. Often these women came only after suffering years of domestic violence, like Srey Mom.



Cases of Domestic Violence Reported by LICADHO 2000 - 2006



The reporting of domestic violence cases to LICADHO has significantly increased over the past three years. Whether this represents a real increase in domestic violence in Cambodia, or only in the *reporting* of domestic violence cases, is unknown. But the reality is that domestic violence is very common in Cambodia, and that higher numbers of victims are seeking assistance.

Government response to domestic violence⁹

Under the Cambodian Millennium Development Goals, the Government committed to decreasing violence against women by developing and implementing a Prevention Plan by 2005.

⁸ Complaints received by three Cambodian NGOs working with victims of gender based violence - LICADHO statistics 2000-2006; Cambodian Human Rights and Development Association (ADHOC) statistics 2000-2005; and Cambodian Women's Crisis Centre (CWCC) statistics 1997-2005.

⁹ For further information on current and past government policies please see *Violence Against Women in Cambodia* (LICADHO, 2006), p.4.

At the time of writing this report, this Prevention Plan had not yet been completed or implemented. A Ministry of Women's Affairs draft prevention plan was submitted to a Prevention Plan Advisory Board (established in November 2005) for comments.¹⁰ There has been no further progress, and the prevention plan has yet been approved by the Government.

The Government's National Strategic Development Plan (NSDP) 2006-2010 also outlined several strategies for decreasing domestic violence in Cambodia. For example, by spreading awareness on key areas, the Government will "directly tackle issues of domestic violence...and cultural norms that tacitly sustain gender inequality in many facets of social and domestic life"¹¹ and addressing political and legal changes such as "strictly and speedily enforcing legal codes dealing with domestic violence...and, implementation of the national action plan for protection of victims of violence."¹² The NSDP, however, lacks specific measures to implement these aims.

On January 19 2006, in New York City, the United Nations CEDAW committee interviewed the Cambodian Government on the implementation of the CEDAW in Cambodia.¹³ The Committee questioned the Cambodian Government representative on the validity of the women's code of conduct, the *Chbab Srey*, and asked what steps were being taken to eradicate such provisions. The Cambodian Government replied that the code was a matter of national identity and that "if and when such principles were found to run counter to the needs of present-day society, it was possible to amend them in a process involving a broad set of stakeholders, including civil society." One Committee member then stated that she did not understand "how it was possible to fight domestic violence without challenging the code of conduct for women...in fact, the code was part of keeping women in inferior and subservient positions. It also gave men the power to discipline women who violated the code."

The Cambodian Government representative did not respond to this comment.

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¹⁰ *Presentation by Dr Ing Phavi, Minister of Women's Affairs* (Cambodian Rehabilitation and Development Board, Council for the Development of Cambodia, October 5, 2006).

http://www.cdc-crdb.gov.kh/cdc/gdccc/eight_women_affairs.htm

¹¹ National Strategic Development Plan 2006-2010, p. 75.

¹² *Ibid*, p. 76.

¹³ Women's Anti-Discrimination Committee considers Cambodia's Report: 'Code of Conduct', Trafficking, Quota, Among Issues Addressed, (United Nations Committee on Elimination of Discrimination Against Women 705th & 706th Meetings, 19 January 2006). <http://www.un.org/News/Press/docs/2006/wom1530.doc.htm>

3. Rape

IN THIS CHAPTER...

Case Study 2: Rape

Rape Issues: Ly Viden's Story

- *Cambodian cultural and social attitudes*
- *Medical evidence of rape*
- *Impunity*
- *Unlawful compensation payments*
- *Other serious issues*

Reported Cases of Rape

- *Under reporting*

Case Study 3: Gang Rape

Gang Rape Issues: Deyt's Story

- *Trauma and shame*
- *Forms of gang rape and attitudes that promote it*

Reported Cases of Gang Rape

Government Response to Rape

Rape is a crime (felony) under the UNTAC Criminal Code¹⁴ and also under the *Law on Aggravating Circumstances of the Felonies*.¹⁵ The definition of rape is "any sexual act involving penetration carried out through cruelty, coercion or surprise."¹⁶

Committing the act of rape or *attempting* to commit rape is considered the same crime under Cambodian law.¹⁷

Case Study 2: Rape

My name is Ly Viden, I am 18 years old. I was raped. This is my story.

I live with my aunty and my sisters in the village. We all work on the land farming and also in the rice fields.

One day, my sisters and I went to guard the cows at the rice fields near our house. We let the cows eat some grass and decided to have a rest whilst they were eating. Two of my sisters went to swim in a nearby pond and my other sister and I sat under a tree, watching the cows and talking to each other.

After half an hour, a man that I had not seen before, came up to me and asked him if I had seen his four cows. I told that him that I had not seen his cows and he should go and check the rice fields for himself. The man stayed and talked to me – he seemed very interested in me.

My two sisters, swimming in the pond, called to us and asked one of us to bring them something. I asked my other sister to go instead of me as I was still talking to the man. We watched my sister walk away and when she had reached the pond the man turned to me and hugged me. I was very shocked as I did not know him but all of a sudden he grabbed me and he dragged me to a nearby canal. I tried to scream for help, but he covered my mouth and he would not let go of me.

¹⁴ Provisions Relating to the Judiciary and Criminal Law and Procedure Applicable in Cambodia During the Transitional Period (UNTAC Criminal Code), Article 33.

¹⁵ Law on Aggravating Circumstances of the Felonies, Article 5.

¹⁶ UNTAC Criminal Code, Article 33 and *Law on Aggravating Circumstances of the Felonies*, Article 5.

¹⁷ Law on Aggravating Circumstances of the Felonies, Article 5.

I kept trying to escape, but I could not get away from him. I was so scared. I tried to struggle but I couldn't escape and in the end – the man raped me.

After it was over, the man ran away. I tried to get up and I tried to walk towards my sisters. I think I must have screamed because my sisters came running towards me. They kept asking me 'what happened? what happened?' but I could not tell them. I was too ashamed.

Finally they carried me home and I told my aunty what had happened. My aunty was very angry at the man and immediately went to the police station to report what had happened. My sisters made me wash and go to sleep but I could not sleep. I was too scared to be alone so one of my sisters stayed with me.

The next day the police arrested the man and later he was sent to prison. I felt a bit safer knowing that the man could not hurt me anymore and I would not have to see him again. But I still had trouble sleeping and I would not go anywhere by myself.

A few weeks after the man had gone to prison, my aunt received a visit from the local police and a strange man. I did not know why they had come to see her. After they left my aunt explained to me that the police had come with the father of the man who raped me. The father had offered to pay me compensation for his son raping me. However he would only pay me the money if I dropped my complaint against his son.

I was very confused and my aunt told me that it would be better to accept the money as the family was willing to pay lot of money, 4,000,000 riels (\$1000 USD). I listened to my aunt and she talked to the police. After that, the man was released from prison and I have not seen him since then. The police came to give me my compensation, and in the end I only received \$700 USD. My aunt said that the police had taken the rest of the money as a fee for organizing the payment.

I still feel very sad and angry about what happened. I feel confused about the money I received. On the one hand, it has allowed my sisters to go to school and I have been able to give my aunty some money to help her. But I think that I would feel better if the man who raped me was still in prison, so that I wouldn't have to be scared anymore.

Rape Issues: Ly Viden's Story

Cambodian cultural and social attitudes

It is clear from Ly Viden's case that she was ashamed of what had happened to her and this can be seen in her response to her sisters. When they initially asked her for information, she refused to answer. Rape in Cambodia must be viewed within the context of Cambodian cultural and social attitudes towards male and female sexuality.

Men are perceived to have more value in Cambodian society than women.¹⁸ A common saying in Cambodia explains that "men are gold, and women are cloth." This saying expresses the double standards in Cambodia where men can be promiscuous and not

¹⁸ Rape and Indecent Assault: Crimes in the Community Report, (Diane O'Connell, LICADHO Special Report, February 2001), p.10 citing Cambodia NGO Report on the Implementation of the Beijing Platform for action (Prepared by Beijing 5 working group of Gender and Development Network and NGO Forum's Women's Working Group, February 2000), p.21.

tarnished, as gold still shines when clean. But women, once they lose their virginity, like white cloth that is dirtied, can never be clean again.¹⁹

Cambodian women are expected to remain virgins until they marry, otherwise they may not be considered for marriage, even if they have been raped²⁰ and the loss of virginity is not their fault. Many rape victims remain silent through feelings of shame or fear or they may even blame themselves for the attack

“Survivors of rape often face discriminatory attitudes from a society that considers them as ‘fallen women’ (*srey khoic*). Social scorn and family shame resulting from loss of virginity when raped are powerful factors that result in some victims feeling that the only profession they are now fit for is prostitution. Some parents even encourage their daughters into prostitution if they are no longer virgins. In other cases, the victim is forced to marry the man who raped her, in a bid to preserve her family’s reputation.”²¹

Medical evidence of rape

After she was raped, Ly Viden’s sisters brought her home and told her to wash herself. Many Cambodian women do not understand that it is imperative to see a doctor immediately after a sexual attack in order to document medical evidence of an attack, and that before washing away evidence of a rape they should see a doctor first. Whilst this evidence should not be the only factor in determining whether rape has occurred or not, in many rape cases judges rely on medical certificates to convict perpetrators. If there is no physical evidence of rape and no medical certificate confirming this, then judges may declare the intercourse was consensual and not rape.²²



Impunity

In Ly Viden’s case, the perpetrator was initially imprisoned but was then able to buy his freedom and was able to coerce Viden to drop her complaint against him. A culture of impunity exists towards perpetrators of rape crimes in Cambodia. Many rapists believe that they are above the law and that if they are caught their only punishment will be to pay money. Sadly Cambodian cultural and social attitudes, together with abject poverty normally forces victims of rape to submit to the culture of impunity for rapists.

Unlawful compensation payments

The most serious obstacle to the prosecution of rapists is the unlawful practice of compensation payments. These payments are effectively out-of-court settlements between the rape victim and the perpetrator (or their families). In effect, rapists pay their victims not to pursue legal proceedings against them. Rapists are able to buy their way out of being punished. Viden’s rapist was effectively able to buy his way out of prison and his unlawful compensation settlement was arranged and brokered by the police. In some cases police may force victims to settle with their perpetrators so that they may receive a fee for assisting with compensation. In Viden’s case, the police received a fee for brokering the payment. Often the

¹⁹ Ibid, p.10, citing Physicians for Human Rights, 1996, Commercial Sexual Exploitation of Women and Children in Cambodia, (Personal Narrative: A Psychological Perspective, Boston, 1997).

²⁰ Op Cit 18 p.10. citing Sexually Abused and Sexually exploited Children and Youth in Cambodia, a qualitative assessment of their health needs and available services in selected provinces (United Nations, Economic and Social Commission for Asia and the Pacific, New York, 2000).

²¹ Op Cit 18, p.i.

²² *Rape and Indecent Assault*, (LICADHO Report, March 2004), p.13.

family of the victim feels they have no alternative because they are in a vulnerable position, poor and without connections, and they are threatened or intimidated by the authorities or the accused person's family.²³ Viden's situation was no different as her aunt was quite poor and her family needed money.

Under Cambodian law, rape victims are entitled to pursue both a criminal and a civil action. This civil action may lead to compensation being paid by the perpetrator. However, the payment of compensation resulting from the outcome of a civil action does not end the victim's right to proceed with criminal charges against the perpetrator.

It may be difficult for rape victims to understand this since the practice of unlawful settlements are increasingly common in Cambodia, and in many cases are actually initiated by police and other authorities. However unlawful compensation settlements do not preclude the State from prosecuting perpetrators; in fact, it is unlawful for a criminal case to be ended by a private compensation agreement.²⁴

Other serious issues

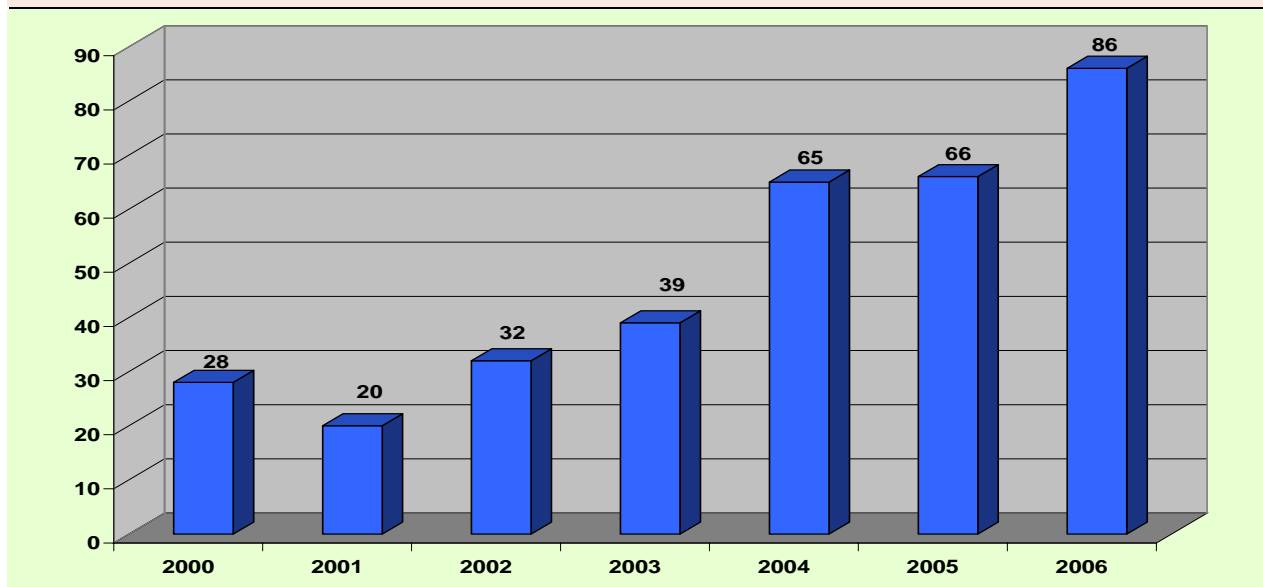
There are a myriad of important issues concerning the act of rape and legal and judicial processes in Cambodia. From the victim's point of view, it may seem as if there are insurmountable obstacles in trying to carry on with their lives and in trying to gain assistance in getting compensation and punishment for their perpetrator. Some examples include²⁵:

- Misinterpretation of the law by judges, prosecutors and defense lawyers;
- Corruption; and
- Inadequate rape provisions in current legislation

Reported Cases of Rape

In 2006, Ly Viden was one of 86 women who reported being raped to LICADHO.

Cases of Rape Reported by LICADHO 2000 - 2006



²³ Op Cit 18, p.51.

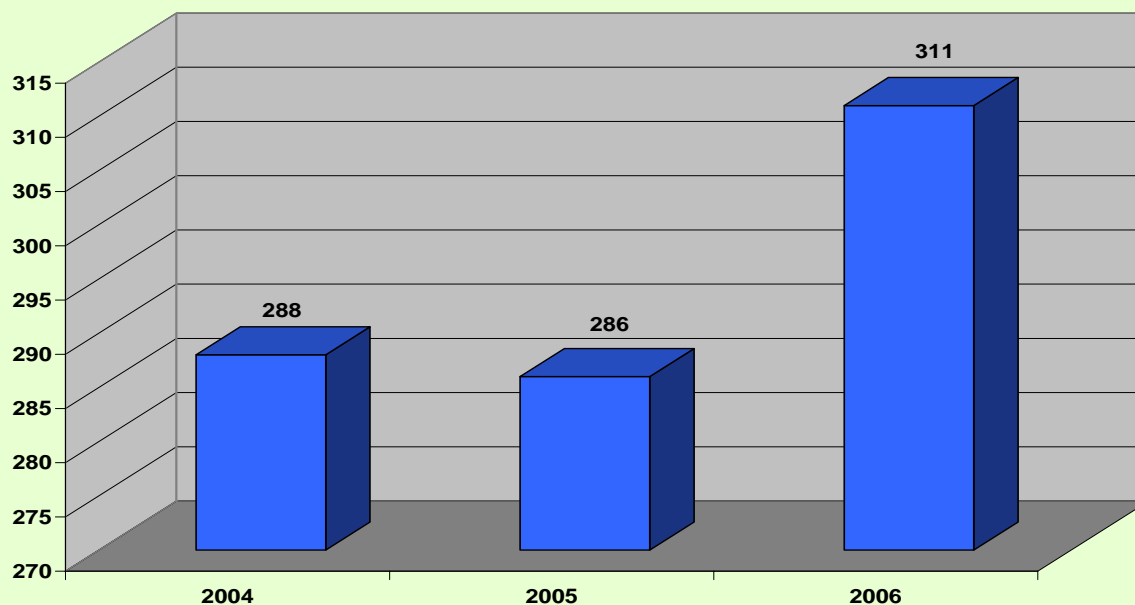
²⁴ Article 7, Law on Criminal Procedure.

²⁵ Please refer to LICADHO's previous report Violence Against Women (January, 2006) for further information.

Between 2005 – 2006 there was a dramatic increase in the number of rape cases reported to LICADHO, over 20% increase in reporting in one year. As with domestic violence, it is difficult to establish the reason behind this increase, to determine whether more cases of rape are actually happening or whether more women are becoming aware of their rights and are willing and able to report rape crimes.

LICADHO also monitored cases of rape reported in Cambodian and foreign newspapers and online media²⁶. Again reporting of rape cases has increased over the past year.

Number of Rape Cases Reported in the Media 2004 – 2006



*Under reporting*²⁷

Rape is almost certainly one of the most under reported crimes in Cambodia due to many factors, including the victim's shame or perceived fault for the rape, distrust of the legal and judicial system because of corruption and unlawful compensation settlements.

Case Study 3: Gang Rape

My name is Deyt, I am 24 years old. I was gang raped by eight men. This is my story.

I live with my parents and brothers and sisters. I work for our family business.

One night I met my friend, Hong, who asked me to go to a dance with him and another friend. I was a bit tired and wasn't sure if I wanted to go with him, but he insisted that it would be fun and that he would drive me there and bring me back home on his moto. I decided to go with Hong and his friend to the dance, and if I didn't like it, I would ask them to bring me home.

Hong told me that he wanted to buy some drinks first, so we went to the market and bought some bottles of wine. I got back on the moto and then Hong started driving again. We drove for about five minutes and reached the place where the dance was being held. I got ready to get off

²⁶ Newspapers monitored are Rasmei Kampuchea Daily, Kampuchea Thmei, Koh Santepheap Daily News and Cambodia Daily.

²⁷ For a more comprehensive overview of under reporting of rape crimes please refer to *Violence Against Women in Cambodia* (LICADHO, January 2006), p.8.

the moto, but instead of stopping and parking, Hong kept driving, past the dance. I asked Hong what he was doing, the dance was along the other way, but he and his friend told me that the dance had finished. I wasn't sure what to think because I had seen people at the dance and heard some loud music, but I guessed that Hong had been to this dance before and knew what time it finished. I thought it was a bit strange but didn't think much of it. We arrived at the local primary school and I thought we were just going to drink some wine and then go back home.

Six of Hong's friends, all men, were waiting for us. We all sat down and started drinking the wine we had bought. It was all very friendly. After a while I started getting dizzy from all the wine I had been drinking and I needed to go to the toilet. I went into the bushes and all of a sudden I felt someone jumping on me, holding my legs and arms. I started screaming and trying to escape.

I didn't know what was happening, I was screaming and trying to see what was happening. I kept screaming Hong's name asking him to help me. Then I realized that Hong and all seven of his friends were the ones attacking me, holding my hands and legs down and even my head, whilst I was struggling to escape, struggling to fight back. I kept screaming and someone put his hands over my mouth so I could not scream anymore.

They raped me. All eight of these men raped me.

I was so tired and in so much pain and crying so much.

After a while, the men left me in the bushes and went back to their drinking. I knew I had to escape, I was so scared that these men would keep trying to hurt me. I ran away and I managed to find a house nearby. I kept banging on the door, screaming for help – but no one was there.

The men all heard my screams for help and came running to find me. When they realized that the house was abandoned, they forced me inside the house.

And then they raped me again.

I don't know how long it took because I kept blacking out and losing consciousness. I know I was in pain. I kept trying to think of ways to escape but my mind was blank with disbelief. I could not believe that this was happening to me.

After the house incident, I managed to run away when most of the men had fallen asleep. I kept running and the next thing I knew I was lying on the road. I had lost consciousness again. I saw a moto approaching and a man got off. I realized that he was one of the men who had raped me. I was too tired to do anything but lie on the road. I was sure he was going to rape me again. Instead, he made me get on his moto and then he dropped me off in front of a shop near my house. He did not say anything. I do not know his name.

I think I sat in front of the shop for a long time, several hours, before I managed to get home. It was as if I was in a strange dream, where these bad things had happened to someone else, not to me. When I got home it was very late and my parents were so worried about me. When they saw me, my mother started screaming as I had bruises all over me from when the men had held me down.

I did not want to tell my parents what had happened – I was so ashamed of what had happened. I did not want to bring shame or dishonor or my family. After a while, my parents forced me to

tell them what had happened. My father got very angry, he called me a whore and said that it must have been my fault. I could only keep silent. My mother argued back with my father and said that we must go to the police, we must try and find the men. What if they came back and attacked me again or attacked some other girl in the village?

By sunrise, my mother had talked to my father for a long time and he agreed with what she was saying. They took me to the provincial police and we made a complaint. The police were not very helpful – they told me that it would be difficult to find the 8 men, even though Hong had been a friend of mine and I knew what he looked like.

After seeing the police, my parents took me to a local NGO to make a complaint. They arranged for me to go and stay in a shelter for women like me, women who have experienced violence, so that I would be safe from the men who raped me.

Now I am slowly trying to get through each day. Every day in the shelter I have cooking classes and Khmer reading and writing classes. We also have a program called counseling where we are supposed to talk about our feelings about the bad things that have happened. I don't like to think about what happened to me or talk about it to anyone. I have nightmares every night about that bad time and I wake up crying a lot. I don't like to be around men and am scared to be by myself. Soon I will have to go home and I am very scared that those men will find me again or that someone else will try and hurt me.

I am also worried that I will never be married, because in Cambodia, men only want to marry a woman who is a virgin. But then again, I don't know if I want to be married anymore. I don't think that I will ever meet a man that I will like or trust.

Gang Rape Issues: Deyt's Story

Trauma & shame

Deyt's case highlights a particularly disturbing form of rape in Cambodia – gang rape of a woman by numerous men. Deyt was a victim of an extremely violent and prolonged gang rape. Like many such victims, Deyt was afraid to tell her family about the gang rape because of shame and fear that she would be blamed for the attack. The trauma suffered by victims such as Deyt is exacerbated by the anger, disbelief and blame they often face from family or friends if they do reveal the attack; in her case, her father got angry and said the rape must have been her fault.



Forms of gang rape and attitudes that promote it

Deyt's case is typical of one of several ways in which gang rape occurs in Cambodia. She was friends with one of the attackers and this person preyed on their friendship to arrange the gang rape. He invited her to a party, but instead took her to a remote place where male friends of his were waiting to rape her.

Another common form of gang rape in Cambodia is the rape of sex workers by multiple men, an act commonly known as *bauk*. Typically, one or two males hire a sex worker and take her to a place where, unknown to her, there are other males waiting; she is gang raped by all the males. *Bauk* is reportedly commonly committed by male students, particularly in Phnom

Penh, most of whom do not consider the act to be rape simply because the victim is a sex worker. One survey found that this attitude is shared by young Cambodians in Phnom Penh. It found that only 13% of males and females “recognized forceful sexual relations between one prostitute and numerous men as being rape, or wrong because the prostitute did not give permission.”²⁸

However, sex workers are not the sole victims of gang rapes. “Any young woman perceived to be breaking the country's conservative sexual and social norms is also a target, and even less likely than the sex workers to speak out, or fight against the practice. Some young men also organize and participate in gang rapes against girlfriends they perceive as pressuring them into marriage or commitment, an unconventionally brutal means of breaking things off.”²⁹

Gang rape in Cambodia is perpetuated by common attitudes and beliefs among young Cambodian men that promote the myth that any girl who is not considered “good” is available for sexual intercourse without her consent, due to the fact that she may be perceived to have already lost her virginity (and therefore “dirtied like white cloth”).³⁰

In Deyt’s case, the mere fact that she agreed to go to a party with her male friend, and then drank wine with him and his friends, may have – in the minds of her attackers – somehow justified their violent rape of her.

Special efforts are needed to combat gang rape in Cambodia, including education of men and the general public that any forced sexual act without the consent of a woman is rape. Improved rehabilitation services are necessary for victims of gang rape, as well as education of their families and communities in order to obtain greater support for the victims.

Reported Cases of Gang Rape

The extent of gang rape in the country is impossible to know, because the number of reported cases is likely to be only a fraction of the real number of cases. Many victims likely do not report gang rape because of shame. In particular, most sex workers who are gang raped almost certainly do not make complaints to the police or other authorities – the widespread discrimination against sex workers means their complaints are unlikely to be taken seriously.

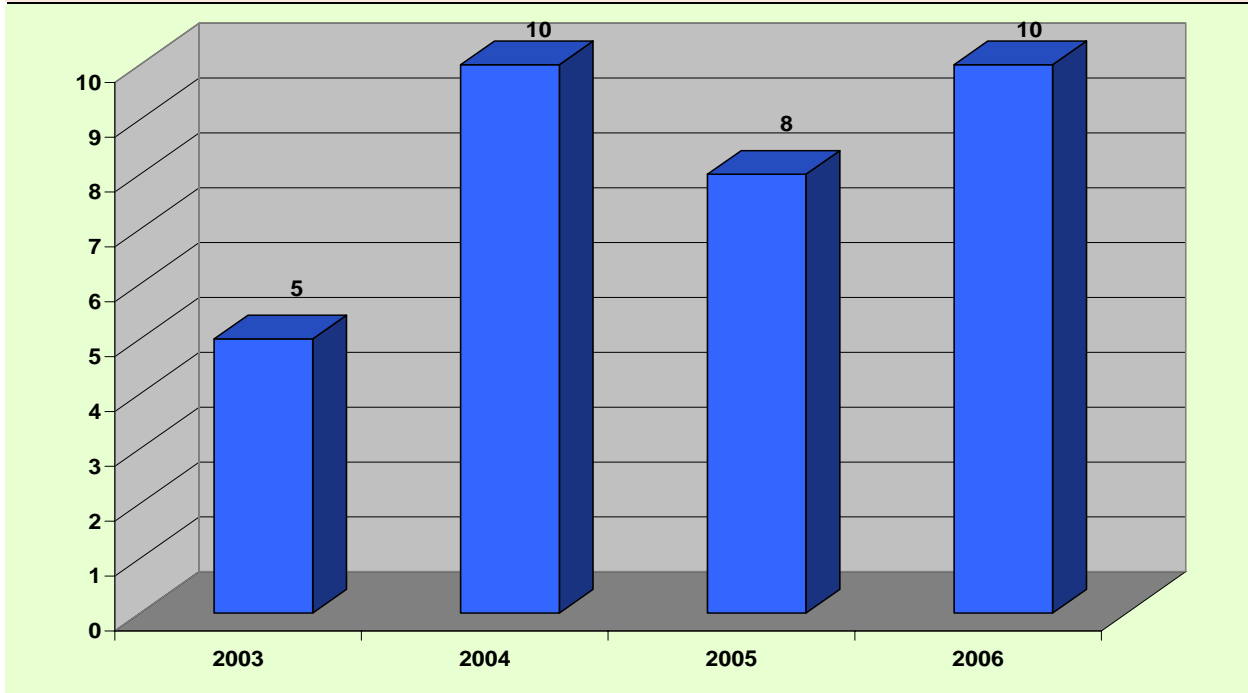
In 2006, LICADHO received complaints of gang rape from 10 women, including Deyt. Deyt was one of six victims who were raped by more than three men during a single attack. Reported cases of gang rape increased over the past year.

²⁸ Op Cit 18, p.23 citing Paupers and Princelings: Youth Attitudes Towards Gangs, Violence, Rape, Drugs and Theft (GAD, 2003), p.8.

²⁹ *Challenging Cambodian Social Norms* (Jennifer Hyman, Global Health Council, 2007).
<http://www.globalhealth.org/reports/text.php?id=154>

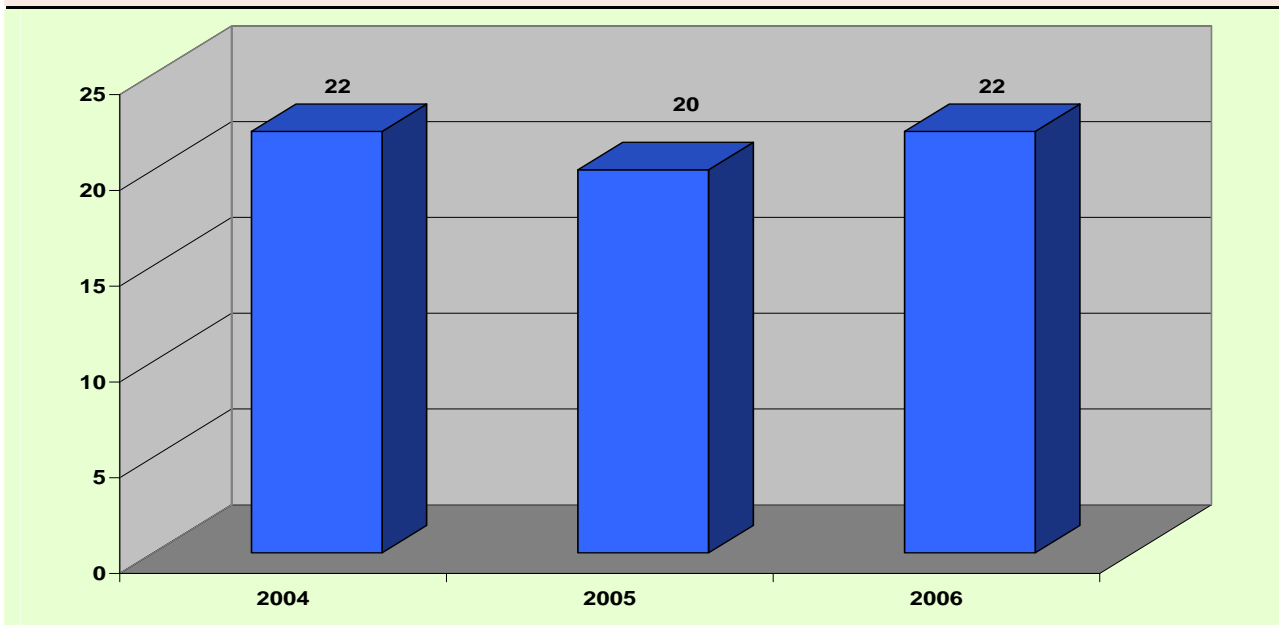
³⁰ Op Cit 18 p.10. citing Sexually Abused and Sexually exploited Children and Youth in Cambodia, a qualitative assessment of their health needs and available services in selected provinces (United Nations, Economic and Social Commission for Asia and the Pacific, New York, 2000).

Total Gang Rape Cases Reported by LICADHO 2003 - 2006



LICADHO also monitored cases of gang rapes reported in Cambodian and foreign newspapers and online media³¹. From 2004 - 2006, the reported numbers of gang rape have remained fairly constant. However, because most gang rape cases are almost certainly not reported in the media, it is difficult to make conclusions about whether or not gang rape is increasing in Cambodia.

Total Gang Rape Cases Report by the Media 2004 - 2006



³¹ Newspapers monitored are Rasmei Kampuchea Daily, Kampuchea Thmei, Koh Santepheap Daily News and Cambodia Daily.

Government Response to Rape³²

The Ministry of Women's Affairs' draft prevention plan on eliminating violence against women, which has yet to be adopted by the Government, contains no specific programs to combat rape. Similarly, the Government's National Strategic Development Plan (NSDP) 2006-2010, which outlines strategies and actions to decrease violence against women, has no provisions to deal specifically with rape.

During the questioning by the CEDAW Committee on January 19, 1996, a Ministry of Women's Affairs representative stated that the ministry had established a rape unit³³. However, no information was given about the role and functions of this unit. One Committee member said "that the way a State criminalized that offence was closely related to the cultural norms. The Committee had been informed that, in past years, there had been serious under-reporting of rape cases in Cambodia. Today, the Committee had heard that a rape unit had been created to address the problem... [and] wanted to receive additional information in that regard. Was the unit involved in the training of legal officials and efforts to change cultural stereotypes? Was rape in the context of marriage punishable under Cambodia's law?"

The Cambodian Government did not respond to these questions.



LICADHO has since been informed by the Chief of the Rape Unit that the unit was only established on June 20, 2006³⁴. The purpose of the unit is to help victims if they seek assistance with legal services. The Rape Unit provides this assistance by taking victims to a local NGO³⁵ which can give them legal advice and assist them to make criminal complaints. There is obviously a gap in the government services available to assist rape victims.

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³² For further information please see *Violence Against Women in Cambodia* (LICADHO, January 2006), p.8.

³³ Op Cit 13.

³⁴ Information obtained from a phone conversation between a LICADHO staff member and Ms Hean Sok, Chief of Rape Department, MoWA, 12 February 2007.

³⁵ Cambodian Women's Crisis Center (CWCC).

4. Human Trafficking for Sexual Exploitation

IN THIS CHAPTER...

Case Study 4: Human Trafficking for Sexual Exploitation

Human Trafficking Issues: Heng Nary's Story

- *Lack of law enforcement and impunity*
- *Sexual exploitation and prostitution*
- *Insufficient repatriation, reintegration and rehabilitation measures*
- *Other serious issues*
- *How can trafficking be combated with cases like Nary's?*

Reported Cases of Human Trafficking for Sexual Exploitation

- *Under reporting*

Government Response to Human Trafficking for Sexual Exploitation

- *Government policy and planning*
- *NGO agreement*
- *UN protocol on trafficking*

Trafficking of women is illegal under the *Law on Suppression of Kidnapping, Trafficking, Exploitation of Human Persons*³⁶ and the *Constitution*³⁷. The law makes it illegal to kidnap a person in order to traffic or sell them or to prostitute them.³⁸

The distinguishing feature of trafficking is the use of force, coercion or deception for the purposes of exploitation.

Case Study 4: Human Trafficking for Sexual Exploitation

My name is Heng Nary, I am 20 years old. I was trafficked and forced into prostitution. This is my story.

I live with my mother. My mother tells me that I have some mental problems – I am not sure what she means. She always tells me that I act like a child and that I cannot think like an adult. One day I heard my uncle saying that I was mentally ill and that I would never change. I still don't understand what he said.

One day I was walking around outside when a nice woman came and started talking to me. I don't really remember what happened next, but she took me somewhere far away from my village. When I woke up I was in a strange room. I was very frightened and I called out to anyone to help me. A woman came in and she told me that she was my new owner. She told me her name was Lay Sopheap. I didn't understand what she meant and I tried to get up and go home to my mother. But she held me down and said that since she owned me, I would now have to work for her.

Many bad things happened, but it is all still confusing. I remember that a man came in and he lay down on top of me. The man gave me 5000 riel when he left, but then Sopheap came and took some of the money, maybe half. She said that I had to pay her for food and for living with her.

³⁶ Law on Suppression of Kidnapping, Trafficking, Exploitation of Human Persons, Article 2.

³⁷ *Constitution*, Article 46.

³⁸ Law on Suppression of Kidnapping, Trafficking, Exploitation of Human Persons, Article 3.

This happened to me every day, many times a day. A lot of times it would hurt me and I would cry but Sopheap would slap me and tell me that this was my job. I missed my mother and our home and I wanted to leave. I did not understand why I had to work for Sopheap.

One day I was sitting outside the house when I saw a girl from my village. Her name was Theory and she used to talk to me sometimes. When she saw me, Theory came and said hello and asked me what I was doing so far away from our village. I told Theory that I had to work for Sopheap and I didn't understand why and about all the bad men I had to work with every day. I asked her to please tell my mother so she could come and take me home.

After a few days, some people came to see me at Sopheap's house and told me that I didn't have to work for her anymore. I cried because I was scared but then the people told me that I would be able to see my mother very soon.

The people took me back to my house but it took a long time and when I saw my mother she started crying and hugging me. I don't know why she was crying but I was very happy to be home.

Human Trafficking Issues: Heng Nary's story

Lack of law enforcement and impunity

Heng Nary was trafficked from Phnom Penh to a far away province, where she was forced to work as a prostitute. She is intellectually challenged and was very confused about her situation. She was eventually rescued from Sopheap's house – which was in fact a brothel – based on information from her fellow villager Theory. LICADHO, in collaboration with the local anti-human trafficking police, was able to find Nary and return her to her mother. She could not recall any details about the woman who trafficked her. When LICADHO investigated this case, monitors discovered that Sopheap's house was in fact a brothel and that Nary had been trafficked and forced to work as a prostitute. LICADHO, in collaboration with the local anti-human trafficking police and juvenile protection units, were able to find Nary and bring her back to her mother in Phnom Penh. To date, no-one has been prosecuted for Nary's case.

Local police who removed Nary from the brothel did not arrest the brothel owner, Sopheap. According to the police, Sopheap claimed that Nary had been working as a prostitute of her own volition and that she had not been trafficked. Local police did not question Sopheap further. Nary, because of her mental condition, was unable to recall any details about the woman who trafficked her to Sopheap's brothel.

Such impunity for traffickers is common in Cambodia. The lucrative nature of the sex industry means that traffickers, brothel owners and pimps can usually easily pay bribes to avoid arrest and prosecution. Some police, military or other officials are deeply involved in the trade, actively running or protecting trafficking rings or brothels. If criminal complaints are made by trafficking victims, police or court officials may coerce them to drop the complaints in return for money given by the perpetrators. Few traffickers have ever been prosecuted and convicted. Essentially "trafficking cases are sad examples where impunity has become the rule to the extent that a sentence of guilt will be regarded as an abnormality."³⁹

³⁹ *Cambodia Women's Rights Report 2004: A Brief on the Situation of Women in Cambodia* (LICADHO, July 2004), p.8. citing *Human Rights Situation*, (The Cambodian Human Rights and Development Association, Report, January 2004), p.40.

Sexual exploitation and prostitution

There is no method available to accurately measure the number of Cambodian women who are trafficked for the purposes of sexual exploitation. However, it is widely believed that many victims of trafficking are trafficked mainly for the purposes of sexual exploitation, including prostitution.

Some victims are abducted into prostitution. But more common is that victims are lured away from their homes under the false promise of a job such as a waitress or garment worker, or that they are directly sold to traffickers or brothel owners by family members or close friends.⁴⁰ In Nary's case, the trafficker preyed on Nary's intellectual disabilities in order to persuade her to leave her village and home. Once she was in the brothel, violence was used to force her to work as a prostitute and prevent her from leaving.



Forced prostitution is one of the most serious crimes of violence committed against women in Cambodia and it is also closely linked with the crime of rape. Nary was effectively raped many times a day, in exchange for a small sum of money and without her knowing consent. Nary's perpetrators took advantage of her disability in forcing her to prostitute herself. Whilst Nary's situation is not the norm amongst Cambodian women trafficked into prostitution, traffickers prey on similar weaknesses of victims, such as poverty, debt-bondage, cultural inferiority and the victim's loss of virginity to continue forcing women to prostitute themselves.

Insufficient repatriation, reintegration and rehabilitation measures

Whilst there have been attempts at repatriating victims who are trafficked across international borders⁴¹, current efforts by the Government to assist trafficking victims are still insufficient. Like Nary, most victims of human trafficking rely on limited NGO services for repatriation, reintegration and rehabilitation support. Cambodia lacks extensive reintegration and rehabilitation measures for victims, which the Government must make concerted efforts to address.

Other serious issues

The reasons that force the demand and supply of trafficked women are numerous and in a poverty stricken country like Cambodia, these will only increase over time. Some examples include⁴²:

- Effects of a post conflict society and the breakdown of cultural values;
- Poverty and migration; and
- Debt bondage.

⁴⁰ For more information, see *Review of a Decade of Research on Trafficking in Persons, Cambodia*, (Annuska Derks, Roger Henke & Ly Vanna, The Asia Foundation in collaboration with Center for Advanced Study, May 2006), p.20.

⁴¹ Please refer to LICADHO's previous report *Violence Against Women* (January, 2006), p.17-18 for further information.

⁴² Please refer to LICADHO's previous report *Violence Against Women* (January, 2006), p.15-17 for further information.

How can trafficking be combated with cases like Nary's?

Under the current trafficking laws, Nary's perpetrators (the persons who trafficked her, prostituted her and benefited from her earnings as a prostitute) could be prosecuted and, if proven guilty, imprisoned for between 1 -20 years, depending on the crime.⁴³

Police raids on brothels to "rescue" sex workers frequently lead to no or few arrests, and the brothels are often reopened again within days. Prosecutions that do occur are usually of relatively low-level pimps or traffickers, while brothel owners or major traffickers pay bribes to escape arrest. In Nary's case, the brothel owner Sopheap was not arrested or charged; the police accepted the Sopheap's claim that Nary had voluntarily come to the brothel.

Normally authorities try to combat trafficking for sexual exploitation by periodically raiding brothels and guesthouses and "rescuing" sex workers. There are several problems with this method as sometimes sex workers will claim not to have been trafficked and to be working of their own volition and often the only perpetrators arrested will be those in charge of the brothel or those who benefit from the profits of sex work. Traffickers are rarely found and charged with criminal offences and usually escape any punishment for their crime.

The above scenario occurred in Nary's case, and is an example where the law was not utilized to its full extent, as the owner of the brothel, Sopheap, was not even charged by the authorities. One reason for this may be that the law does not specifically define the crime of trafficking nor does it specifically target every person involved in the trafficking process. Typically the trafficking of a person involves a multitude of accomplices who are involved in the recruitment, transportation, transferring and harboring of the trafficked persons. The current law does not appear to cover all perpetrators in the trafficking process.

Additionally the definition of trafficking should include more detail in relation to the process of "recruitment". The current law only provides for situations where a trafficked person is recruited by the promise of money, threats, force or drugs. There are many more situation that include the recruitment of a trafficked person by fraud, deception, abuse of power or paying someone who has control or influence or another (such as a family member) or persons who are in a person of vulnerability, such as someone like Nary. A more comprehensive definition is forthcoming in the draft *Law on Human Trafficking and Sexual Exploitation*.

Draft Law on Human Trafficking and Sexual Exploitation

The draft *Law on Human Trafficking and Sexual Exploitation* would provide police and court officials with more powers to arrest and prosecute traffickers, and to provide protection to victims of trafficking. The draft law also provides a more comprehensive definition of trafficking than the current anti-trafficking law, and would define the act of trafficking as⁴⁴:

1. "An act of trafficking in a human being" shall mean any unlawful delivery of possession of a person to another, or any unlawful receipt of possession of a person from another, in exchange for anything of value including also any service and human being.
2. An act of procuring trafficking in a human being as an intermediary shall be punished the same as for an act of trafficking in a human being."

⁴³ Law on Suppression of Kidnapping, Trafficking, Exploitation of Human Persons, Articles 3-8.

⁴⁴ Law on Suppression of Kidnapping, Trafficking, Exploitation of Human Persons, Article 10.

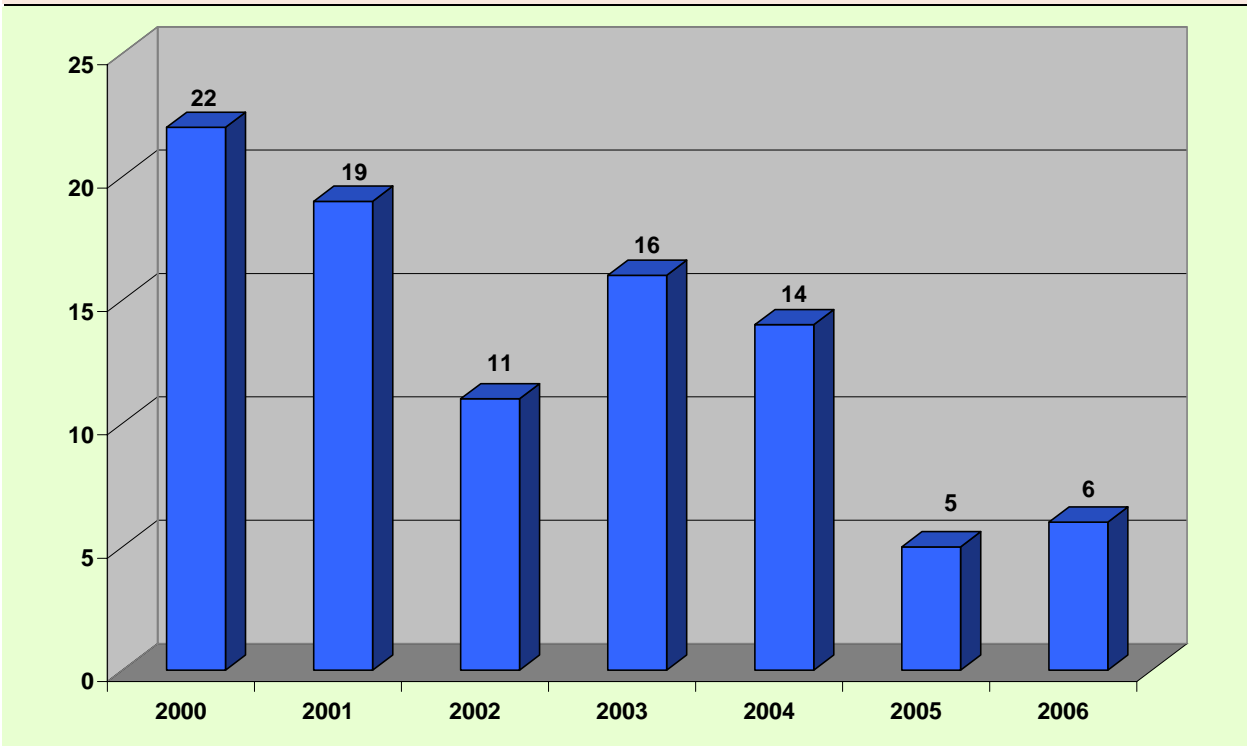
The law also outlines penalties for every person involved in the trafficking process, from the main trafficker to those who assist in the trafficking (such as those who transport, harbor and conceal victims of trafficking).

The draft law has yet to be approved by the Government and sent to the National Assembly. It was found to be incompatible with the draft penal code in late 2006 and is being modified before again being submitted for review by the National Assembly.

Reported Cases of Human Trafficking for Sexual Exploitation

In 2006, LICADHO received complaints of human trafficking for the purposes of sexual exploitation (HTS) from six women, including Heng Nary.

Total Human Trafficking for Sexual Exploitation Cases Reported by LICADHO 2000 - 2006



As with domestic violence and rape, trafficking is likely to be under-reported. Once victims are in the sex industry, a multitude of factors – including poverty, shame, discrimination by society and lack of alternative employment – often keep them in it. It is difficult for women to gain access to services that can assist them (particularly if they are being held in forced prostitution or have been trafficked to another country), and for NGOs to monitor their situation. The involvement of authorities in trafficking and prostitution also likely deters victims from making criminal complaints against their traffickers.

Government Response to Human Trafficking for Sexual Exploitation⁴⁵

Government policy and planning

As mentioned earlier in this report⁴⁶ the Ministry of Women's Affairs draft plan on eliminating violence against women has yet to be approved by the Government.

The Government's National Strategic Development Plan (NSDP) 2006-2010 outlines several strategies and actions for decreasing trafficking in Cambodia. For example, it says the Government will "directly tackle issues of ... trafficking of women ...and cultural norms that tacitly sustain gender inequality in many facets of social and domestic life"⁴⁷ and "address political and legal challenges such as...passing the anti-trafficking law."⁴⁸ However, the NSDP does not appear to contain any specific policies for implementing these actions to decrease human trafficking for the purposes of sexual exploitation in Cambodia.

The CMDG 3, Overall Target 8 states that the Government will reduce significantly all forms of violence against women and children by developing and implementing laws against all forms of violence against women and children according to international requirements and standards by 2005. Since it has been more than one year since the anticipated date for the passage of the draft anti-trafficking law, it remains to be seen how the Government will be able to fulfill this goal. Without proper legislation (and the proper application of that legislation), many victims such as Heng Nary will continue to be victimized and treated purely as commodities. It is difficult to see how trafficking for the purposes of sexual exploitation will ever decrease or be eliminated completely if the Government does not pass adequate legislation to protect victims of trafficking and to prevent trafficking from occurring.

NGO Agreement

On 6 February 2007, relevant Government institutions⁴⁹ and NGOs⁵⁰ involved in supporting victims of trafficking signed an Agreement on Guidelines for Practices and Cooperation between the Relevant Government Institutions and Victim Support Agencies in Cases of Human Trafficking". The Agreement outlines guidelines for practices and cooperation between the Government and NGOs in cases of human trafficking, such as rescue procedures for trafficking victims with the primary concern being the safety, well-being and rights of the victim, protection of victims throughout prosecution process, guidelines for evidence, statement and testimony issues, services, conditions and staff of shelters and reintegration of victims.

The agreement aims to improve cooperation between the Government and NGOs to provide services for trafficking victims. There are few government services for trafficking victims, and Cambodian civil society has been filling this gap by providing alternative services.

⁴⁵ For further information on current and past government policies please see LICADHO's previous report *Violence Against Women* (January, 2006), p.14.

⁴⁶ See section on 'Domestic Violence - Government Policy'.

⁴⁷ Op Cit 11, p. 75.

⁴⁸ Op Cit 11, p.76.

⁴⁹ Ministry of Justice, the Ministry of Women's Affairs, the Ministry of Interior, the Ministry of Social Affairs, Veterans and Youth Rehabilitation, and the Ministry of Health.

⁵⁰ Cambodian Women's Crisis Centre, Komar RikReay, Wathanakpheap, Protection of Juvenile Justice, Healthcare Centre for Children, Cambodian Women's Development, Cambodia Children against Starvation Violence Association, Child Assistant for Mobilization and Participation, Legal Support for Children and Women, Punleu Komar Kampuchea, Association Support New Cambodian Children, Mlop Tapang, Goutte D' eau, Street Families Center, Children and Love Association, AIDeTouS, Cambodia Center for the Protection of Child Rights, ECPAT, Cambodia Hope Organization, Legal Aid of Cambodia, Kumar Ney Kdey Sangkhem, Kokkyo naki Kodomotch, Anakot Komar and Poipet Transit Center.

The Agreement contains some measures regarding the rehabilitation of trafficking victims, but these are mainly concerned with victims who stay at residential shelters; they do not cover the need for other services such as home-based counseling of victims. The Agreement also contains some measures on reintegrating trafficking victims, however again, these measures are mainly concerned with the reintegration of trafficking victims currently housed in shelters. The Agreement also does not



specifically discuss measures to repatriate victims who are trafficked internationally. Whilst this Agreement is a step in the right direction, in particular with regards to providing support to victims of trafficking, it will however, take time to assess the benefits and shortfalls of the Agreement.

UN Protocol on Trafficking

The Government of the Kingdom of Cambodia also has ratified the United Nations supplementary Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children on 16 January 2006. The Trafficking Protocol has three main purposes, to prevent and combat trafficking in persons paying particular attention to women and children; protect and assist the victims of such trafficking, with full respect for their human rights; and promote co-operation among States in order to meet these objectives. The Protocol also deals extensively with measures to protect victims, including measures to prevent re-victimization.

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5. Conclusion and Recommendations

Srey Mom, Ly Viden, Deyt and Heng Nary all suffered immensely at the hands of their attackers. In all of their cases, there was no reason for the cruelty and violence inflicted upon them, other than one common factor – that they are all women living in Cambodia. Whether the violence suffered is physical, mental or sexual, these women and many more silent, nameless and faceless women are victims of one of the worst violations in Cambodia – violence against women.

The serious problem of violence against women in Cambodia will never improve unless the Government is willing to undertake drastic measures to combat it. When there is little or no political will demonstrated to assist one of the most vulnerable groups in Cambodian society, the situation will remain the same, with countless more Cambodian women being violently abused. The Government has already failed to fulfill obligations under the CEDAW and has missed key deadlines for passing legislation and implementing educational policies under the CMDG.

LICADHO urges the international community and civil society in Cambodia to continue to influence the Cambodian Government to design and implement laws, policies and measures that will effectively address this issue and educate the people of Cambodia on the inherent rights of women and the unlawfulness and innate cruelty of violence against women.

Recommendations

1. The international community should exert its combined influence to ensure that the Cambodian Government fulfils its obligations under the *Convention on the Elimination of All Forms Of Discrimination Against Women* and the Cambodian Millennium Development Goals.
2. Civil society should work cohesively to bring attention to the most urgent issues regarding violence against women and use every opportunity to insist that the Cambodian Government fulfils its obligations under the *Convention on the Elimination of All Forms Of Discrimination Against Women* and the Cambodian Millennium Development Goals.

Specifically, LICADHO urges both the international community and Cambodian civil society to lobby and pressure the Cambodian Government to immediately implement the following recommendations⁵¹:

- Enact all laws related to violence against women in accordance with the CEDAW and other international instruments. Specifically, pass the draft *Law on Human Trafficking and Sexual Exploitation* and implement the provisions accordingly.
- Enact rape legislation that clarifies the definition of ‘consent’ as well as elements of the crime (e.g. any penetration or attempted penetration will be considered rape).

⁵¹ Most recommendations have already been published in previous LICADHO reports, however have yet to be implemented by the Cambodian Government.

- Implement a sub-decree for the *Law on the Prevention of Domestic Violence and the Protection of Victims* that clarifies the operation of the law.
- Embark on a nation-wide educational and awareness campaign targeting police, lawyers, judges and in particular, the general public on domestic violence, rape and human trafficking for the purposes of sexual exploitation and related laws and processes. Particular emphasis should be focused on Cambodian males and those living in rural areas.
- Provide training aimed at police, lawyers and the judiciary in recognizing and combating domestic violence, rape and human trafficking for the purposes of sexual exploitation in Cambodia.
- Conduct educational campaigns, particularly in rural areas, to counter traditional thinking that women are inferior to men and to inform women of their rights.
- Increase the number of trained female law enforcement officers and legal officials in dealing with domestic violence, rape and trafficking victims.
- Provide counseling services and rehabilitation for victims of rape, domestic violence and trafficking.
- Provide reintegration and repatriation services for victims of trafficking and assist those NGOs actively engaged in these efforts.
- Educate legal and judicial officials on the correct interpretation of domestic violence, rape and trafficking legislation. Prosecute those officials that misinterpret and abuse the law, including those who participate in or facilitate the brokering of compensation settlements or receive bribes from perpetrators.
- Evaluate the effectiveness of the Government's measures and programs in decreasing trafficking of women.
- Provide training and education for police and border officials working in proximity to trafficking and sex trade centers.

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