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LICADHO

CAMBODIAN LEAGUE FOR THE
PROMOTION AND DEFENSE OF
HUMAN RIGHTS



CHILDHOOD BEHIND BARS: GROWING UP IN A CAMBODIAN PRISON DARA'S STORY

A report issued in
February 2015



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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 civil, political, economic and social rights in Cambodia and to promote respect for them by the Cambodian government and institutions. Building on its past achievements, LICADHO continues to be an advocate for the Cambodian people and a monitor of the government through wide ranging human rights programs from its main office in Phnom Penh and 13 provincial offices.

MONITORING & PROTECTION



Monitoring of State Violations and Women's and Children's Rights:

Monitors investigate human rights violations perpetrated by the State and violations made against women and children. Victims are provided assistance through interventions with local authorities and court officials.

Medical Assistance & Social Work:

A medical team provides assistance to prisoners and prison officials in 14 prisons, victims of human rights violations and families in resettlement sites. Social workers conduct needs assessments of victims and their families and provide short-term material and food.

Prison Monitoring:

Researchers monitor 18 prisons to assess prison conditions and ensure that pre-trial detainees have access to legal representation.

Paralegal and Legal Representation:

Victims are provided legal advice by a paralegal team and, in key cases, legal representation by human rights lawyers.

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Supporting unions and grassroots groups and networks:

Assistance to unions, grassroots groups and affected communities to provide protection and legal services, and to enhance their capacity to campaign and advocate for human rights.

Training and Information:

Advocates raise awareness to specific target groups, support protection networks at the grassroots level and advocate for social and legal changes with women, youths and children.

Public Advocacy and Outreach:

Human rights cases are compiled into a central electronic database, so that accurate information can be easily accessed and analyzed, and produced into periodic public reports (written, audio and visual) or used for other advocacy.

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Mother and child in Battambang prison, 2014

Introduction



As of November 2014 there were 40 children between the ages of one month and almost four years living with their mothers¹ in the Cambodian prisons monitored by LICADHO.² Approximately half of them were born in prison and have never experienced life beyond the prison walls. Whilst there have been few detailed studies assessing the long-term impact of prison life on a child's development, it is clear that for some children early life behind bars can have devastating physical and psychological consequences and life in Cambodian prisons is no exception.

This report is the second in a series of case studies issued by LICADHO which endeavor to bridge the gap in knowledge about young children in Cambodian prisons. The first report detailed the experiences of one boy, Sokun, who lived with his incarcerated mother in Phnom Penh's Correctional Center 2 (CC2) prison until he was six years and ten months old.³ The report concluded that for Sokun, the positive opportunity to bond with his mother may have outweighed some of the negative experiences of prison life, but that Cambodian authorities should have done much more to ensure special measures were in place to protect him from other harmful impacts.

This second case study tells the very different story of Dara⁴ who lived with his mother in Takhmao prison from birth until he was more than three-and-a-half years old. Both of Dara's parents and the woman he identifies as his 'grandmother' are serving 15-year prison sentences for the murder of his 'grandfather'. Dara is now more than five years old and is only able to say a few words.

With these reports LICADHO aims to create a broader understanding, particularly amongst Cambodian judicial and prison authorities, of when it is appropriate and reasonable to allow a child to stay in prison with its mother and the special provisions which must be in place in order to cater for the special needs of both mother and child. By focusing on individual case studies, LICADHO also aims to provide some findings about how the risks of prison life can, in some cases, be outweighed by the benefits of keeping children close to their mothers, provided they are under the age of three as stipulated in Cambodian law.

Since the publication of Sokun's story it would appear that, disappointingly, none of LICADHO's recommendations to the Cambodian authorities have been properly acted upon. Whilst it is commendable that there are now fewer children living in prisons with their mothers than there were a year ago, it is unacceptable that



both the General Department of Prisons (GDP) and the Ministry of Social Affairs, Veterans & Youth Rehabilitation (MoSAVY), the agency which should be responsible for leading the assessment of appropriate custodianship and the safe removal and relocation of a child from prison⁵, continue to shirk their responsibilities towards those children currently in prison. It is also unacceptable that some pregnant women, and those with children, continue to be held unnecessarily in pretrial detention and under custodial sentences.

LICADHO hopes that, with the publication of this second report, both the GDP and MoSAVY will take steps to better understand and tackle the situation of children living in prison with their mothers, ensuring that the rights of both mother and child are fully respected. In publishing these case studies, LICADHO does not advocate for newborn babies and young children to always be removed from their mothers, nor does LICADHO believe that staying with the mother in prison is always the best solution. Instead, LICADHO advocates for full, holistic and ongoing assessments of each case so that informed decisions can be made based on the best interests of the child.

¹ There are currently no children living in Cambodian prisons with the fathers or other primary carers.

² Police Judiciaire (PJ), Correctional Centre 1 (CC1), Correctional Centre 2 (CC2), Correctional Centre 3 (CC3), Correctional Centre 4 (CC4), Takhmao, Tuol Sleng Military Prison, Kampong Som, Kampong Speu, Kampong Chhnang, Kampong Cham, Kampong Thom, Pursat, Battambang, Banteay Meanchey, Siem Reap, Svay Rieng and Koh Kong.

³ Childhood behind Bars: Growing up in a Cambodian prison – Sokun's story, October 2013: <http://www.licadho-cambodia.org/reports.php?perm=182>

⁴ Not his real name.

⁵ The Cambodian prison law stipulates in article 41 that children over the age of three should be the burden of MoSAVY if there is no custodian to take care of them outside of prison.



A girl in Siem Reap prison, 2013

Background



Since the introduction of the December 2011 Prison Law which reduced the age limit of children allowed to stay in prison from the age of six to the age of three, the number of children in Cambodian prisons has dropped by more than 50%. In the month following passage of the law, of the 71 children in prison, 17 were over the age of three. Three years later there were just seven children in prison over the age of three. LICADHO welcomed the 2011 change in law and has been greatly encouraged by the sharp reduction in the number of children currently living in prison with their mothers. However, these statistics are largely testament to the sustained efforts of NGOs working with women and children in prison, including LICADHO, and less obviously a result of improved efforts on the part of GDP and MoSAVY.

One evident consequence of the change in law is that more children in Cambodia are now living apart from their incarcerated mothers, the primary caregiver in most families. Unfortunately, however, there is very little insight into the impact of a mother's imprisonment on children or what happens when a child is removed from his or her mother after having lived with her in prison. LICADHO is not aware of any efforts in Cambodia to record the overall numbers of children who are affected by the imprisonment of a parent or primary caregiver.

Decisions to allow children under the age of three to stay with their mothers in prison should be based on full individual assessments and the best interests of the child.⁶ Such assessments should take into account the child's age, sex, maturity, health, relationship with the mother and the existence of appropriate alternatives outside prison as well as the likely impact of prison life on the child's health and development.

Similar assessments should be carried out when a child is born to an incarcerated mother in order to decide how long the baby should stay in prison, if at all. In LICADHO's view these assessments must be ongoing in recognition of the changing prison environment and developing needs of the child. Once a child has reached the age of three any separation must be carried out in a fully informed, sensitive and appropriate manner and only when suitable alternative care arrangements have been put in place.

Despite the importance of these assessments, in Cambodia there appear to be no consistent systems or guidelines in place for determining when it is appropriate for a child to live in prison or how to remove a child from its mother when he or she reaches the age of three. Children can be sent to prison simply because they are present at the time of arrest even if suitable alternatives are available, or a child may stay in prison based solely on the decision of

⁶Bangkok Rules, articles 49 and 52 and UN Convention of the Rights of the Child, article 3(1).

the mother, often with no consideration of the child's best interests. In 2013 LICADHO received information that in one prison which at the time held several children over the age of three, mothers were given a one-week ultimatum to find alternative living arrangements for their children. Other prison directors have explained to LICADHO that they feel ill-equipped to ensure that removal of a child from his or her mother is done properly and that they receive no support from MoSAVY.

in prison and protect them from the harmful impact of life behind bars. This is true even in cases of minor crimes where pre-trial alternatives or non-custodial sentencing are likely to be more effective responses than imprisonment. Indeed, whilst the numbers of children living in prison has decreased, there are now more pregnant women in prison than there were three years ago.



To address these concerns NGOs still often take the initiative when it comes to case-assessments, leading discussions with those concerned and finding suitable alternative placements for children. In many cases, when NGOs do get involved, it becomes apparent that suitable alternatives to prison exist, often within the child's extended family. In some cases, had such alternatives been taken into consideration initially, some children may have been spared time in prison and the related physical and psychological consequences.

LACK OF ALTERNATIVE MEASURES

Unfortunately the Cambodian system is incapable of providing for most of a child's basic needs, including education, proper nutrition, medical care and social interaction. Children, isolated from the rest of the world and poorly nourished, often acquire severe developmental problems and have a difficult time adjusting to life outside prison when they leave. LICADHO is also aware of cases of young children who have been beaten in prison with no intervention or protection measures being taken by authorities.

Despite this, in Cambodia pregnant women and those with children are seldom spared prison time in order to preserve the family unit, reduce the numbers of children

Children can be sent to prison simply because they are present at the time of arrest even if suitable alternatives are available, or a child may stay in prison based solely on the decision of the mother, often with no consideration of the child's best interests.

Cambodia's Code of Criminal Procedure clearly sets out that, in principle, a charged person should remain at liberty and that pre-trial detention should be used only as a last resort and only in cases of a felony or a misdemeanor involving a punishment of one year or more in prison. Yet of the 61 women who were either pregnant or living with their children in the prisons monitored by LICADHO in November 2014, more than 50% were pre-trial detainees being held on charges for relatively minor offences. Moreover, all but two of the 18 pregnant women were being held in pre-trial detention.



A boy in Siem Reap prison, 2013

A childhood behind bars



STUDY METHODS

In September 2013, six months after Dara left Takhmao prison, the Child Development Center of the organization Indigo⁷ conducted an assessment of his psychological functioning, with a focus on the impact of his time in prison. As Dara is unable to speak, observation and play were used to assess his functioning. The Childhood Autism Rating Scale (CARS), using parental reports and professional observations of a child's behavior, was employed to determine if Dara might be autistic.

Indigo conducted individual sessions with Dara and observed him reuniting and separating from his mother, father and 'grandmother' when he visited them in Takhmao prison. Indigo also conducted interviews with Dara's paternal grandparents and LICADHO staff who had visited Dara and his family regularly in prison. Dara's parents, his 'grandmother' and paternal grandfather also completed Strengths and Difficulties Questionnaires (SDQ)⁸ about him.

Since August 2013, Dara has attended regular therapy sessions at the Center for Child and Adolescent Mental Health (Caritas-CCAMH)⁹ run by Caritas Cambodia

in collaboration with the Ministry of Health in Chey Chumneas Referral Hospital in Takhmao. Observations from his ongoing therapy provided an additional source of information for this case study.

Over the course of 12 months LICADHO gathered in-depth information about Dara's psychological well-being and progress, interviewing his paternal grandparents who he now lives with and his family in prison as well as other inmates, prison staff and counselors. LICADHO interviewed staff from the NGO which assisted Dara's transfer out of prison and which continues to monitor his progress. LICADHO staff also observed Dara during his speech therapy sessions at Caritas-CCAMH and watched him reuniting with his family in prison and interacting with his grandparents and other children at his new home in Takeo province.

FAMILY BACKGROUND

Dara's mother had a difficult and traumatic childhood. As an infant her birth parents sold her to a woman, her new so-called 'mother', who had been married four times and had a number of children of her own. Her new family beat her from an early age and, from the age of 12, she was

⁷ Indigo Psychological Services Cambodia: <http://www.indigo-cambodia.com>

⁸ The SDQ is a behavioral screening tool, specifically about children, which aims to provide an initial assessment of overall psychological well-being, including emotional state, evidence of hyperactivity, peer problems and levels of pro-social behavior.

⁹ <http://www.caritascambodia.org/ccamh>

raped and sexually abused by the third husband and one of the sons. She was sold to a brothel when she was 13 years old where she earned \$100 per month as a prostitute, her wages going directly into the pocket of her 'mother'. Dara's mother soon began to take whatever drugs she could get hold of, including heroin, LSD and crystal methamphetamine.

When she was 20 years old she met Dara's father who was working as a garbage collector in Phnom Penh. They stayed together and she began to work in the brothel only occasionally, supplementing their income by dealing drugs. By this time she had reduced her own drug consumption but continued to drink alcohol and use some drugs, mainly crystal methamphetamine. After a few months Dara's mother discovered she was three-months pregnant and even though she tried to further reduce her drug use, she continued using them until her arrest.

In March 2009, when she was five months pregnant, Dara's mother was arrested, along with Dara's father and her so-called 'mother' on charges of murdering the third husband, the man who had raped and sexually abused her when she was 12 years old. When Dara's mother first arrived in prison, she was reportedly very aggressive and confused and would talk to no one, possibly as a result of drug withdrawal and the nature of her alleged crime.

When Dara was seven months old all three suspects were tried, convicted and sentenced to 15 years in prison. Dara's mother and father deny committing the crime, blaming the 'mother' and her fourth husband. Dara's father appealed against his sentence but the original verdict was upheld. His mother could not afford to file an appeal.

DARA'S STORY

Dara was born in July 2009, four months after his parents and 'grandmother' were arrested. He was born by assisted delivery in hospital following a difficult labor and, despite being a weak baby and suffering from a lung infection, he and his mother were sent back to prison just three days after delivery.

As a baby Dara was fed irregularly by breast and bottle. Due to her own physical and psychological health problems his mother was sometimes unable to breastfeed him for up to a week at a time and, when Dara was 12 months old, she became so sick that she was unable to breast-feed him for one month. She received no support from prison authorities¹⁰ and could not always afford to buy baby formula. When he moved on to solid food Dara was usually given just two daily meals of standard prison food which

is generally of low nutritional value.¹¹ Prison staff were aware that Dara was often hungry, especially when he was a baby.

Only the poorest prisoners in Cambodia survive on prison food and water supplies alone. Instead, those who can afford it buy additional food to supplement their diet whilst others rely on donations from visiting friends and relatives. For Dara and his mother there was little external financial or material support, primarily because their immediate family members were also in prison. His father's family provided support when they could, but as they live more than three hours from Takhmao it was difficult for them to visit on a regular basis. NGO support was also very limited.



Male prisoner talks to a child, 2013

In prison Dara was locked away with his mother in an overcrowded, hot cell for many hours a day and was sometimes mistreated by other female inmates and prison staff. Dara's mother herself has openly admitted that she regularly beat him and that this abuse did not stop until he left prison. Even though Dara's father was also held in Takhmao prison, authorities only allowed him to meet with his son two or three times a year.

¹⁰ A 2009 sub-decree on prisoner food rations states that mothers unable to breastfeed their children under the age of one should receive two kg of formula milk per month.

¹¹ The daily food budget, determined under the 2009 prisoner food ration sub-decree, allocates 2,800 riel (US\$0.70) to each prisoner and mothers with children are supposed to be allocated an additional 1,400 riel (US\$0.35) per child per day. Often prisons do not receive the full amount provided for under the sub-decree and when they do receive the money there is no guarantee that it will be spent on food for prisoners. The amount allocated to prisoners has not been revised in five years despite rising food prices.

The abuse Dara suffered at the hands of his mother was at its worst in the first few months of his life. Sometimes she slapped him so hard that he fell to the floor and was left bleeding from the mouth and nose. The physical signs of abuse on his body were sometimes obvious, yet prison authorities did not intervene until he was one year old. When they did eventually intervene, their response was wholly inappropriate, counter-productive and harmful – when Dara’s mother beat her son, the guards reportedly beat her in turn, perpetuating the cycle of violence. Following this damaging intervention by prison guards, the beatings became less frequent but no less severe. LICADHO fears that, in addition to his own abuse, Dara may have witnessed this violence against his mother.

Dara left prison just twice in the entire time he lived there with his mother, and only when he was so sick that he had to be taken to hospital. Dara was first sent to hospital when he was one-and-a-half years old suffering from severe diarrhea. The second time he was hospitalized for three days at the age of two after having a seizure linked to a high fever that had been left untreated for ten days. Despite his numerous health problems the prison did not keep medical records for Dara nor was there any monitoring or recording of his developmental progress. In fact, the sole medical record available details only his first year growth and vaccination history. Prison medical staff state that they first noticed Dara’s inability to speak when he was about two years old but no action was ever taken to address the problem. He eventually left prison to live with his paternal grandparents in March 2013, aged three years and eight months. By this time he had not yet spoken a single word.

ALTERNATIVES NOT CONSIDERED

When Dara was born no assessment was carried out to determine whether it would be appropriate for him to stay in prison with his mother. His parental grandparents with whom he currently lives were never approached by authorities even though they told the mother and prison

staff from the outset that they were willing to care for him.

Authorities did not act when it became clear that Dara was being physically abused. Indeed NGO representatives who were aware of the abuse tried many times to convince prison authorities and Dara’s mother to allow him to live with his extended family outside prison but his mother refused and authorities did nothing to intervene.

When Dara eventually left prison in March 2013 it was not out of consideration for his safety and well-being but because by this time he was over the age of three and the law no longer permitted him to stay in prison with his mother. His mother agreed to let him go in the hope that he would be able to participate in normal school activities despite his inability to talk.

Authorities did not act when it became clear that Dara was being physically abused.

Following an independent family assessment carried out by an international NGO, with limited involvement of MoSAVY, Dara was sent to live in Takeo province with his paternal grandparents where his great grandmother, two younger cousins and his father’s much younger, four-year-old brother also live.

Despite the comprehensive family assessment, Dara was still not initially safe from abuse. Soon after his release, he was beaten by an aunt who was living in the family house at the time. Fortunately, following an investigation and intervention by the NGO which placed him, the aunt moved out of the house and his family received training on appropriate disciplinary measures. Whilst the aunt still visits frequently, she does not stay overnight and there have been no new reports of abuse.



Gate of Takhmao prison, Kandal province, 2014

Takhmao prison conditions



Takhmao prison¹² is relatively new, located on the outskirts of Phnom Penh in the heart of Takhmao town. It began operating in November 2006 with a capacity of 314 inmates and was then considered to be Cambodia's 'model prison' built with funding from the Australian government through their Cambodia Criminal Justice Assistance Project (CCJAP).

Takhmao prison is now one of the most overcrowded prisons in Cambodia, currently housing almost 1,000 inmates, more than three times its original capacity. When Dara was living there the prison was operating at between 214% and 248% capacity. Female and male prisoners are held in separate cell blocks and female prisoners are generally allowed out of their cells for two or three hours, both morning and afternoon.

As in many prisons, the women's cells at Takhmao are less overcrowded than those for men. There are two separate cells for women, one larger cell which holds the majority of female inmates and one smaller cell, where

Dara lived with his mother, which usually holds between six to ten women. Both cells have a simple toilet and bathroom area. Throughout the time that Dara lived in the prison there were an average of 37 women accommodated in both cells.

Takhmao prison does not have a nursery facility or play area for children. In fact, as of November 2014, only four Cambodian prisons provided children with basic, on-site educational and recreational opportunities and all of these programs were run by NGOs. In 2009, when Dara was born, several NGOs supported prisoners in Takhmao prison, offering various vocational trainings, life skill trainings, legal training and food support for inmates. Pregnant women and children were supposed to receive monthly support by means of additional food and sanitary items but this support was unreliable and sporadic. Some NGOs who were working in the prison have since withdrawn, leaving the pregnant women and children without any source of regular, external support.

¹² Takhmao prison is the more commonly used name for Kandal provincial prison.



A boy visits his mother in Correctional Centre 2, 2013

Scars of prison life



SPEECH PROBLEMS

When Dara left prison in March 2013, his vocal expression consisted of grunts and whining alone and whilst at the age of five there have been small improvements, his progress is slow and he remains severely delayed in his verbal communication.

Autism is not the reason that Dara's expressive language (speech) remains extremely limited. On the Childhood Autism Rating Scale used during the Indigo assessment, Dara was ranked at 25 from a possible range of 15 to 60, with a minimum score of 30 serving as the cutoff for a diagnosis of autism on the mild end of the spectrum.

More than a year after starting his ongoing speech therapy with Caritas-CCAMH, Dara is able to vocalize different sounds and say around 10 one-syllabic words in Khmer like grandmother ("yey"), finished ("och") and dog ("schkay"). Dara's therapist states that he has demonstrated the mental ability to continue to improve his communication skills and believes that with ongoing therapy and family support Dara may eventually be able to communicate using simple words and sentence structures.

Dara's receptive language (understanding) is developing faster than his speech but is still severely underdeveloped for his age group. When Indigo staff first met Dara at the age of four, he was observed following only single

instructions such as "give the cup to me" with or without accompanying gesture, the level of understanding usual for a child between the ages of one and two. At five years old, with the help of ongoing therapy, Dara is now able to follow two part instructions such as "go to the kitchen and get a spoon," a level of development usual for a child aged two to three. Dara now increasingly understands what is said to him but cannot yet verbally respond. His use of gesture is also somewhat immature for his age but functional. Dara also displays great difficulties with his levels of concentration.

EARLY YEARS DEVELOPMENT

With the exception of a two-month period in 2012 when a three-month-old stayed in the same cell, Dara had no other children to interact with in prison. He also lacked child appropriate material for play and sensory stimulation. He had no toys, books or pencils and still has problems holding a pencil properly. At the Indigo assessment Dara displayed severely delayed gross motor skills, for example having difficulties descending a flight of stairs.

Dara also had to learn to take care of himself and his mother from a very early age. His mother told LICADHO that he was aware of her physical and mental health problems, often taking care of her and reminding her to take her medication.

As Dara is not able to express his fears and emotions verbally, the results of the SDQ completed by his imprisoned parents, 'grandmother', and paternal grandfather were used to assess his past and current behavior. In the SDQs, Dara's emotional distress, behavioral and attention difficulties ranked from high to very high and the results show that he has difficulties getting along with other children. Indigo staff conclude that this is most likely a reflection of the fact that, with the exception of a few months, he had no other children to interact with in his early years and therefore had little chance to learn peer-level social engagement. Despite this, those who know him describe him as a kind and helpful boy, an assessment confirmed by the results of the SDQ.



A mother and a baby in Siem Reap, 2013

LOOKING TO THE FUTURE

Dara now lives in a loving, caring environment and has adjusted well to life with his paternal grandparents. He seems particularly close to his grandfather and has formed secure attachments to other family members. He is better able to control his anger, listen and understand others, is more patient, cries less often and sometimes walks away from trouble.

Although Dara is now well cared for, he can still be difficult to manage and continues to display aggressive, destructive behavior, a possible result of the physical violence he suffered and witnessed as a young child in prison. He becomes particularly aggressive when he is hungry or frustrated, sometimes looking for objects to hit people with. Whilst he can sometimes find ways around

his inability to communicate verbally, it appears that his frustration is often the result of his inability to talk.

Since leaving prison Dara has learned how to engage with his peers, how to take turns and share. He is keen to play with other children, will copy their behavior and play alongside them. However other children sometimes imitate his attempts to speak and make fun of him when he tries to interact with them.

Dara began to attend public school in October 2014 and whilst his grandparents are convinced that he will be able to cope, Caritas-CCAMH staff have pointed out that he is likely to struggle to follow the teaching and the chances are high that he will be bullied. In order to progress Dara needs the type of ongoing, specialized one-to-one support that is generally not available in Cambodian public schools. In fact, there are only a few schools for children with special needs in Cambodia, the closest one in Phnom Penh, a three-hour drive from Dara's home. Nonetheless his school does at least provide him with the opportunity to socialize with his peers, learn from them and improve his social behavior as well as communication skills.

Dara lacks the experience and common sense of his peers and whilst he has developed some fine motor skills, he still encounters difficulties with his gross motor skills and needs the help of adults with basic tasks. He is able to ask for help using gestures and generally allows others to help him, suggesting that he is adjusting to more age appropriate roles now that he is living within a more typical family setting.

Dara's therapist regularly gives him speech exercises to do at home but his grandparents do not practice with him. Caritas-CCAMH staff believe this might be because they lack confidence themselves or may not understand the importance of the exercises for Dara's future ability to speak.

When Dara first left prison he was very tearful and he still becomes visibly upset when separated from close family members or familiar surroundings. He still appears to have a difficult relationship with his mother which is evident when he visits her in prison. During the initial visits he would become very distressed and refused to be touched or held by her, a likely impact of her earlier abusive behavior. Indigo staff observed him becoming immediately upset, crying loudly and going completely rigid when she picked him up and hugged him. This relationship has begun to slowly improve but he is still reluctant to be touched by her.

On the other hand, Dara always appears happy to meet with his imprisoned 'grandmother' and is not uncomfortable being touched or held by her. In fact, it appears that he had a strong relationship with her in prison and, despite her questionable character, she may have been able to provide him with some stability in prison.

When observed visiting his father, even though he did not initially recognize him and was sometimes unwilling to approach him, it was apparent that Dara's father was very gentle and loving toward Dara and was clearly distressed that his son did not know him well. Dara appears fearful of the prison guards but seems to understand that he is only visiting his mother in prison and there is no danger that he will have to stay.

Whilst there is no clinical evidence of high levels of anxiety or specific phobias or traumas, Dara's prolonged fear of new environments and strangers could affect his development by inhibiting him from trying new things

and thus limiting opportunities for learning. However, as he becomes more settled in his new, caring family surroundings and becomes more secure in his relationships his willingness to take risks and try new things is likely to increase.

Since their son's arrest, Dara's parental grandparents have experienced financial problems. They sold their land to cover lawyers' fees and other prison related expenses and they now struggle to provide enough food for all the family. A NGO supports them with 25kg of rice per month and transportation costs to the therapy sessions in Takhmao, a three-hour drive from where they live.



Children and mother in Paillin prison, 2011

Conclusion



Given his mother's continued drug use during pregnancy, it is likely that some of Dara's cognitive problems, and possibly his speech impediment, developed in utero. It is commonly known that infants who have been prenatally exposed to drugs are at risk of experiencing neurodevelopmental difficulties and some studies have pointed to the particular impact of maternal drug intake on a child's speech development.¹³

But it is clear that Dara's developmental problems are also a result of his early life behind bars. Whilst he does not display obvious symptoms of trauma such as nightmares, excessive fear, or loss of interest or enjoyment, his time in prison and the beatings he was subjected to as a baby and young child are likely to have impacted his emotional memory, development and levels of excitement and fear. Having been cut off from broader society, neglected and abused by his mother and others, Dara was deprived of the opportunity to develop in-depth bonding and secure attachments with his family. Instead Dara appears to have developed a general mistrust of his mother and the world around him.

Dara has obviously been deeply affected by his prison experiences and the difficult, stressful living environment, lack of sufficient nutrition, appropriate medical care, child appropriate stimulation and peer relationships. Whilst it is unclear how many of his developmental problems developed in utero and how many are a direct result of prison life, the various forms of neglect Dara encountered are known to be linked to developmental difficulties and both expressive and receptive language delays.

In general LICADHO supports efforts to ensure newborn babies and small children have the opportunity to remain with their detained mothers in Cambodian prisons. And LICADHO recognizes the benefits of allowing them to stay together until the child reaches the age of three, providing the prison can provide a safe, healthy and child-appropriate environment. Among other things this can reduce the likelihood of children being abandoned or sent to inadequate shelters and provides the child with the continued nurturing of the mother-child relationship.

However, LICADHO believes that a child should only stay in prison following a comprehensive, individual assessment which takes all factors into account, including the benefits and risks. There must also be ongoing monitoring of these children and special safeguards must be in place to cater for the needs of both mother and child. Only then is it appropriate and reasonable to allow a child to remain in prison.

In Dara's case there was no such assessment, monitoring or safeguards in place. He remained in prison with his

mother without question or consideration of alternative measures. Whilst it may have initially appeared necessary and appropriate for him to stay with his mother for purposes of bonding and breastfeeding, once the abuse began and his developmental problems became apparent it should have been obvious that steps needed to be taken to ensure that he was removed from prison in a sensitive and time-appropriate manner.

If a proper assessment had been carried out initially, it would have become clear that living with his paternal grandparents was a viable alternative and Dara could have been spared the abuse, stress and deprivations that came with prison life. Whilst he would have lacked opportunities for mother-child bonding, he may have been able to overcome some of his developmental disadvantages. Indeed Caritas-CCAMH staff are of the opinion that if Dara had left prison aged one and had received appropriate assistance at that time, he would now be able to communicate better, would have avoided many of his behavioral problems and developed better gross motor skills.

Cambodian authorities must acknowledge the potential impact of prison life on all children and take measures to offset any risks by reviewing how decisions are made. They must also pay attention to the particular circumstances of each child and provide training to staff so they can recognize when problems arise and respond appropriately.

In Dara's case it does not appear that the opportunity to bond with his mother outweighed the negative experiences of prison life. Instead he spent his early years in a violent environment where his health and education were neglected and his developmental problems ignored. Had it not been for the provisions of the 2011 prison law, it is likely he would have remained under the same circumstances until the age of six.

As with LICADHO's earlier case study, Dara's story highlights the critical importance of putting special measures in place when children are housed in prison with their mothers. But Dara's experience also demonstrates the failings of both GDP and MoSAVY to properly assess whether a child should be in prison in the first place or to act when a child is at risk.

For Dara, the future is uncertain. Since leaving prison his physical coordination has improved somewhat and Caritas-CCAMH staff believe that he can continue to improve but will never be at the same level as his peers. He is unlikely to ever have normal speech abilities and will therefore continue to encounter problems at school and as an adult.

¹³ See for instance: http://aia.berkeley.edu/media/pdf/shah_children_meth.pdf



Mother and her child behind bar, 2013

RECOMMENDATIONS

►►► **Comprehensive, individual assessments (***)**

The GDP, together with MoSAVY, should assess the situation of each child to decide if it is better to separate the child from his or her incarcerated mother or if the child should live with her in prison. This assessment should be done, as is standard in many other countries of the world, before the child enters prison. The same assessment should be done when a child is born while the mother is incarcerated in order to decide how long the baby should stay in prison, if at all. This assessment should take a holistic approach, considering the best interests of the child and the right of the child to development as well as the benefits of a continued mother-child relationship if the child stays with the mother in prison. The assessment should also consider the inadequately developed Cambodian child-welfare system and therefore the risks of children being abandoned or placed in inadequate shelters.

►►► **On-going monitoring and supervision**

Individual assessments must be ongoing in recognition of the changing prison environment and developing needs of a child. Assessments should be conducted in a clear timeframe and should take into account the child's developing maturity, health, relationship with the mother and the existence of appropriate alternatives as well as the ongoing impact of prison life on the child's health and development.

►►► **Child protection**

GDP and MoSAVY must investigate, act and record any allegations of child abuse in prisons. If they become aware of situations in which a child is at risk they must act immediately to protect the child. Prisons must keep full health records of children living with their mothers in prison and share this information with other health professionals as appropriate.

►►► **Detailed guidelines (***)**

MoSAVY should, in cooperation with GDP, issue guidelines on how to proceed with and enhance outside referrals and placements of children over the age of three who are still living in prison. This is necessary to ensure that any separation is managed and carried out in a sensitive and time-appropriate manner and only when suitable alternative care arrangements have been put in place. The existing April 2006 policy on Alternative Care for Children in Cambodia provides a good framework, stating that the first choice of placement should be kinship care, then foster care and only then placement within a children's home.

►►► **Supervised pre-trial release and non-custodial sentencing (***)**

In line with the Bangkok Rules, judicial authorities should identify women with dependent children – inside or outside prison – who are candidates for supervised pre-trial release and/or non-custodial sentences. Authorities should advocate to judges and prosecutors to preserve family units where possible, so that children are not forced into prison with their mothers or left behind. An emphasis should also be placed by authorities on women who enter prison pregnant. Supervised pre-trial release and/or non-custodial sentences for pregnant women would reduce the number of children living with their mothers in prison considerably.

►►► **Training and awareness programs (***)**

Prison staff should receive training on child development and the health care needs of pregnant mothers and children so that they can respond appropriately in times of need and emergencies. Specialists should be allocated to monitor a child's development so that any problems can be identified at an early stage.

►►► **More resources (***)**

GDP and MoSAVY should allocate additional resources in order to better understand and promote the rights of mothers and children in prison, to review the decision making processes that lead to children accompanying their mother to prison and to assess the impact of imprisonment on children.

►►► **Share information and advice (***)**

GDP, MoSAVY, the Ministry of Health and the Ministry of Justice should increase and coordinate their efforts to share information and advise officials on the needs of pregnant women and children living with their mothers in Cambodian prisons.

►►► **Increase budget**

GDP should increase the budget and allocation of resources for pregnant and breastfeeding women, and children living with their mothers in prison. This should include an increase to the daily food budget allocation.

(***) Recommendations are identical to ones provided in previous LICADHO report "CHILDHOOD BEHIND BARS: Growing up in a Cambodian prison, Sokun's story," October 2013, which have not been properly acted upon.

