

HUMAN RIGHTS MONITORING AND PROTECTION IN CAMBODIA, 3rd QUARTER 2004

A LICADHO Report
October 2004



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LICADHO

CAMBODIAN LEAGUE FOR THE PROMOTION
AND DEFENCE OF HUMAN RIGHTS

Summary of the Activities during the Third Quarter Reporting Periods

The following report represents activities conducted by the Monitoring Office, comprised of the Investigations Unit and the Prison Project Unit, during the third quarter of 2004 in Cambodia.

LICADHO monitors the human rights situation in Cambodia, collecting and analyzing information on rape, sexual exploitation and human trafficking, torture in custody, extra judicial killings, illegal detentions, disappearances, threats and intimidation, land expropriations, and illegal destruction of property in coordination with the Children's Rights Office, Women's rights Office, and the Project Against Torture.

The mandate of the Monitoring Office is to investigate human rights violations committed by government representatives within 26 categories and subcategories, as well as co-investigate with other LICADHO Offices children's rights and women's rights violations. Monitors assist victims to file complaints with police, the courts or other relevant institutions, and advocate for their cases to be investigated and resolved according to the rule of law. The Monitoring Office is also responsible for identifying human rights abuses and maintaining an authoritative knowledge of the human rights situation in Cambodia in order to advocate for change and legal reform.

The Monitoring Office gives special attention to human rights abuses that directly affect the most vulnerable members of society, while also maintaining documents and two databases for the purposes of research and analysis of human rights violations, prison conditions, and the rights of women, children and minorities. The office further strives to produce high-quality reports, media statements, briefing papers, and responses on behalf of LICADHO and active coalitions such as the Cambodian Women's Committee (CAMBOW), the Cambodian Human Rights Action Committee (CHRAC), and the NGO Committee on the Rights of the Child (NGOCRC), among others.

Monitors investigated complaints received from victims and their families, anonymous persons, government authorities, media, network members and other NGOs. During the third quarter reporting period, LICADHO investigated 114 human rights cases in 11 categories and 26 subcategories in order to assist victims seeking redress and to advocate on behalf of victims. Civil servants (31 cases, or 27.19% of the total) and the police (25 cases; 21.92%) were the largest categories of identified perpetrators in cases investigated by the Monitoring Office during the third quarter of 2004.

LICADHO also investigates and documents women and children rights violations which include cases where perpetrators are non-state actors. LICADHO believes that, for a variety of reasons, violations such as rape and indecent assault still remain under-reported. This perpetuates an existing climate of impunity among perpetrators. Underreporting is a serious obstacle to providing assistance for victims and accurate statistical analysis of such human rights violations in Cambodia. LICADHO encourages reporting of rape and similar violations by putting decisions about case follow up into the hands of the victim. Lack of control during the follow up process deters victims from coming forward.

LICADHO seeks to improve its monitoring activities and case management to feed more directly and immediately into its advocacy work. Monitors strive to be more proactive and less reactive to human rights violations, while maintaining thorough records and providing accurate analysis of the human rights situation in Cambodia.

Accordingly, the Monitoring Office in Phnom Penh and monitors in provincial offices are working to streamline the information gathering and reporting process. At the moment reports are generated monthly by provincial offices and brought to Phnom Penh by coordinators. With additional equipment, sufficient encryption technology and thorough training, provincial monitors could communicate safely and consistently throughout the course of the month for near-to-real time reporting.

The following issues challenged the Monitoring Office during the third quarter of 2004: the growing misappropriation of land and its dire impact on the livelihood of land grabbing victims; circumstances and effect of the unorthodox forming of the government 11 months after general elections were held; Montagnards refugees from the central highlands of Vietnam into Cambodia, the effect on refugees and those who assist them; the unconstitutional refusal by the government to allow peaceful demonstrations in Phnom Penh; and the violent responses of police officers, state actors and those acting on their behalf (such as the infamous CPP-funded so called Pagoda Boys). These issues are outlined more thoroughly in the Achievements, Accomplishments and Problems Encountered section.

All LICADHO staff from Phnom Penh and 12 provinces met from September 27 - October 01 for the semi-annual meeting, which focused on achievements, program obstacles, impact and recommendations for all programs, and included annual sensitivity workshops for staff on issues relating to HIV/AIDS, minorities, and gender.

The Monitoring Office is comprised of three units: Prison Research Unit, Human Rights Violations and Investigations Unit, and the Paralegal Unit that supports them. The units met together to discuss their challenges and actions over the 4 days. The results of that meeting are outlined in the Achievements, Accomplishments and Problems Encountered section.

Monitoring/Investigations Unit

Monitoring/Investigations in the Third Quarter

During the third quarter reporting period July 1 –September 30, 2004, LICADHO investigated a total of 114 human rights cases, representing a total of 161 human rights violations¹, involving 723 victims² in twelve provinces and Phnom Penh. Of these cases, one (0.87%) was resolved by legal means, 25 (21.92%) by other means, 86 (75.43%) are still pending³ and 2 (1.75%) are unresolved.

Of the 161 human rights violations investigated, the most reported violation in the third quarter was land grabbing (42 violations, or 26.09%). Physical assault (26 violations, or 16.15%) and threats, harassment and intimidation (20 violations, or 12.42%) also represent a large proportion of investigated violations. Victims are often reluctant to report or pursue redress in certain violations, especially rape and indecent assault, or they remain ignorant of their rights. Therefore LICADHO believes many violations in these categories are under-reported.

Leading among state actors directly responsible for violations were civil servants, identified in 31 cases in the third quarter (27.19%), while 25 cases (21.92%) involved perpetrators from the police and 16 cases (14.03%) involve military. This quarter shows an increase in the number of reported cases that identify civil servants as perpetrators; they were mainly indicated in land grabbing cases during the third quarter reporting period.

Land grabbing is a high proportion of cases investigated, and since cases tend to involve multiple victims, sometimes hundreds per case, land grabbing violations often affect the greatest number of people. Landlessness is synonymous with desperate poverty for the rural poor, thus land grabbing situations present a life-and-death challenge to victims.

Statistics for the Monitoring/Investigations Unit are attached to this report as Appendix A.

Prison Project

LICADHO monitors 18 of Cambodia's 26 prisons for human rights abuses against prisoners and pre-trial detainees by conducting interviews, ensuring that they have access to legal representation and intervening in cases of human rights

¹ Many cases involve multiple violations; therefore the total number of violations reported exceeds the total number of cases investigated.

² Many cases are filed by multiple victims; therefore the total number of victims counted exceeds the number of cases investigated. This is particularly true in land grabbing and labor dispute cases.

³ Typically pending cases take over one year to reach resolution by legal means, thus the high percentage of cases pending. Many cases takes between 1 – 1 ½ years to even reach the trial stage.

violations, as well as monitor the conditions of the prisons. They provide referrals to LICADHO's Medical Office, which provides medical care to prisoners and prison officials, monitors prison health and sanitation conditions and provides additional medical care for other vulnerable groups such as children, pregnant women, people living with HIV/AIDS and elderly people in prisons.

Further to a research project on children who stay in prisons with their mothers in June 2002, LICADHO initiated the unique Adopt A Prison project in Phnom Penh and 12 provinces, which mobilizes and supports local and international groups to provide necessary food and material assistance to children who stay in prisons, their mothers and pregnant women. The Prison Project Unit works with Children's Rights Office to coordinate and provide assistance with "Adopters" when pregnant women and children come to prisons. This quarter, Prison Researchers and partner organizations assisted a total of 26 children who stayed with a parent in prison in the 18 prisons LICADHO monitors; as well as monitored and supported the health of 11 pregnant women. Please see Appendix B for more detailed statistics about minors, children staying with a parent, and pregnant women in prison, as well as the general prison monitoring of the Prison Research Unit.

Prison Research Unit in the Third Quarter

LICADHO prison monitors interviewed 703 prisoners (51 women and 652 men) in the third quarter of 2004. Of them, 33 (all male) reported they were tortured in police custody or during prison detention. 18 of the torture victims (54.54%) were pre-trial detainees, and the remaining 15 (45.45%) were convicted of crimes when they were tortured. Due to lack of access in police stations, lack of human resources, lack of physical evidence and long time periods between alleged torture and interviews, LICADHO could not investigate all claims of torture. In cooperation with the Prison Project Unit and Monitoring Offices in the provinces, the Medical Office and the Project Against Torture provided services for victims of human rights abuses, particularly torture, the illegal use of shackles, and other serious violations of prisoners' rights.

LICADHO issues intervention letters three times per year on behalf of people in pre-trial detention beyond the legal limit of the law who had not yet been tried or released. Monitors endeavor to write thank you letters to officials who respond to intervention letters by taking action. This both shows appreciation for their attention to human rights issues, as well as demonstrates to officials how the Monitoring Office is watching cases within the prison system carefully, noting when abuses are curtailed as well as when they are not.

Instances of torture in police detention typically occur to make pretrial detainees confess to crimes. Also prevalent are violations where the victim is beaten as a punishment either by or with the consent of police and prison guards, such as mob killings when police are present, or prison guards using coercion and rewards to have other prisoners carry out violent acts on their behalf. The Project Against Torture works closely with the Monitoring Office in order to address the issue at its root causes as well as assist the victims of torture with physical, psychosocial and material assistance for what can be years of rehabilitation.

Achievements, Accomplishments and Problems Encountered

Internal Organizational Development

Restructuring of the board, drafting of by-laws, and changes to the management committee

LICADHO is going through a comprehensive change to the structure of the organization, with the observations that the board has grown inactive over the past decade, and that non-management staff members are also “owners” of the organization.

New by-laws for LICADHO are being finalized in Khmer and translated in English after meetings involving all 132 Phnom Penh and provincial staff during two annual meetings. An English version will be finalized in November 2004. LICADHO recognized the need for evolution of management and internal organizational structure. Structure and membership of the Board of Directors were discussed with all Phnom Penh and provincial staff and outlined in the by-laws. Selection and the first board meeting including new members will take place before the end of 2004.

The basic structure of the Management Committee will remain the same, with the President, Director, General Manager and all Phnom Penh coordinators participating. New policy will be drafted in October 2004 and an elected coordinator will be invited to attend monthly meetings; currently the management committee meets every Friday afternoon. All staff will participate in electing three peers to the Staff Committee. Phnom Penh and provincial staff decided to set up an Appeals Committee that can overrule decisions of the Management Committee for internal disputes. Policy for Staff Committee and Appeals Committee has not yet been drafted. A meeting involving all LICADHO donors with LICADHO staff to discuss mutual issues such as reporting, advocacy efforts, internal mechanisms, new programs and capacity building has been delayed, and is now scheduled for March 2005.

This process is culmination of a year’s worth of work by all levels of management and staff.

Restructuring the Monitoring Office

All information from the Monitoring Office is fed into two data bases, an Access database for all prison research and a FoxPro database for Monitoring/Investigations. If a case falls under the mandate of another office (e.g., the Women’s or Children’s Rights Office), it is referred to relevant monitors in those offices for follow up. However other offices do not utilize the same

databases as Monitoring Office. Accordingly Monitors struggle to easily track cases between multiple offices.

All published reports are presently made available from in the Administration Office and are free to all interested parties. Many people external to LICADHO are unaware of this resource, and at the moment LICADHO only provides its own reports. One recommendation made at a previous annual meeting was that a system be created for managing data from all offices and also providing materials for the sake of improved case management and streamlined advocacy efforts by LICADHO, coalitions and partner organizations.

LICADHO has responded by separating the Monitoring Office and creating a new office called Documentation and Resource Center office, still in its nascent stages, where internally gathered data, analysis and reports will feed into one central office. Eventually cases from all offices, including Monitoring, Children's Rights, Women's Rights and later the Project Against Torture, will be stored centrally in a database within the new office. This will eventually eliminate case management difficulties between different offices of LICADHO, as well as facilitate and improve external reporting and advocacy.

Each office can easily submit information for distribution to other LICADHO Offices, NGOs, embassies, and donors. The general public may come to better access reports or receive information about LICADHO and the human rights situation in Cambodia in both English and Khmer. Coalition and partner organization reports and advocacy efforts will be available as well.

The new Documentation and Resources Center Office will eventually house all case information in a central database. LICADHO is planning to hire a team of physically disabled people to input and manage data, as they are a vulnerable group that is often excluded from professional life because of discrimination.

This assists monitors by centralizing information between all offices, and making information about cases managed by other offices easily available. Furthermore it frees monitors, who are pushed for time and resources already, from time-consuming data entry. Finally, improved resources and information will improve advocacy efforts and assist others outside LICADHO in access information.

Improvements to Case Management, Access to Equipment and Staff Capacity in Phnom Penh and Provincial Offices

Effective case management, storage and analysis continue to challenge the Monitoring Office. Staff in the Phnom Penh office manages two databases for the twelve provincial offices and Phnom Penh, one for human rights cases in Fox Pro and one for prisoners and prison conditions in Access. This allows monitors to

track progress of individual cases, as well as collect and analyze quantitative statistics. Presently all database management and analysis takes place in Phnom Penh.

One step towards normalizing capacity and job descriptions between provincial and Phnom Penh offices is additional computer equipment and training for provincial Monitors. At the moment, there are regional discrepancies. LICADHO hopes to equip each of the twelve provincial offices with an additional computer and provide training on computer usage so that provincial monitors may send case management information directly and continuously. By holding training in usage and trouble shooting on location, Monitors will have the chance to learn how to use new equipment and systems with an on-hand expert in the environment in which they will be used.

Additional equipment would allow Monitors to effectively communicate throughout the country; monitor the press and store findings; collect data including photographs and digital records; and analyze and utilize data for advocacy, case management and intervention. When the Documentation and Resources Center is completed, they will send data directly to Phnom Penh Monitors for the sake of information sharing, as well as for the centralized database.

Client Services and Stress Management Relief

Client services trainings for all of PP staff took place in both July and September with an aim towards improving the means of support provided by the Monitoring Office and all other offices, as well as the manner in which it is provided. Monitors are sometimes frustrated by choices clients make, particularly when they are presented with a well documented, potentially persuasive case and the client decides not to pursue legal means. Monitors are further challenged to approach each case with the compassion it deserves because of their own fatigue and stress. Similar client service trainings, provided by an external Canadian psychologist and LICADHO's Project Against Torture counselor, to all provincial staff are scheduled in October and November in four regions, Battambang, Sihanoukville, Kampong Thom and Phnom Penh. To ensure adequate and appropriate services to clients, LICADHO plans to provide this training to all PP and provincial staff on an annual basis and more specialized client service training during the year to staff from Monitoring, Children's Rights, Women's Rights, Medical and Project Against offices.

LICADHO's objectives are to advocate for the rule of law by lobbying for legal and social reforms, and to reduce further traumas to victims, which seeking redress can unfortunately inflict. At times, these objectives are in conflict. In these instances, LICADHO defers to the client and considers it the client's right to

determine actions he or she is comfortable with even when this means losing the opportunity to take actions for change. Psychologically and physically this is important considering victims often live in the same community as perpetrators through out what can be long, sensitive and complicated proceedings.

Accordingly, Monitors received training on the impact of abuse, how to identify and respond to trauma, listening skills, safety issues, and respect for client choice when it comes to actions taken/next steps, as well as recognizing and addressing their own emotional needs. Please find the materials created for the client services training in Appendix C.

An external consultant taught stress management techniques and exercises to all offices of LICADHO in Phnom Penh. The techniques focused on self care as a means to improved client services, recognizing signs of stress in one's self and colleagues, and means for diffusing stress constructively, through physical and psychological exercises. Continued training techniques will be provided to LICADHO staff at the end of October by a private company who will also train selected LICADHO clients who have recovered from abuses such as rape, acid attacks and physical assaults. This will enable them to earn revenue by practicing the techniques on LICADHO staff once a week, and use the techniques on people outside of LICADHO, with the goal of eventual financial independence.

Challenges for the Monitoring Office during the Third Quarter Reporting Period

External Challenges during the Third Quarter Reporting Period

Land Misappropriation

On three separate occasions between August 8th and August 31st, three attempts were made to misappropriate the land of up to 250 families in Phnom Penh's Russei Keo district; police assisted perpetrators in all three incidents. Land misappropriation is in violation of the Constitution, UNTAC law, the International Covenant on Civil and Political Rights, and the International Covenant on Economic Social and Cultural Rights.

Violence ensued during all three attempts with eight people beaten and arrested by the police. The eight people who were beaten and arrested were released after they put their thumb print to a contract with the court that they would not go back to live on the disputed land. In the third attempt, the perpetrators prevailed in misappropriating land from this vulnerable group. A task force of UNOHCHR, UN-Habitat, NGO Forum, LICADHO, Adhoc, URC, UPDF, CLEC and ACHR all met with the Deputy-Governor of Phnom Penh Municipality. Please find Housing Rights Task Force attached as Appendix D.

Unfortunately the above does not represent isolated instances, but rather are single events within a larger pattern of misappropriation. Forced eviction reflects a trend within the government, where courts support illegal decisions and vulnerable people lose their livelihood without compensation. The Human Rights Task Force has published a list of challenges to the courts and a list of recommendations to NGO partners for consideration. Meanwhile LICADHO provided material assistance to victims of land grabbing and followed up cases with the court. Landlessness in farming communities is synonymous with dire poverty, malnutrition, urban migration, division of families and communities, and death.

Unconstitutional Acts and Threats During the Period when the Government was Formed

On July 15, a new government was formed comprising CPP and FUNCINPEC eleven months after Cambodia's general elections were held. Around this time, a political crisis took place, and challenged the Monitoring Office in how to monitor the process and support victims.

The establishment of the new government was controversial in part because it entailed the passing by the National Assembly of an addition to Cambodia's

Constitution, in order to allow the simultaneous appointment of Ranariddh as National Assembly President and Hun Sen as Prime Minister. LICADHO maintains that this change was unconstitutional as outlined in the Petition to the King dated July 5th and CHRAC press release dated July 6, 2004 included in the attached press statements for the third quarter of 2004.

Members of the opposition were publicly threatened on July 18 in a speech by Prime Minister Hun Sen during a ceremony to hand over power to new ministers. Many of those threatened went into hiding; others feared leaving Sam Rainsy Party headquarters for a matter of days. LICADHO provided material, food and medical assistance as well as temporary protection in specific locations to vulnerable groups and individuals during this time. As is typical of an unanticipated crisis situation, it is impossible to arrange funds and housing in advance of known needs. Costs for food, safe housing and materials were borne by grants from German Agro Action and Amnesty International; private donations by LICADHO consultants and core funding. LICADHO's budget for material, food, transport, accommodation and medical assistance was already under strain because of the high number of land misappropriations cases this year.

Montagnard Refugees in Cambodia

Ethnic minority Montagnard refugees, fleeing the central highlands in Vietnam from persecution and land misappropriations by farmers and the government seeking fertile new land for coffee plantations, sought relief through agencies such as UNHCR and Adhoc. They report religious and political persecution, as well as economic persecution.

Cambodia ratified the UN Protocol on Refugees in 1992, however due to political pressure from neighboring Vietnam. The Cambodian government was reluctant to assist Montagnard refugees as they entered Cambodia and obstructed the work of UNHCR officers by illegally demanding travel documents, temporarily closing UNHCR offices in Monduliri and Rattanakiri provinces, and insisting that assistance to refugees from the boarder only be provided once refugees arrived at the Phnom Penh UNHCR office. By delaying assistance to refugees and refusing to cooperate with the UNHCR, the Cambodian government violated UN Protocol on Refugees and put hundreds of religious, economic and political refugees' lives at risk.

Significant political pressure and negative media attention was brought to bear on the government by the Cambodian Human Rights Action Committee (CHRAC), Human Rights Watch, UNHCR and the media. On August 8th, the government finally allowed for Montagnard refugees to seek and access assistance within Cambodia.

However, responding to pressure from the government of Vietnam, the Cambodian government sent police with photographs to seek out the group assisting Montagnard refugees and offered a substantial reward to anyone providing information about their location. LICADHO in cooperation with other agencies provided temporary protection in specific locations and material assistance until the safety of people assisting refugees could be secured. Many people still fear for their well being and safety, yet persist in providing aid to political and economic refugees from the central highland of Vietnam.

The persecution of refugee Montagnards and those who assist them continues to this day, as the Cambodian government continues to succumb to pressure from the Vietnamese government. LICADHO, human rights groups within Cambodia, international groups and UNHCR continue to assist and advocate on behalf of refugees and those who help them.

Freedom of Assembly

Following the anti-Thai riots of January 2003, the Government of Cambodia has cracked down on gatherings and demonstrations, regardless of their peaceful nature, by consistently denying requests for such events and by directing police intimidation and violence against those who participate. This crackdown has effectively removed the constitutionally protected right to freedom of assembly; its continuance is a threat to democratic society in Cambodia. LICADHO has documented 33 demonstrations obstructed by the police, with 7 of them occurring during the third quarter reporting period of 2004. This is not a comprehensive list, but represents the demonstrations for which LICADHO, with additional sources, has credible documentation.

The Phnom Penh municipality in particular has refused virtually all NGO and opposition party requests to exercise their right to assemble and demonstrate peacefully, including on issues such as World Environment Day, the price of gasoline and working conditions. The justification given is that large groups of people gathering pose a risk to security, even for small and peacefully organized groups. Pro-CPP demonstrations during the same period received approval and police support.

During a rally on September 7th in support of lower gasoline prices, conducted on rented cyclos without banners or megaphones, more than 50 police appeared. Protestors were hauled off their cyclos and detained for hours. LICADHO Monitors intervened at the police station and the demonstrators were released within a matter of hours without charge.

At another demonstration for reducing gasoline prices held on September 19th, plain-clothed officers were brought to the demonstration by truck and used

violent tactics to disperse the crowd, possibly in an attempt to distance uniformed police from the violence.

In addition to plain clothed police, protestors sometimes face intimidation and violence from counter-demonstrations by pro-government groups such as the CPP-funded Pagoda Boys. LICADHO Monitors have observed police standing by and doing nothing while these groups have attacked protestors.

Denial of the right of assembly by the government on the grounds of maintaining peace and security is simply not convincing when the police, not the protestors, are responsible for instigating violence. LICADHO is finalizing a report on the illegal crack down on demonstrations and public assembly.

The above challenges are addressed in statements and press releases by LICADHO in the CHRAC Statements and Petitions July – September 2004 (English and Khmer together) in Appendix E.

Ongoing External Challenges the Monitoring Office Faces

During the LICADHO semi-annual meeting from September 27 – October 1, Monitors in the Investigations Unit from all 12 provincial offices and Phnom Penh identified the following challenges:

- Difficulty in securing lawyers and legal assistance for all clients
- Concerns about threats to security during missions, especially in the provinces or during politically tense times
- Authorities still intentionally violate human rights, despite awareness of human rights principles
- Difficulty with cooperation with authorities to prevent and eliminate human rights abuses when there is little incentive to adopt principled policies
- Witnesses in high profile cases fear for their safety, and Monitors cannot always provide or promise adequate security; difficulty securing cooperation with witnesses as a result
- Lawyers sometimes do not pay so much attention or take much responsibility for cases, leaving Monitors with the responsibility of contacting and notifying clients of their cases

Monitors addressed challenges by working more closely with Cambodia Defenders Project (CDP) and other NGOs who can provide legal services, as well as partnering with ADHOC and other human rights NGOs when monitoring state actors, dangerous situations, or when in isolated areas. They strive to assist with case management and follow up with referrals, such as legal services, on behalf of or along side clients.

Prison Researchers experienced their own difficulties, as identified by the provincial offices and Phnom Penh during the same meeting:

- Difficulty in interviewing with prisoners confidentially, as some prison guards do not let them interview in private
- Prison guards fail to perform their duties properly, in accordance with human rights principles
- Impression among prison guards and court officials that human rights organizations defend guilty people, and that LICADHO is biased towards bad people, and therefore lack judgment or character
- Detainees and prisoners are still afraid to provide information because they are afraid if/when LICADHO follows up their safety will be compromised
- Difficulty finding former prisoners for interviews about conditions while s/he was detained
- Difficulty attaining free lawyers for all detainees and prisoners, as many lawyers are over-worked and others are uninterested
- Victims of human rights violations are too intimidated by prison authorities to file a complaint, and are vulnerable under the care of authorities after LICADHO leaves
- Some concern for researchers' security when going to interview violent prisoners outside the prison or when there are not enough guards around

Accordingly the Monitoring Office, in cooperation with other LICADHO offices, issues intervention letters, media statements, briefing papers and letters of support to advocate for change in the above areas. Prison Researchers advocate to prison authorities about human rights concepts and how improved conditions and sanitation within with the prison population benefits all, including guards and prison administration. Researchers and the medical team provide services for guards along side prisoners as guards are typically quite poor as well, and the practice improves access while reducing jealousy.

Ongoing Internal Challenges the Monitoring Office Faces

- Skills, most notably computer literacy and management training, is limited and weaknesses in one offices affects all offices
- Lack of time and money for continuing training and improving skills
- Not all provincial offices have adequate transportation; at times Monitors are compelled to rent equipment or use their own

- Internal cooperation and mutual confidence and trust, a necessary component for any office that works in high risk situations, is not high enough, which affects client services

LICADHO is in the process of seeking funding for training, equipment, and staff relations. One concept being discussed is internal staff development along side the restructuring of the organization and the new by-laws. Specific incidents with Monitoring Office management have been addressed and internal management changes have been implemented with the cooperation and input from all members of the Office. Obstacles, Impact and Recommendations by all offices are attached in Appendix F, the results from the semi-annual meeting.

Impact of Project Activities

Reporting - The Monitoring Office provided statistics and other information for its own intervention, case management, reporting and advocacy, as well as for external sources, such as government institutions, local and international NGOs and coalitions, United Nations agencies, the media, embassies and donors. Such documents are reliable and accurate sources of information about human rights issues in Cambodia which are then used for legislation, policies and other types of social and legal reforms.

Please see Appendix G for additional internal and public reports, and documents produced by LICADHO in third quarter of 2004. Reports are also available in Adobe Acrobat format on the LICADHO website (www.licadho.org, described below in the Advocacy section).

Assistance - Together with other LICADHO offices, the Monitoring Office provides immediate assistance for victims including food, transportation, primary treatment, accommodation, and contingencies (e.g., funerals, court fees, etc.) as well as counseling and legal referrals, and services by LICADHO's other offices. Immediate assistance enables victims and their families to pursue legal redress further to abuse, should the victim decide to pursue redress. This quarter LICADHO was particularly active in its Assistance program and provided material for number of emergency that situations arose.

Intervention - The Monitoring Office intervened throughout the third quarter of 2004 on behalf of victims, their families and witnesses in 11 categories and 26 sub-categories of violations. Along with providing client services and investigations, monitors wrote letters to authorities, intervened with and monitored the courts, police and other institutions, monitored the Commune, Provincial, and National Election Commissions during election processes, and supported other human rights organizations in the provinces, as well as through coalitions CHRAC, CAMBOW, and NGOCRC. The Paralegal Unit sent 88 letters of intervention to the courts and 110 letters to police and others during the third quarter of 2004.

Advocacy - LICADHO, CHRAC and CAMBOW jointly and separately issued press statements, briefing reports, petitions and intervention letters on torture and acid attacks, women's rights, child sexual exploitation and trafficking, travel restriction, freedom of expression and peaceable assembly, false arrest during the reporting period, foreign adoption, the package vote, and forming an independent human rights commission. Individual NGO members and coalition representatives also participated in direct dialogues with government officials, members of parliament, and the general public through private meetings, the

radio and other media, except for television broadcast media which is still currently controlled by the ruling political party.

Advocacy and awareness raising efforts were mostly limited to the media, NGOs and the international community, since the government is so newly formed. However, the advocacy work provided target groups with comments and NGO recommendations about important human rights issues affecting vulnerable groups in Cambodia.

The website (www.licadho.org) received 1,060 visitors in the third quarter of 2004, with every month the number of visitors increasing. LICADHO reports are available on the web site in Adobe Acrobat format. Success stories accompany each Office's page, and general success stories are updated regularly, along with news and press releases. Each office may be contacted directly from a web-based e-mail form. These messages are sent directly to the coordinator for each office.

Beneficiaries/Target groups

Please see Appendix A for the following tables representing Monitoring for the Third Quarter:

Human Rights Monitoring, Third Quarter statistics

Human Rights Cases from July to September 2004

Human Rights Violations from July to September 2004

Cases Status from July to September 2004

Statistics on Human Rights Violations from July to September 2004

Human Rights Violations Cases Pending from July to September 2004

Number and Percentage of Resolved and Unresolved Cases from July to September 2004

Please see Appendix B for the following tables representing Prison Research for the Third Quarter:

Prison Monitoring, monthly statistics

Prisoners who have reported being tortured in police custody or prisons

Number of prisoners and pre-trial detainees who were interviewed

Prison population (adults over the age of 18)

Prison population (minors under the age of 18)

Children who stay in prisons with their parents

Pregnant women in prison

Due to the high number of victims serviced by the Monitoring Office, it is difficult to record and count gender. For example, in land grabbing cases, victims typically file cases with monitors *en masse*. One case may have over one hundred victims, who are not organized by gender. Therefore statistics on gender in these cases are unavailable.

Monitors make a conscious effort not to discuss the ethnicity of victims unless the violation being investigated specifically involves discrimination based on ethnicity, such as cases involving human trafficking, urban Vietnamese, and Montagnards. Many victims are reluctant to reveal heritage, fearing discrimination even by LICADHO monitors. Accordingly monitors receive annual training on sensitivity in dealing with cases where ethnic discrimination may be a factor, and on how to interview and manage cases without discrimination. This is both to remove the opportunity for personal prejudice and also to alleviate potential fears of victims.

Reflections and Lessons Learned

The Monitoring Office received information through client feedback and from the Human Rights Education Office that many people, especially at the village level, feel supported by LICADHO when filing a complaint. Interventions and monitoring individual cases proves effective, and victims appreciate the presence and support of human rights professionals even if LICADHO does not have control over the outcome of processing abuses through legal means. However, this is not always enough to resolve a violation to the satisfaction of all parties.

Typically cases seeking resolution by legal means remain pending for years, and victims must live along side perpetrators during the lengthy process for seeking redress. LICADHO continues to monitor and support victims during this process through referrals to social services, intervention and follow up. The Monitoring Office, Medical Office and the Project Against Torture assist when appropriate with food and transportation support, medical care, psychological support and referrals to other organizations or authorities when necessary or appropriate.

Lack of material, financial and human resource, heavy work load, and external obstacles and constraints all limit the effectiveness of monitors. Provincial monitors would benefit greatly from additional computers and communications equipment, additional means of transport and access to the two databases utilized in Phnom Penh.

LICADHO is planning to conduct client service surveys in early 2005. Prior to the surveys, LICADHO has identified the need to improve client service in key areas and all local staff attended training in July and September 2004. LICADHO will continue this training every year. The training includes listening skills, recognizing trauma, utilizing interviewing techniques and sensitivity when dealing with people living with HIV/AIDS, minorities, women and children.

Documentation

Success Stories and High Profile Cases

The cases below represent a small part of the Monitoring work LICADHO is doing in the provinces and in Phnom Penh.

Successful intervention on behalf of a prisoner shackled, in violation of Cambodian law

On July 24, 2004 prison guards at the Kompong Thom prison there were providing porridge for prisoners when a prisoner Touch Lorn⁴ started verbally harassing other prisoners to get their porridge, focusing on three prisoners in particular. These three prisoners got very angry after food was served, and assaulted the offending prisoner. Other prisoners intervened on his behalf and violence ended temporarily.

In early morning of July 25, 2004 at 5.00 am. a group of prisoners who supported to Touch Lorn beat the three prisoners as revenge. Prison-guards intervened to stop the violence.

LICADHO Prison Research Unit came to the Kompong Thom prison on the morning of July 26, 2004 and met with the deputy director of the prison Mr. Thim Som Pannha, prison guards Mr. Var Sam Ang, and prison guard Mr. Ham Mao. They described the situation to the researchers and informed them that after interrogations, prison authorities decided to shackle the three men on both legs.

While shackled, the prisoners could stand and sit, and received the same quantity of food as before. However they required the assistance of other prisoners to bathe or use toilet facilities, and did not have a mosquito net where they were sleeping. They were experiencing numbness in their legs. At this time LICADHO explained that shackling is a clear violation of Cambodian law, and is prohibited in police stations as well as prisons. Prison authorities persisted, so researchers made an appointment to return when their director was at the prison.

On Aug 10, 2004 researchers met with the director of the prison, Mr. Chea Yoeun who explained that this was the only reliable way to punish the three prisoners and prevent them from fighting in the future. He explained further that these three prisoners had made problems for prison authorities in the past as well. LICADHO requested again for the prison director to comply with the law and remove the shackles from all the prisoners.

⁴ The name of the prisoner has been changed to conceal his identity.

On Aug 17, 2004 the LICADHO Medical Team came for its regular visit and again asked authorization from Mr. Thim Som Pannha deputy director to remove the shackles for their medical check; authorities resisted but realized LICADHO would not stop asking for them to comply with the law and feared the case would be brought to higher authorities. Finally on Aug 19, 2004 these three prisoners were released from shackles.

This is an example of a provincial LICADHO office cooperating with the Prison research Unit and the Medical Team to persuade prison authorities to comply with Cambodian law. Kompong Thom Prison has a reputation for violating the law by using shackles on its prisoners. LICADHO regularly monitors the situation there, and intervenes when ever instances of abuse occur.

Military police officer convicted of rape and robbery in Sihanoukville

At approximately 12:30 in the morning on 1 April, 2004 Khun Torn, armed with an AK 47 assault rifle forced the victim to enter a room located inside the Military Police headquarters located at the north end of Ochheteal Beach. The perpetrator then repeatedly raped the victim at gun point, and took her wallet containing Lao kip, Thai baht and US dollars - totaling approximately US\$30. Also in the wallet were two passport photos the victim had kept for visa applications and border crossings.

At the time of his arrest on 28 April, the perpetrator Khun Torn was carrying the two passport photos of the victim, as well as other of her personal belongings. He initially confessed to the rape and robbery to the Military police and the Anti Trafficking police; people in the community claim he bragged about the rape before he was arrested. Later on, he retracted his confession and said he had gone to karaoke by himself that evening.

The victim studied Cambodian law from the internet, contacted resources in Canada with knowledge of the Cambodian legal system, and upon her return to Cambodia decided to seek the services of LICADHO.

After interviewing the victim, perpetrator and witnesses, trial Judge Tack Kimsia handed down a conviction of 15 years, as well as ordered the perpetrator to pay 30 million riel (approximately US\$7,500) in compensation to the victim, to offset legal costs associated with her case and the cost of returning to Cambodia to pursue the prosecution. The judge dropped the last charge, Bearing or Transporting Illicit Weapons, for lack of evidence.

Typically, up to thirty military police officers guard the Military Police headquarters near the beach. On the night of the rape and subsequent robbery,

all other military police were assigned to protect Prime Minister Hun Sen, who was in Sihanoukville for an inauguration.

Securing a conviction for Military personnel, especially in the Sihanoukville courts where much of the town is controlled by military, is extremely rare. LICADHO is aware that political pressure from outside Cambodia probably affected the actions of the court, however provincial Monitors were pleased to see improvements in the court.

This case was handled by LICADHO's Monitoring office because the perpetrator is a state actor. LICADHO referred the victim to the Cambodian Defenders Project (CDP) for legal services, as well as assisted with monitoring the courts and following up the case in both Sihanoukville and Phnom Penh with the Ministry of Interior's Anti Trafficking police in Phnom Penh and Sihanoukville.

High profile case of police cracking down on gasoline price demonstrators in violation of the Cambodian constitution

LICADHO staff in Phnom Penh was called by demonstrators to monitor their group protesting the recent rise in gasoline prices in Cambodia. Despite the peaceful nature of the march, the municipal police detained seven demonstrators as they approached the Khan Chamcar Mon police station.

At 8:00 AM between twenty and thirty demonstrators riding on rented cyclos started the demonstration from the O'Russey market, through the Sampov Mean pagoda to Monivong Blvd and the Faculty of Law building. Demonstrators were lead by Mr. Pang Sokhoeun of the Student Movement for Democracy. They represented members of his organization as well as the Intellectual Movement for Democracy, the Development Association for Peace, and the Transporter Association for Human Rights Development.

Police observed the demonstration from its starting point, and began stopping demonstrators as soon as they reached the Khan Chamcar Mon police station. The seven victims were detained, interviewed and released two hours later after providing their thumb prints and other information to the police.

The crack-down and arrest of demonstrators violates Article 37 and 41 of the Constitution of the Kingdom of Cambodia, which guarantees people the right to peaceful demonstration, and Article 19 and 21 of the International Covenant on Civil and Political Rights, which stipulates people's rights to freedom of expression and assembly.

Mr. Pang Sokhoeun confirmed that he would write a complaint against the city governor for violating their right to freedom of assembly. Mr. Pang said that he

had applied for permission to demonstrate from the city governor Kep Choutema, but the governor rejected his letter on television the night before and in a statement to newspapers on the day of the march.

LICADHO monitors criticized the police for obstructing the demonstrators' freedoms of expression and assembly. The repeated refusal to allow demonstrations in Phnom Penh since January 2003 and the 1991 Law on Demonstration does not comply with the Constitution of Cambodia or international laws, and stifles the development of democracy in Cambodia.

During a subsequent protest by the same group, police trucked in plain-clothed police officers to obstruct demonstrations with violence. However, the group persists to demonstrate regularly, and LICADHO monitors on their behalf. Please see the Appendix J for photographs of a September 19 demonstration and other photographs documenting the work of LICADHO Monitors.

Domestic Violence victim and LICADHO staff threatened by police inside LICADHO office

On August 11, 2004 at approximately 8:30 AM, a uniformed soldier, accompanied by two civilians, arrived at LICADHO's Phnom Penh office yelling and screaming. According to the soldier's wife, who was inside LICADHO's office with her 3 children, the soldier has a history of alcoholism and aggressive behavior and had sent his 17 year old stepdaughter a love letter, then attempted to rape her.

At 9:00 AM, while LICADHO staff continued to talk to the soldier, the President of LICADHO phoned the Chief Police Commissioner of Phnom Penh who sent a commune police officer and 4 military police officers. They convinced the two civilians to leave, however the soldier remained at LICADHO until 10:15 AM.

Since the incident, the soldier's wife and her children have been taken to a NGO shelter and will be referred to an NGO lawyer who will help her to obtain a divorce and custody of her children. An MPA guard worked evenings at LICADHO's office for a period of 7 days to prevent any further incidents. In the past years, several LICADHO staff have been charged, arrested, detained and beaten as a result of their human rights work in Cambodia. Prior, during and after the 1993, 1998, 2002, 2003 elections, high ranking government authorities have threatened and harassed LICADHO about providing assistance to victims of political and civil rights.

Photographs

Please see Appendix J for photographs of LICADHO and its programs in the third quarter.

News paper articles

Please see Appendix K for newspaper articles relating to LICADHO for the third quarter.

Articles on Human Right Violations July - September 2004 (English)

Articles on Human Right Violations July - September 2004 (Khmer)

Articles relating to Project Against Torture July - September 2004 (Khmer)

Publications

Please see Appendix L for publications produced during the third quarter.

Full investigation needed into adoption corruption & abuses 08/05/2004

More action against torture needed 06/26/2004

Note: Please contact us to get documents cited in the appendixes that are not online.