



A Visible, Countrywide Presence

IBJ Signs MOU with Ministry of Justice

“My dream is for IBJ to have more offices in the provinces. If we have more offices, we will be able to provide more information about legal rights and legal representation for the poor, and the poor can then use their rights to improve their lives.” Ouk Vandeth, Country Fellow, Cambodia



Karen Tse and IBJ Country Fellow Ouk Vandeth explaining rights of the accused to women and juvenile detainees at Kendal Provincial Prison

JUSTICE FACTS:

Cambodia

Rule of Law (Percentile Rank):

17

2012 Prison Population:

15,397

106 per 100,000

Justice Facts Sources (all countries):

Rule of Law indicator
World Bank, Worldwide Governance Indicators
Prison populations and rates:
International Centre for Prison Studies

Rights Awareness

In 2012, IBJ represented nearly 1,400 clients, almost double 2011’s total of 749. More than 50% of new cases in 2012 were referred directly from the community, a strong indication that Cambodians are increasingly aware of their right to a lawyer. Working with police and prosecutors, IBJ continues its push to provide legal assistance at the earliest possible moment after arrest.

In addition to providing direct legal aid services, IBJ conducts community campaigns to raise legal rights awareness among ordinary individuals. In 2011 and 2012, we conducted 77 campaigns, with more than 4,200 Cambodians participating. It is estimated that one

Cambodian lives with five other family members, allowing us to indirectly reach more than 12,000 Cambodians annually through these campaigns, which are half-day events conducted by IBJ lawyers.

Pamphlets and posters educated citizens on the rights of the accused, proper arrest and search procedures, pre-trial detention periods, the illegality of the use of torture, and the role of a lawyer. A lawyer explained these rights to ensure that illiterate participants also understood the materials. Surveys showed an increase in participants’ level of legal rights awareness, especially among indigenous minority populations. These posters were also distributed to prisons and police stations.

Throughout 2011 and 2012, IBJ continued its radio rights awareness efforts, reaching a greater percentage of the population. As a result, we have been receiving a high volume of calls. In 2013, we will set up a hotline to handle these cases. On a recent monitoring and evaluation visit, a client reported that he had heard about IBJ’s free legal services on the radio when he was in prison.

To enhance lawyers’ knowledge in several areas, including substantive legal topics, trial techniques, and client counseling, IBJ continued to train its lawyers and investigators from throughout the country. One highly respected defense lawyer conducted a two-day training on legal advocacy and trial skills.

In cooperation with the Ministry of Justice and the Bar Association of the Kingdom of Cambodia, we will continue to conduct further trainings to increase the capacity of Cambodian lawyers to defend the rights of the accused.

Dialogue

In 2010, Cambodia enacted a new Criminal Procedure Code and Criminal Penal Code – key pieces of legislation that justice sector stakeholders need to learn. IBJ conducts roundtable discussions with these stakeholders to ensure that no constituency in the criminal justice system is left behind. In 2011, we held eight roundtables, bringing together some 140 governors, commune chiefs, judges, prosecutors, prison chiefs and officials, military and judicial police, and NGOs. In 2012, we held another eight roundtables with 190 attendees.

One outcome of these roundtables, which were conducted with the Ministry of Justice to ensure government ownership in strengthening Cambodia's legal system, is that police officers in two provinces now call IBJ at the time of arrest, meaning that the accused has a lawyer at the earliest stage possible. IBJ plans to replicate this process in other provinces in the coming years.

IBJ has also begun holding monthly meetings with local civil society organizations to foster collaborative working relationships. These meetings enable CSOs to raise important challenges specific to their provinces. They also encourage CSOs to refer cases to IBJ, and similarly, IBJ will refer victim cases to participating CSOs.

Results and Future Steps

IBJ's Cambodia program took a monumental step forward by successfully signing a memorandum of under-

standing with the Ministry of Justice. IBJ's case work is also having a demonstrable impact. With 8.5% of bail applications approved, fewer defendants are vulnerable to excessive pretrial detention. Moreover, 20% of cases end in dismissals or acquittals, reinforcing the maxim "innocent until proven guilty." Additionally, nearly 25% of appeals of sentences result in reductions, signaling real progress in addressing disproportionate sentencing practices.

IBJ's presence throughout the provinces has expanded significantly as a result of substantial new funding support from the Australian Agency for International Development and the European Union. Multi-year grants from these entities will move IBJ much closer to realizing universal access to legal aid throughout Cambodia. These grants will also enable IBJ to take its next major step in Cambodia: engaging the government in a dialogue about the benefits of legal aid services and the ways it can demonstrate greater commitment to implementing early access to counsel.

Finally, as a result of its cooperation with local justice stakeholders, IBJ was able to conduct an uplifting event in Pursat's provincial prison. On December 10, 2012, we sent ten lawyers and nine artists to the prison to commemorate the United Nations' International Human Rights Day with a celebration of arts and culture. Prisoners and guards came together, with prisoners transformed into budding artists for the day. The prison chief was very cooperative, and the event was a great success with many thanks and requests to come again.

The Lotus Lake Dispute: An Innocent Man Is Saved



IBJ staff lawyer So Bengtharun visiting Vuthy and his family at their home after Vuthy's release

In February 2010, "Vuthy," a 37-year-old farmer and father of three children, was charged with intentional acts of violence with aggravating circumstances under Article 218 of Cambodia's Criminal Code. Two months earlier, a group of five men had attacked Vuthy's wife, sister, and nephew, after his nephew had tried to harvest lotus from the community lotus lake. One of the men accused Vuthy of attacking him with a knife after arriving at the scene to defend his family. A week after the charges were brought, IBJ provincial lawyer So Bengtharun met Vuthy during a visit to the prison where he was being held. Vuthy told Bengtharun that he didn't understand why he was there, since he was innocent.

Bengtharun informed Vuthy about his rights and explained his role as a lawyer. He told Vuthy that he could provide him with free legal aid, and Vuthy accepted his offer. Vuthy explained what happened and denied the accusations. Bengtharun then submitted a successful bail application to the court that resulted in Vuthy's release. The trial began in November 2011. Bengtharun requested an adjournment to summon witnesses and present a letter from the hospital about the condition of Vuthy's wife after the incident. The judge agreed to postpone the case.

When the trial resumed in July 2012, an eyewitness contradicted the accuser's testimony, while confirming Vuthy's account. The medical letter also confirmed Vuthy's account, and several village officials testified to his honesty. The judge acquitted Vuthy. The prosecutor asked the judge to send the case back to him so that he could charge Vuthy's accuser.

Thanks to Bengtharun's dedication to visiting prisons and conducting investigations, an innocent defendant was saved from prison. Without his help, Vuthy would probably have been sentenced to two to five years, as no further investigation would have been conducted. Thus, this story shows that a proper investigation is crucial to ensuring a fair trial. Before his ordeal, Vuthy and his family didn't know about IBJ or the role of a lawyer. Now he is grateful to IBJ and talks about its work in his village and beyond. His wife, wanting to learn more about the law, has bought a copy of the Criminal Code. They are both glad he has been freed and now realize that the justice system actually works in Cambodia.