

# "Rebuilding Cambodia's Shattered Legal System"

By Seth Mydans, New York Times, February 11, 1997



Nom Saroeun, 19, in a Cambodian prison for selling a girl into prostitution, is due to be released, officials said, because of her beauty.

When he was a police officer here in Kandal Province, criminal investigations were straightforward "We beat the suspects," Ouk Vandath said. "If we wanted to get water from that glass over there," he added by way of illustration, pointing to a nearby table, "we beat it until it gave us water." Without equipment, without training, without an education in legal procedures or human rights, the police force is the first point of contact in a primitive judicial process - from arrests to trials to prisons - that has operated for years with few rules or resources.

Like so much in this broken and struggling country, the justice system is only beginning to recover from the mass killings of lawyers, doctors, teachers, monks and other educated people and the destruction of

government institutions, including the courts, carried out by the radical Communist Khmer Rouge from 1975 to 1979.

The lawyers were among at least hundreds of thousands and possibly as many as 2 million people who died during the Khmer Rouge years. When the United Nations helped to set up a democratic government here in 1993, there were only about five lawyers left in this country of 7 million people. With the help of several international organizations, Cambodia is now beginning to develop a small corps of lawyers and judges, to train its police officers in proper procedures and to revive the rudiments of a working legal system.

"They had to start a legal system literally from scratch," said Francis James, an American lawyer who helped to found a local nonprofit group called Legal Aid of Cambodia. "No more beating, no more cigarette burns, no more hitting with a rifle butt. You could clear out the prisons today if you reviewed the cases on the basis of procedural error.

"When I came here in 1994, the courthouses were in ruins," he said adding: "In the prisons there were people who had been completely forgotten. Nobody knew why they were there or whether they had already completed their sentences." A year ago, Mr. Ouk Vandath, who had become increasingly uneasy about the beatings by his fellow officers, began a new career as one of a small corps of barefoot public defenders working in the innovative Kandal Provincial Court, where prisoners are now assured of receiving a basic defense.

He has enrolled in Cambodia's newly revived law school, which will graduate its first class of 170 students later this year. Mr. Ouk Vandath was given training for his public defender's role by Karen Tse, 32, a lawyer from Los Angeles. She works as one of five expatriate "judicial mentors" in several provinces in a program run by the UN Center for Human Rights that trains lawyers, judges,



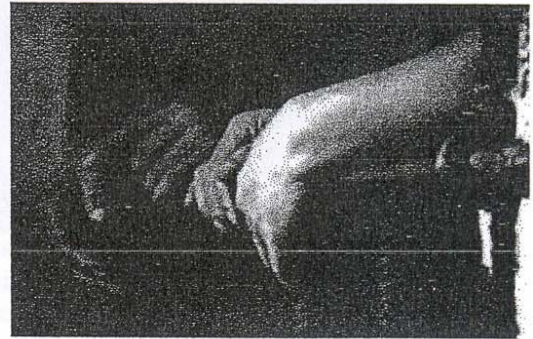
Inmates at Kandal Prison in Cambodia, where conditions have improved thanks to foreign justice experts.



prosecutors and police officers. "We look for areas where there are gaps," Ms. Tse said, "and we tailor our training to fit the needs. For example, there are some defenses that are basic in law: self-defense, duress, necessity. It's like a little light goes on and they come and ask us is this a self-defense case?"

Progress has been measured in small steps: first, a bulletin board where court dates are posted for the public, then file cabinets for keeping court records, then permission for public defenders to attend the questioning of defendants and now, occasionally, the guilty looks that Ms. Tse observes from police officers when they deliver a defendant bearing the signs of a beating.

In one significant step, she persuaded the chief prosecutor, Chheng Phath, to send arresting officers out of his office when he conducted his initial interviews with defendants. "The police would give the defendant the evil eye and intimidate him to give me certain answers," Mr. Chheng Phath said. "In the past the police arrested, the police detained, the police convicted. Some of them are angry about the changes. But I detained, the police convicted. Some of them are angry about the changes. But I tell them we have to change." The crowning achievements in Kandal are the recent opening of a room where defendants can speak with a public defender and the inauguration, scheduled for next week, of the country's first arraignment court, where a defendant can hear the charges against him, be advised of his rights and enter his plea. Along with the other courthouse improvements, these were financed by the UN Development Program.



Hanging on to hope.

"The arraignment court is a landmark," Mr. James said. "That is something that has not seen the light of day in Cambodia." None of Cambodia's 70 judges have sophisticated legal training. Threats and bribery are still part of their working conditions. One person who works with the legal system here, who spoke on condition of anonymity, said only the poor received a semblance of justice. The rich routinely buy their freedom.

Officials said one of two female inmates at Kandal Prison, Nom Saroeun, 19, who was convicted of selling a girl into prostitution, was due to be released soon, not on legal grounds but on the basis of her ethereal beauty. But people like Ms. Tse hope to plant the seeds of a working justice system. "We started off talking about the standard police interview," she said. "Nothing out of the ordinary. Just three basic steps: introduce everybody in the room by name and rank, tell the prisoner why he is there, read him his rights." This may seem overly simple, she said, but it may be having some effect. "It's a lot harder to beat people" she said, "once you've told them they have the right not to be tortured."