

COMMENTS AND RECOMMENDATIONS: INTER-MINISTERIAL PRAKAS ON THE PROHIBITION OF USING PRISON LABOR FOR PRODUCING EXPORT GOODS

A LICADHO Briefing Paper
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LICADHO
CAMBODIAN LEAGUE FOR THE PROMOTION
AND DEFENSE OF HUMAN RIGHTS



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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 12 provincial offices.

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- **Monitoring of State Violations and Women's and Children's Rights:** monitors collect and 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.
- **Paralegal and Legal Representation:** victims are provided legal advice by a paralegal team and, in key cases, legal representation by human rights lawyers.
- **Prison Monitoring:** researchers monitor 18 prisons to assess prison conditions and ensure that pre-trial detainees have access to legal representation.
- **Medical Assistance:** a medical team provides assistance to prisoners and prison officials in 14 prisons, victims of human rights violations and families in resettlement sites.
- **Social Work:** staff conduct needs assessments of victims and their families and provide short-term material and food.

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- **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).

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SUMMARY

In December 2011, Cambodia enacted a new Law on Prisons, which now serves as the Kingdom's primary legal authority on the prison system¹.

Prior to the passage of the law, LICADHO raised serious concerns about Article 71, a provision in the law which permitted private firms to employ prisoners as employees². Such arrangements are often prohibited by international law, and the practice was explicitly prohibited under Cambodia's former prison regulations³.

Adding to the concern, numerous media outlets published reports suggesting that Cambodian companies had employed prisoners to produce garments for export⁴. The practice was even mentioned – and condemned – by the Minister of Commerce⁵, as virtually all international garment buyers prohibit the use of prison labor by their subcontractors⁶, and some countries ban the import of such goods outright⁷.

Article 71 of the law was thus not only founded on dubious legal grounds. It also threatened to sully the reputation of Cambodia's garment sector, a US \$4 billion industry which employs some 335,000 workers and accounts for 85% of the country's exports⁸.

LICADHO and others urged the National Assembly to amend Article 71, but it was ultimately passed without changes.

Three months after the passage of the law, the Royal Government of Cambodia has taken a modest step toward correcting the flaws in Article 71 of the prison law. On March 19, 2012, the government issued an "Inter-ministerial Prakas on the Prohibition of Using Prison Labor for Producing Export Goods."

The prakas – issued jointly by the Ministers of Interior, Finance, Commerce and Labor – bans all enterprises from using prisoners to produce goods meant for export. It also provides punishments for entities which do so, and requires prison labor programs to be "managed" by the state so that they serve the public interest.

LICADHO believes that the prakas is a step in the right direction, but several concerns remain.

Initially, it is disappointing that such a critical point of law is contained only in a prakas, a lower-level edict that is neither as strong as actual legislation nor as difficult to amend.

¹ The GDP currently operates 27 prisons in Cambodia, including the recently-opened facility in Oddur Meanchey. LICADHO regularly monitors 18 of these prisons, plus the military prison at Tuol Sleng, which is not operated by GDP.

² See "Comments and Legislative Recommendations on the Draft Law on Prisons," a LICADHO Report, published October 2011 (available at: <http://www.licadho-cambodia.org/reports.php?perm=161>).

³ Prison Procedure No. 11, § 3.4 (2003); the regulations have not technically been repealed, but Procedure No. 11 has been superseded in practice by the Prison Law.

⁴ See, e.g., Sebastian Strangio, "Cambodia: prison labor concerns," *The Global Post*, Dec. 11, 2011 (available at: <http://www.globalpost.com/dispatch/news/regions/asia-pacific/111206/cambodia-prison-labor-garments-exports-ILO>); Abby Seiff and Kuch Naren, "Made-in-Prison Shoes Program Quietly Launches," *The Cambodia Daily*, Nov. 29, 2011; Liam Cochrane, "Claims Cambodian prison labor pledge broken," Radio Australia, Dec. 12, 2011 (available at: <http://www.radioaustralia.net.au/international/2011-12-12/claims-cambodian-prison-labour-pledge-broken/282720>).

⁵ Abby Seiff, "Officials Move to Bring Unruly Garment Subcontractors in Line," *The Cambodia Daily*, Sept. 7, 2011.

⁶ See, e.g., See "Terms of Engagement for Kohl's Business Partners," available at http://www.kohlscorporation.com/Suppliers/Forms/Kohl%27s_Terms_of_Engagement%20%28as%20of%2006%2015%2006%29.pdf

⁷ See, e.g., U.S. Tariff Act of 1930, Section 307 (codified at 19 U.S.C. § 1307).

⁸ Xinhua, "Cambodia's garment industry creates 335,400 jobs by 2011," March 13, 2012 (available at: http://www.chinadaily.com.cn/xinhua/2012-03-13/content_5406864.html).

Second, the prakas is vague in key areas, rendering some of the language meaningless from a legal perspective. Enforcement is thus far from assured.

Article 5, for example, allows authorities to revoke an entity's export license in the case of "continuing violations" of the prakas. But it does not define "continuing violations," making enforcement unpredictable. Article 2, meanwhile, requires that prison vocational programs must "serve the public interest" - broad phrasing subject to myriad interpretations.

Finally, although the prakas' ban on the export of prison-produced goods is welcome, it tackles only one aspect of the problem posed by Article 71 of the Law on Prisons. Under international law, the leasing of prison labor to private entities - even if the resulting products are only sold domestically - is a legal minefield. There are a number of checks and balances which must be in place. As of now, none of these are mandated in Cambodian law. Further legislation - and proper enforcement - is urgently needed on this front.



Prisoners clear land at Correctional Center 4 in Pursat Province.

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ANALYSIS: KEY ISSUES SURROUNDING THE PRAKAS ON PRISON LABOR

THE PROBLEM WITH PRAKAS

LICADHO welcomes the inter-ministerial prakas banning the use of prison labor for production of export goods. The prakas is an important step toward accomplishing two distinct but intertwined goals: protecting prisoners from exploitation, and guarding Cambodia's reputation as a socially responsible producer of textiles to foreign buyers. Yet it is disappointing that such critical goals are contained only in a prakas, and not in a higher-level legislation, i.e., in the prison law itself.

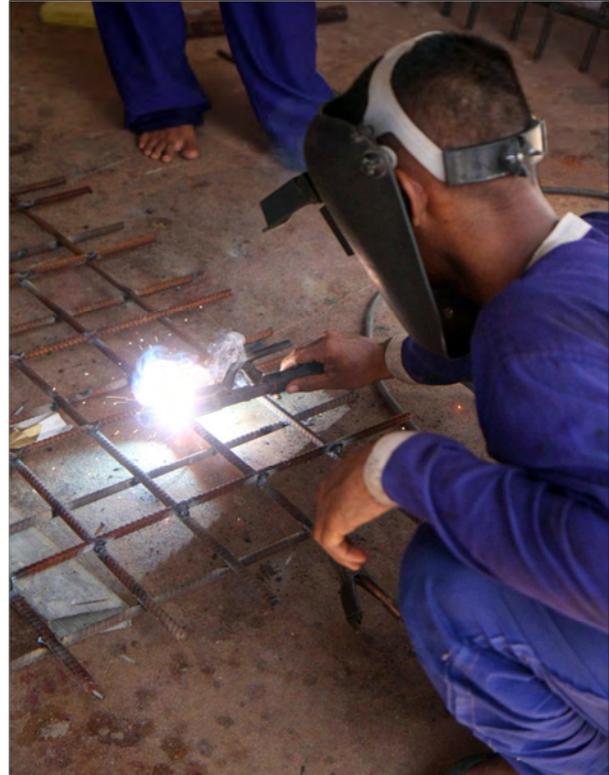
A proclamation is merely a ministerial or inter-ministerial decision signed by the relevant Minister(s)⁹. In the hierarchy of legal documents in Cambodia, prakas rank fifth, behind the Constitution, laws, royal decrees and sub-decrees¹⁰. Their legal force is comparatively weak.

Unlike laws, or *chbab*, which are enacted following a vote by the National Assembly and Senate, prakas can be amended rapidly and only require the signature of a relevant Minister or Ministers. No public or legislative consultation is necessary. Prakas can be here today and gone tomorrow, with scarcely a hint to the public prior to the change.

The use of a prakas in this instance is also suspect given the problematic history of prison labor in Cambodia. Based on numerous media reports, the government appears to have had significant difficulty in stopping garment production in prisons, even when it has publicly pledged to do so¹¹.

Garments suspected to be destined for export were being produced in prison workshops as early as 2009¹². LICADHO sources indicate that the government was aware of the problem by early 2010, and the suspected export production stopped late in the second half of 2010.

In November 2010, Minister of Commerce Cham Prasidh wrote a letter to international garment buyers – apparently in response to concerns they raised – acknowledging that garments had been produced in two prisons, Correctional Center 1 and Correctional Center



A prisoner takes part in an NGO-sponsored vocational training program at Sihanoukville provincial prison.

⁹ "A selection of laws currently in force in the Kingdom of Cambodia," Office of the United Nations High Commissioner of Human Rights in Cambodia, available at http://cambodia.ohchr.org/klc_pages/klc_english.htm.

¹⁰ *Ibid.*

¹¹ See, Sebastian Strangio, "Cambodia: prison labor concerns," *The Global Post*, *supra*.

¹² *Ibid.*

2¹³. The letter stated that the garments were “[s]old to an unlicensed factory/sub-contractor,” and that this was a “misunderstanding” that would not happen again¹⁴.

But LICADHO sources indicate that production restarted in early 2011, and continued for some months before it stalled again in summer 2011. At that point, the Minister of Commerce wrote a letter to the Garment Manufacturers’ Association of Cambodia (GMAC) confirming the problem. “[S]ome unregistered sub-contractors conspire with some factories to use [unethical] labor for their production and even dare to transfer the semi-products to prisoners for export processing,” Prasadh wrote¹⁵. Prasadh went on to note that this problem “was in the past¹⁶.”

Yet two months later, the media reported that New Star Shoes – a GMAC member that has reportedly exported products to Japan, Canada and the United States – had just opened a workshop at the Sihanoukville provincial prison¹⁷. Less than two weeks after that, the workshop apparently closed, and the prison director denied that it ever existed¹⁸. A separate garment production program in Battambang has apparently continued to operate to this day¹⁹.

The potential problems with Article 71 of the prison law have thus been apparent for years prior to the law’s passage, yet nothing was done to amend the text. The law passed intact. Although the prakas sets out to accomplish a worthy goal, the sequence of events leading to its issuance leaves lingering suspicions.

- **Recommendation:** LICADHO recommends that Article 71 of the prison law be amended to prohibit prisoners from being used to manufacture or process goods meant for export. Ideally, the article should be amended to prohibit all private entities from employing prisoners unless the requirements of ILO Convention 29 are met, as detailed below.

VAGUE PROVISIONS & UNCERTAIN ENFORCEMENT

The prakas appears well-written in its core areas. Articles 1 and 3 ban the export of prison-produced goods, and punish any company in violation of this rule. Violators are punished with a fine of US \$50,000 and a three-month suspension of their export license²⁰.

Article 4 extends liability to companies anywhere in the supply chain, even – presumably – if they do not have knowledge that their goods are being exported.

As LICADHO interprets the prakas, if Company A buys made-in-prison garments from Company B, re-labels them and exports them abroad, both companies should be punished for violating the prakas.

Still, LICADHO has some concerns about how the ban – and punishments – will work in practice. The prakas does not ban private enterprises from using prisoners to produce goods

¹³ Abby Seiff, “Ministry Letter Sheds Light on Prison Labor,” *The Cambodia Daily*, Dec. 10, 2011.

¹⁴ *Ibid.*

¹⁵ Abby Seiff, “Officials Move to Bring Unruly Garment Subcontractors in Line,” *The Cambodia Daily*, Sept. 7, 2011.

¹⁶ *Ibid.*

¹⁷ Abby Seiff and Kuch Naren, “Made-in-Prison Shoes Program Quietly Launches,” *The Cambodia Daily*, *supra*.

¹⁸ Abby Seiff and Kuch Naren, “Prison Chief Denies that Prison-Shoes Program Ever Existed,” *The Cambodia Daily*, Dec. 9, 2011.

¹⁹ Abby Seiff and Kuch Naren, “Prison Chiefs Eagerly Await Labor Programs Law,” *The Cambodia Daily*, Nov. 30, 2011.

²⁰ Article 3, Inter-ministerial Prakas on the Prohibition of Using Prison Labor for Producing Export Goods, unofficial English translation by International Labor Organization.

for domestic consumption. Thus, what if Company A sells prison-made garments to Company B, with the assurance that Company B will only re-sell within Cambodia? If Company B exports the goods, would Company A be in violation of the prakas?

What if Company A deceives Company B about the garments' prison origins, and Company B exports the goods? Would Company B be liable?

These scenarios are not all that far-fetched, given that government officials themselves have repeatedly blamed "unlicensed subcontractors" for past problems with garment production in prisons. The implication is that unlicensed subcontractors were doing work for licensed counterparts on a piecemeal basis²¹.

LICADHO believes the prakas should be interpreted to impose punishment regardless of whether the company has actual knowledge of the goods' prison origins. Thus, in the examples above, both companies should be liable. However, it remains to be seen if the prakas will actually be enforced in this manner.

➤ **Recommendation:** In order to ensure that there are no loopholes for exports of prison goods, LICADHO recommends the broadest possible enforcement of Articles 1, 3 and 4 of the prakas. Specifically, authorities should adopt a strict-liability approach to enforcement of the export ban. The ban and punishment provisions should apply to any company which exports goods made in prison, whether the authorities can prove that the company had "actual knowledge" of the goods' origin or not. Less stringent enforcement would potentially provide cover for the use of prison labor to produce goods for export.

The authorities should also consider enacting a ban on garment production in prisons, in order to eliminate any possibility that such goods would be exported.

Article 2 of the prakas is also problematic, and potentially misplaced in this particular prakas. It states that "prison labor shall be allowed to produce any products under [the] government administration's prison vocational training program for the interest of the public only²²."

While this provision appears positive, its precise meaning is difficult to interpret upon closer inspection. The most obvious question is what does "public interest" actually mean? Will prisoners only be permitted to perform public works-type labor, such as roadwork, manufacturing of goods for public entities, and so on? Or can prisoners work for a private firm which in turn sells goods to public entities? Or will they be permitted to work for private companies which sell goods on the domestic open market?

If Article 2 is interpreted to mean that prisoners can only do public works for public entities, it arguably contradicts Article 71 of the Prison Law. Article 71 permits the prisons to "enter into a contract with a natural person or a legal person, or a national organization or an international organization, to generate employment for the prison industry, handicraft and farming programs." It also entitles the prison system to "enter into a contract to sell the products from the prison industry, handicraft and farming."

²¹ See, e.g., Abby Seiff, "Officials Move to Bring Unruly Garment Subcontractors in Line," *The Cambodia Daily*, *supra*; Abby Seiff, "Ministry Letter Sheds Light on Prison Labor," *The Cambodia Daily*, *supra*.

²² Article 2, *Ibid*.

A prakas does not have the legal force to supersede properly enacted legislation. Thus, “public interest” cannot be interpreted to mean only public works.

Alternatively, “public interest” could be interpreted to encompass virtually any prison labor. After all, any work by prisoners can be broadly defined as being in the public interest if it contributes to rehabilitation. The language in Article 2 needs further clarification in order for it to be meaningful.

- **Recommendation:** The apparent aim of Article 2 – to require that prison labor programs operate in the “public interest” – appears to be outside the scope of a prakas dealing with the export of prison-made goods. The provision is also poorly conceived due to its lack of detail. LICADHO recommends that the government enact a sub-decree or amendment to the prison law to set out the exact parameters governing Cambodia’s prison labor program. LICADHO believes that this subsequent legislation should ban the use of prison labor by private entities, as the conditions in Cambodian prisons are currently not sufficient for such programs to operate appropriately.

Alternatively, if the government pushes forward with its plan to hire prisoners out to private firms, subsequent legislation should incorporate international standards governing such arrangements. The international legal principles governing employment of prisoners by private entities are quite detailed, as explained further below.

Finally, Article 5 allows authorities to revoke an entity’s export license in the case of “continuing violations” of the prakas. But the article does not define “continuing violations,” which could make enforcement unpredictable and uneven.

- **Recommendation:** Article 5 of the prakas should specify a precise trigger for the revocation of a company’s export license. The revocation should occur after the second violation.

THE INTERNATIONAL ANGLE: EXPORTS ARE NOT THE ONLY ISSUE

LICADHO’s final concern with the prakas is its limited scope. Article 71 of the Prison Law authorizes private entities to use prison labor, a scheme that creates at least two distinct problems. The prakas only addresses one of these – the possibility that prison-made goods will be exported. The second problem remains: the legal issues that arise when private enterprises use prison labor, even if the goods produced in prison are for domestic consumption.

ILO Convention 29

The key legal instrument governing prison labor is International Labor Organization (ILO) Convention 29, which Cambodia ratified in 1969²³. The convention itself is incorporated into Cambodian law through Article 15 of the Labor Law of Cambodia²⁴ and through the Constitution²⁵.

²³ See International Labor Organization, Documents available in ILOLEX for Cambodia, available at: <http://www.ilo.org/ilolex/cgi-lex/countrylist.pl?country=Cambodia>.

²⁴ Article 15 of the Labor Law states that “forced or compulsory labor is absolutely forbidden in conformity with the International Convention No. 29 on Forced or Compulsory Labor.”

²⁵ Constitution of Cambodia, Article 31.

ILO Convention No. 29 forbids signatory states to employ forced labor, but makes a specific exemption for prison labor so long as it performed by convicted prisoners and “carried out under the supervision and control of a public authority and the said person is not hired to or placed at the disposal of private individuals, companies or associations²⁶.” In other words, the convention permits forced labor in prison so long as it is controlled by the public authorities *and* the prisoners are not “farmed out” to private concerns²⁷.

The Convention thus does not prohibit prisoners from *voluntarily* working for private enterprises. But imprisonment has been historically associated with compulsory labor and it is generally presumed that prisoners perform work under compulsion. As the ILO itself noted:

[E]xcept in a few rare cases the prisoner works under compulsion. He cannot choose his employment as the free worker does, but must usually do whatever work is assigned to him. The conditions in which this work is carried out are fixed by unilateral decision of the State; the prisoner has no voice in the matter and cannot as a rule appeal to the courts if he is the victim of injustice²⁸.

‘Conditions Approximating a Free Labor Relationship’

Due to the uniquely coercive nature of prison life, the ILO Committee of Experts – the body charged with interpretation of ILO Conventions – has consistently required that there be objective and verifiable indicators that prisoners who work for private entities do so voluntarily. Specifically, the Committee has stated that Article 2(2)(c) of Convention 29 allows prisoners to work for private companies “only where prisoners worked in conditions approximating a free employment relationship²⁹.” Further, on balance, the “circumstances in which the prison labor is performed should not be so disproportionately lower than the free market that it could be characterized as exploitative³⁰.”

According to the ILO, indicators of a free employment relationship include:

- The inmate’s formal consent to work, in writing, with the consent form indicating wages and conditions of work.
- Conditions of work that are similar to work outside the prison, namely:
 - ✓ Wages comparable to those of free workers with similar skills and experience in the relevant industry or occupation, taking into account factors such as productivity levels and any costs the enterprise incurs for prison security supervision of the workers.
 - ✓ Wages paid directly to workers. Workers should receive clear and detailed wage slips showing hours worked, wages earned and any deductions authorized by law for food and lodging.
 - ✓ Daily working hours in accordance with the law.

²⁶ ILO Convention No. 29, Article 2(2)(c).

²⁷ International Labor Organization, General Report of the Committee of Experts on the Application of Conventions and Recommendations, 2001, paragraphs 86 & 119. The ILO Committee of Experts took pains to note that Convention contains two separate requirements – “public supervision” and a ban on placing prisoners at the disposal of private entities: “The fact that the prisoner remains at all times under the supervision and control of a public authority does not in itself dispense the government from fulfilling the second condition, namely that the person is not hired to or placed at the disposal of private individuals, companies or associations.”

²⁸ ILO Memorandum on Prison Labor, International Labor Review, Vol. XXV, 1932, pp. 313-314.

²⁹ International Labor Organization, 2007 Report on Eradication of forced labor: Chapter II. Forced Labor Convention, 1930 (No. 29), paragraph 116.

³⁰ International Labor Organization, General Report of the Committee of Experts on the Application of Conventions and Recommendations, 2001, paragraph 143.

- ✓ Safety and health measures which respect the law.
- Workers are included in the social security scheme (if applicable) for accident and health coverage.
- Workers obtain benefits such as learning new skills and the opportunity to work cooperatively in a controlled environment enabling them to develop team skills.
- Workers have the possibility of continuing work of the same type upon release.
- The ability to withdraw their consent at any time, subject only to reasonable notice requirements³¹.

The requirements above apply for *all* private entities that employ prisoners, even entities which only sell their products domestically. ILO Convention 29 does not mention exports, and does not make a distinction between companies selling domestically or abroad. This is where the prakas falls short.

The Situation in Cambodian Prisons

Since 2008, LICADHO has interviewed prisoners employed in various work programs and found that few of the indicators above are present. In other words, working conditions in Cambodian prisons have never approximated a “free labor relationship.” They do not even come close.

Prisoners do not sign a formal consent form and are not paid comparable wages to workers outside of prison. Some prisoners LICADHO interviewed claimed they were not paid at all, while others received anywhere from 1,000 riel (US \$0.25) to 5,000 riel (US \$1.25) per month. Some reported receiving up to 20,000 riel (US \$5) per month. These pay rates work out to about 1% to 8% of the standard minimum wage of US \$61 per month for garment workers in Cambodia.

To LICADHO’s knowledge, inmates are not permitted to negotiate contracts or working terms or freely move between jobs. There are likewise no explicit protections for workers’ rights such as maternity leave, sick leave, compensation for workplace injuries, working hours, holidays, overtime pay and minimum working age. Some inmates reported oppressive working conditions, including a lack of adequate water and rest time during working hours, and other problems.

In the most egregious case, an inmate reported being tortured in connection with her work at a prison garment factory at Correctional Center 2 in late 2009. The inmate claimed that she felt ill during work, and left her work station to take a break. Guards ordered her to return, but she refused to do so. She was subsequently beaten by two guards, who used a shoe and belt to strike her. The prisoner lost her job following the attack, and for the next 20 days was forced to spend her recreation time kneeling in the center of prison compound – in full sun. She subsequently lost all recreation time for an additional 20 days.

Even if beatings are not the norm, the prevailing conditions in Cambodia’s prisons render the concept of a “free labor relationship” an illusion. Coerciveness is inherent.

³¹ International Labor Organization, 2007 Report on Eradication of forced labor: Chapter II. Forced Labor Convention, 1930 (No. 29), paragraphs 113-20; Q&As on Business and Forced Labor, “Use of Prison Labor,” International Labor Organization, September 1, 2010, available at: http://www.ilo.org/empent/areas/business-helpdesk/faqs/WCMS_DOC_ENT_HLP_FL_FAQ_EN/lang-en/index.htm.

Inmates are routinely deprived of the most basic fundamentals, including adequate food and water, recreation time, health care, and personal security. A typical prisoner may be perpetually hungry, sick from dirty water and in need of costly medicine, under threat of beating or shackling for disciplinary transgressions, and desperate for time out of a cell filled to 200 percent capacity. Many of these “privileges” must be purchased, including time out of cells. It is difficult for someone in these circumstances to engage in a “free labor relationship” – particularly when the inmate generally has a limited choice of jobs and no input as to the terms and conditions of the job.

The inmates LICADHO interviewed were desperate to work – both to get out of their cells and earn money – and ripe for exploitation. In sum, Cambodia has a long way to go in creating a prison environment in which inmates are able to engage in free labor relationships.

Inmates as an Income Stream

It is also apparent that the prison authorities’ interest in inmate labor programs is not simply rooted in altruism. Inmates are a potential income stream for the prison system. According to a January 2011 report by the GDP, prison work programs produced more than 1.03 billion riel (about US \$257,000) in income during 2010³². This figure included all programs, from farming to carpentry to garment production.

Inmates received only 20% of that income, or about 200 million riel (US \$50,000), which works out to approximately 9,000 riel (US \$2.25) per month, per prisoner, using the GDP’s numbers³³. The rest went to prison officers (approximately 40%)³⁴, infrastructure improvements, prison renovation projects, improved working conditions for prison officers, new prison construction, and other improvements.

The GDP has clearly begun to rely on inmate labor programs to fund its operations. This fact is not necessarily problematic by itself – such arrangements are common throughout the world.

But the reliance on money generated by inmate labor is worth keeping in mind when considering the impact that public-private labor partnerships might have. GDP has a strong financial incentive to exploit inmate labor, and money is likely the most significant factor driving the establishment of public-private prison labor partnerships. This fact militates strongly in favor of establishing strong protections to protect inmates’ rights under ILO Convention No. 29.



A prisoner sews inmate uniforms at Sihanoukville provincial prison.

³² General Department of Prisons, Report On Work Achieved in 2010 and Planning for 2011, published January 2011, pp. 5-6, unofficial English translation. The report stated that 1,835 prisoners were employed throughout the course of 2010, meaning prisoners earned on average about 9,000 (US \$2.25) riel per month.

³³ *Ibid.*

³⁴ The report did not state whether the money for prison staff was for ordinary salaries, bonuses, or other remuneration.

- **Recommendation:** If Cambodia intends to allow private enterprises to use prison labor, a system must be put in place to ensure that the requirements of ILO Convention 29 are met. Such a system should be contained in the prison law itself or in a sub-decree at minimum, and formulated with the input of international experts on prison labor, including the ILO, labor organizations, UNOHCHR and civil society.

Prisoners should not be permitted to work for private enterprises until such safeguards are put in place. Further, if a system allowing prisoners to work for private entities is implemented, the General Department of Prisons should allow for independent monitoring by civil society organizations to ensure that prisoners' labor rights are respected.

LICADHO also calls upon the ILO take action to urge Cambodia's compliance with Convention No. 29 and to monitor the same. Based on past ILO precedents, this action could include recommending that the Cambodian government amend the prison law³⁵.

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³⁵ See, e.g., International Labor Organization, Direct Request to Botswana by the Committee of Experts on the Application of Conventions and Recommendations (CEACR) - adopted 2011, published 101st ILC session (2012) (available at: http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:2984050232233651::NO:13100:P13100_COMMENT_ID:2698190). Botswana had enacted a law permitting prisoners to be employed outside prison under the immediate order and for the benefit of a person other than a public authority. Botswana stated that the law had never been implemented in practice, but that if it was, prisoners assigned to work for private parties would do so of their own free will. Nonetheless, the Committee stated that it "hopes that the necessary measures will be taken to amend ... the Prison Act ... so as to ensure that any work or service by prisoners for private persons is performed voluntarily, with their formal, freely given and informed consent, such consent being authenticated by the conditions of work approximating a free labor relationship. The Committee requests the Government to provide, in its next report, information on the progress made in this regard."