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លីកាដូ



LICADHO

CAMBODIAN LEAGUE FOR THE
PROMOTION AND DEFENSE
OF
HUMAN RIGHTS



TIME FOR BAIL:

Ending Needless Mass Detention

A report issued in
October 2018



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LICADHO

CAMBODIAN LEAGUE FOR THE PROMOTION
AND DEFENSE OF HUMAN RIGHTS

CAMBODIAN LEAGUE FOR THE PROMOTION AND DEFENSE OF HUMAN RIGHTS (LICADHO)

LICADHO is a national Cambodian human rights organization. Since its establishment in 1992, LICADHO has been at the forefront of efforts to protect civil, political, economic and social rights in Cambodia and to promote respect for them by the Cambodian government and institutions. Building on its past achievements, LICADHO continues to be an advocate for the Cambodian people and a monitor of the government through wide ranging human rights programs from its main office in Phnom Penh and 13 provincial offices.

MONITORING & PROTECTION



PROMOTION & ADVOCACY

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

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

Medical Assistance & Social Work:

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

Prison Monitoring:

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

Paralegal & Legal Representation:

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

Supporting Unions & Grassroots Groups and Networks:

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

Public Advocacy & Outreach:

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

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Introduction



Until proven guilty, Cambodian citizens accused of a crime have the right to be presumed innocent, under Cambodian and international law.¹ For most charged persons, this should mean being given the chance to avoid pre-trial detention through bail proceedings.

This briefing paper, mainly based on LICADHO's extensive work in the prison system, demonstrates how rampant under-use of bail proceedings results in excessively long periods of pre-trial detention which have far reaching consequences for the lives of individuals, families and communities. For the purposes of this report, LICADHO defines pre-trial detention as those persons detained who have not yet been to trial.

The impacts of unnecessary pre-trial detention – of up to 22 months prior to trial² – cannot be overstated. Imprisonment leads to stigmatisation as well as loss of income and family breakdown in a society where many live in poverty and depend on family ties. In some cases, when sentences are finally handed down, inmates have already been detained for longer than the sentencing period of the crime they were charged with. In others, prisoners are eventually found to be innocent but have been unfairly detained for long periods of time.

LICADHO has been monitoring and working within the prison system since 1993, initially providing medical checks and treatments to prisoners and then expanding its mandate to monitor and protect the rights and welfare of prisoners. The Prison Project works in 18 out of 28 prisons across the country. At time of publication, LICADHO monitored 25,926 inmates of whom 9,527 (37 percent) were pre-trial detainees.³

Cambodia's growing prison population, acute overcrowding and extensive detention of infants is, in part, due to systemic failures to appropriately implement provisions on pre-trial detention. This briefing paper examines the negative effects of the widespread use of provisional detention observed by LICADHO staff. It also analyses the failure of past attempts to reform bail procedures in Cambodia and makes recommendations for its proper implementation.

¹ Constitution of the Kingdom of Cambodia, Article 38.

² For an adult accused of a felony, pre-trial detention can last up to six months with two opportunities for extension of a further six months (Article 208 Criminal Procedure Code). A settlement warrant can extend detention by a further four months awaiting trial (Article 249).

³ LICADHO statistics from May 2018, provided by prisons.

Overview: The Cambodian Prison System and Pre-trial Detention



The history and situation of the Cambodian prison system over the past few decades has been well documented.⁴ A dire lack of funds, severe overcrowding, excessive pre-trial detention, disproportionate and unjust sentencing, violations of prisoners' rights and a rampant culture of corruption within the system have all contributed to Cambodia's appalling prisons. This already dire situation has worsened dramatically since the start of 2017, largely due to commencement of the government's "war on drugs", when the number of prisoners began to skyrocket.

For example, at the time of publication, Correctional Center 1 (CC1), the main men's prison in Phnom Penh, houses 6,711 inmates⁵ despite being designed to hold just 2,050 inmates, meaning it is holding three times more prisoners than it can safely contain.⁶ Almost 50 percent of these prisoners are pre-trial detainees,⁷ many of whom are eligible for bail but who have never been given an opportunity to apply due to lack of legal aid or because they are not aware of their right to apply. The utilisation of bail procedures would be a solution to the problem of overcrowding.



What is Bail?

Bail is a legal construct intended to incentivise charged persons to appear before the court, as an alternative to forced provisional detention. The accused agree to appear in court and abide by certain conditions prior to their trial in exchange for their continued freedom. In many countries, people give the court money or a "bail bond" as a guarantee they will return for their hearing. The legal requirements for bail can be seen as a compromise between the essential principle of presumption of innocence enshrined in international human rights standards and the practical need to make sure accused persons appear before the courts.

⁴ See LICADHO's reports, Rights at a Price: Life Inside Cambodia's Prisons: http://www.licadho-cambodia.org/collection/25/life_inside_cambodia_prison; Beyond Capacity 2012: A Progress Report on Cambodia's Exploding Prison Population: <https://www.licadho-cambodia.org/reports/files/168LICADHOBriefingPaperBeyondCapacity2012-English.pdf>.

⁵ LICADHO statistics from May 2018, provided by prisons.

⁶ Whilst there is no specific Cambodian legislation that sets out minimum standards for conditions within prison cells, Rules 12 and 13 of the Standard Minimum Rules for the Treatment of Prisoners (commonly referred to as the Nelson Mandela Rules) discusses human living areas in prisons. Rule 13 states, "All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation."

⁷ At time of publication, 3,319 (or 49 percent) of the inmates in CC1 were pre-trial detainees awaiting final verdict. 9,527 prisoners are pre-trial detainees out of 25,926 the 18 prisons monitored by LICADHO.

Inappropriate and Unfair Pre-trial Detention



INFANTS AND PREGNANT WOMEN BEHIND BARS

One of the most disturbing effects of the overuse of pre-trial detention has been the rising number of pregnant women and mothers with young children who are languishing behind bars. Under Cambodian law, children under the age of three can live in prison in order to be cared for by their mother.⁸ Due to the government's "war on drugs" and the subsequent ballooning of the prison population, the numbers of infants behind bars has increased dramatically, from 30 at the end of 2015 to 138 children currently living in prisons monitored by LICADHO.⁹

Children under three are amongst the most vulnerable groups of detainees. Their detention is a direct by-product of inappropriate pre-trial detention and the refusal to grant bail to their mothers. During 2017, there was an all-time high of 179 children (the majority under two years of age) and 74 pregnant women being held. In July 2018, there were 138 children, alongside 135 mothers and 30 pregnant women. Close to half of the new and expectant mothers (80) were being held in pre-trial detention.

LICADHO has worked on multiple cases where women with babies and infants have had no choice but to take their children into prison with them. And in some cases, when these children reach three years of age and are no longer allowed to stay in prison with their mothers, they are forced to enter institutionalised care.

The detrimental impact of growing up in Cambodian prisons has been well documented.¹⁰ These small children are exposed to potentially lifelong negative consequences by spending time behind bars. Properly utilised bail procedures would help to ensure that mothers are not forced to raise infants in crowded cells unnecessarily, and would prevent lasting harm that can be inflicted on young people who grow up in squalid prison conditions.

Due to the government's "war on drugs", the numbers of infants living behind bars with their mothers has increased dramatically, from 30 at the end of 2015 to 138 children in July 2018.

Children experience harsh prison conditions alongside their mothers at a crucial point in their physical and mental development, with extremely limited food and resources, and scarce contact with their families and communities. Pregnant women are not provided with any pre- or post-natal care, and in some cases are forced to return to prison within a day after giving birth.

⁸ Article 41 of the Law on Prisons states that "children accompanying their mother shall be authorised to stay with their mother in prison until the age of three years and shall be provided with food, clothing and health care."

⁹ As of July 2018.

¹⁰ See LICADHO's reports, Childhood Behind Bars: Growing Up in a Cambodian Prison – Dara's Story: <https://www.licadho-cambodia.org/reports/files/203LICADHOReportChildhoodBehindBars-English.pdf>; Childhood Behind Bars: Growing Up in a Cambodian Prison – Sokun's Story: <https://www.licadho-cambodia.org/reports/files/182LICADHOReportChildrenBehindBars2013-English.pdf>;

Innocent Prisoners: A LICADHO Report on the Rights of Children Growing up in Prisons: <https://www.licadho-cambodia.org/reports/files/34Children%20in%20Prisons%20with%20Cover%20page.pdf>.



Babies Behind Bars

My name is Soklay.* I am in prison with my baby. I was living with a friend and when I was a few months pregnant, the police came into our house. My friend and I were arrested for a drug-related offence and sent to prison. I told them that I had never used or sold drugs but they did not listen to me. I told them that I was five months pregnant but they did not care.

The police sent me to stay in a very crowded cell and the other prisoners gave me a place to sleep on the floor. Even though I was pregnant, I was not given any extra food or any medical care. When you live in prison, if you are lucky, your family can come to visit you and bring you food to eat and soap and everything else that you need. My family lives in a different province and so it is too far for them to come and visit me. I am always hungry.

When I went into labour, the prison guards took me to hospital. There were two prison guards who stayed outside my room. I was only allowed to stay in hospital for one day. The day after my baby was born, the prison guards made me go back to prison. My baby was crying a lot, I think she was hungry because I didn't have enough breast milk. I was worried that my baby was disturbing the other prisoners. The prison guards didn't give me any extra food to help me make breast milk so after a while I had to use formula as well. An organisation gave me some formula and bottles but it is difficult for me to get clean water to make the formula or to clean the bottles. My baby is always hungry. She cries a lot.

I don't have enough nappies or clothes for my baby. I never get any soap to clean my baby, so I am always worried that she might get sick. I have asked the prison guards if they can help me register my baby's birth but they say it is not their job to help me.

A few months after my baby was born, I had my trial and I was sentenced to one more year in prison.

* Note: Names and identifying features have been changed to protect the identity of our clients.

JUVENILE DETAINEES

Other vulnerable groups are harmed by extensive pre-trial detention. Weak implementation of the law means they do not benefit from prescribed legal protections. Articles 212, 213, and 214 of the Criminal Procedure Code of the Kingdom of Cambodia (Code of Criminal Procedure) limit the pre-trial detention of minors between the ages of 16 and 18 who are accused of a felony, and prohibit any detention of those under the age of 14. These limits are not always implemented in practice, and LICADHO has interviewed juvenile detainees whose pre-trial detention period has exceeded the time limits prescribed by the law. While they are in prison their education is interrupted and relationships with their families and communities are damaged. Extensive research in other countries shows that placing juvenile detainees in pre-trial detention exposes them to adult criminal behaviours and could contribute to a new generation of people predisposed to committing serious crimes.¹¹

Many individuals, including juveniles and pregnant women, have been detained unnecessarily. This can be seen in the statistics obtained in the 18 prisons currently monitored by LICADHO. By defaulting to pre-trial detention, the judge reverses the presumption of innocence: the accused now has to stay in detention until such time as the judiciary allocates a date to hear the case and to determine their innocence. LICADHO has interviewed many detainees who have been in pre-trial detention for months with no scheduled court date or legal assistance, nor any detailed knowledge of the charge(s) against them. In one case LICADHO interviewed a prisoner who had been held in pre-trial detention for just under two years without having seen a lawyer or being correctly informed of the charges against him.



¹¹ For example see “The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities”, A Justice Policy Institute Report by Barry Holman and Jason Ziedenberg: http://www.justicepolicy.org/images/upload/06-11_rep_dangersofdetention_jj.pdf.

Bail as a Solution



While undisclosed political reasons may play a role in decisions to deny bail to detainees who are critical of the Cambodian government and other powerful actors, those motives are in fact absent in the majority of cases examined by LICADHO. In practice, bail is denied to those accused of even the most common and non-violent crimes.

By not effectively utilising bail provisions, the government denies prisoners their legally mandated presumption of innocence and violates an accused person's right to remain at liberty unless proven guilty. In addition to helping to alleviate extreme overcrowding and the jailing of vulnerable people, the proper implementation of bail procedures would help to reduce these widespread violations. Currently, the majority of people charged with a crime are imprisoned immediately, contravening existing Cambodian legal codes that call for bail to be provided in all but exceptional circumstances.

“By not effectively utilising bail provisions, the government denies prisoners their legally mandated presumption of innocence, and violates an accused person’s right to remain at liberty unless proven guilty.”

If pre-trial detention was limited to only the most exceptional cases, the judiciary would have to prioritise cases according to their severity, easing the workload on an already overloaded judiciary and prison system while those accused would remain able to participate in society until their guilt had been determined.

However, were bail proceedings properly utilised, it would be vital to ensure that they were not used as a method to punish the poor and keep those who cannot pay in prison.¹² In the case of political prisoners, the dropping of politically motivated and unsubstantiated charges has to be the priority ahead of bail proceedings to avoid

the threat of re-arrest.¹³ In January 2014, the United Nations' Office of the High Commissioner of Human Rights (OHCHR) in Cambodia, in conjunction with Cambodian courts, created new forms intended to be used by judges to determine when pre-trial detention is legally necessary.¹⁴ The aim was to raise awareness among Cambodian judges of the criteria for pre-trial detention and to streamline the procedure in order to assist them in correctly applying the criteria in Article 205 of the Criminal Procedure Code. While the OHCHR reports that it has noticed an increased number of judges using the forms, both LICADHO and the OHCHR lack accurate statistics. In fact, the number of pre-trial detainees has continued to rise since the introduction of the forms.¹⁵

LICADHO believes that with proper education on the detrimental effects of indiscriminate pre-trial detention both inside and outside of prisons, systemic change is possible.

No Legal Aid and Not Aware of Bail Rights

My name is Thy*. I used to work in Prey Veng as a labourer. One day I went to visit my family in my home province. The police came into my house to look for something. They looked through the whole house and found one gram of drugs underneath a mattress. The drugs and the mattress were not mine. I don't even know what drugs they found. The police didn't listen to any of us, instead they arrested almost everyone living in the house – all ten of my family and friends, including me.

They told me that I was being arrested for drug trafficking. I was never given a lawyer. I don't know what bail is. No one has ever talked about it with me. The police sent all of us to prison. I live in a cell that has 134 people. I don't have any money so I can't pay for any extra privileges like more food or time outside of the cell. I don't get enough food to eat and I am almost always hungry. I am only allowed outside of my cell two times per day – for 15 minutes at a time.

All ten of us were convicted of drug trafficking and sentenced to two years in prison. We cannot believe it. Some of us are appealing our sentences but some of us are too scared to do this.

* Note: Names and identifying features have been changed to protect the identity of our clients.

¹² Burns Institute, The Evolution of Money Bail Throughout History: <http://www.burnsinstitute.org/blog/the-evolution-of-money-bail-throughout-history/>.

¹³ Amnesty International, Courts of Injustice: Suppressing Activism through the Criminal Justice System in Cambodia, 2017, p.19: <https://www.amnesty.org/en/documents/asa23/6059/2017/en/>.

¹⁴ OHCHR, Reforming the pre-trial detention process to prevent arbitrary detention: <http://cambodia.ohchr.org/~cambodiaohchr/sites/default/files/2-RLU-SS.pdf>.

¹⁵ At the end of 2014, there were 2,600 pre-trial detainees, at the end of 2016, there were 4,038 pre-trial detainees and at the end of 2017, there were 6,337 pre-trial detainees. All statistics collated from the 18 prisons monitored by LICADHO. Please note: There is insufficient data from 2015.

Legal Background



By definition, detention involves depriving an individual of their liberty. Domestic and international law provides protections to prevent detention in all but the most serious and necessary circumstances.



Underpinning the entire criminal justice system is the presumption of innocence. This includes the pre-trial detention regime: an individual is presumed innocent until proven guilty. This right is enshrined in the Cambodian Constitution, the Criminal Procedure Code and

international law binding on Cambodia.¹⁶

The burden of proving guilt and overcoming the presumption of innocence lies with the prosecution.¹⁷ Cambodian law also establishes a specific presumption of liberty with regard to the application of provisional detention prior to trial. While pre-trial detention can be a legitimate tool at the disposal of the criminal justice system, its excessive use is not legitimate and violates the rights of individuals unnecessarily deprived of their liberty. Detention must be a last resort only utilised in cases where it becomes an absolute necessity.

There are multiple forms of provisional detention prior to conviction under Cambodian law:

1. An individual may be placed in pre-trial detention during the judicial investigation for any misdemeanour or felony offence with a sentence of over one year's imprisonment, if they meet certain criteria under the Criminal Procedure Code.¹⁸ This is by far the most common form of provisional detention in Cambodia and the one most unnecessarily used. The permissible maximum duration varies depending on the gravity of the charged offence.¹⁹
2. Once the investigating judge closes the investigation, this first form of provisional detention ends but the investigating judge may issue a new order imposing a second term of provisional detention between the closure of the judicial investigation and an individual's trial.²⁰
3. After their trial, individuals can remain in provisional detention until the delivery of their verdict.²¹

Investigating judges are empowered to maintain an individual's liberty or, if they have already been placed in provisional detention, release a charged individual at any point in time. This power may be exercised at the judge's own initiative; no request from the accused is required. Prosecutors may also request the judge to release any charged individual on bail, and charged persons have the right to apply for release on bail. While bail is sometimes granted in the Cambodian judicial system, it is not often presented as an option to those who are eligible. Defence lawyers are entitled to challenge the prosecutor's

¹⁶ See Article 38, Cambodian Constitution; Article 14(2), International Covenant on Civil and Political Rights; Article 203, Criminal Procedure Code.

¹⁷ Article 14, ICCPR: the prosecution must prove the guilt of an accused individual beyond reasonable doubt, in accordance with the standard of proof under Cambodian criminal law.

¹⁸ Articles 204 and 205, Criminal Procedure Code.

¹⁹ Articles 208 and 209, Criminal Procedure Code.

²⁰ Articles 249 and 305, Criminal Procedure Code.

²¹ Article 249, Criminal Procedure Code.

recommendation and/or an investigating judge's intention to place an individual in provisional detention. Following a provisional detention order, any detained individual is entitled to demand regular review of the legality of their detention, to be decided by an impartial tribunal.²² However, the lack of judicial independence in Cambodia is a serious and well-documented issue that could have negative impacts on the continued liberty of accused individuals.²³

Any time spent in provisional detention is deducted from the sentences of individuals who are subsequently convicted.²⁴ However, where an individual is acquitted, if provisional detention procedures have been used inappropriately, they may have spent an unnecessary and extended period behind bars.²⁵ Unless the maximum term of provisional detention is an absolute necessity (for example to undertake vital investigative activities), it is

likely such protracted detention would violate the right to be tried without "undue delay".²⁶

Excessive delays before trial and the delivery of a verdict are also likely to fall foul of provisions requiring that detained individuals pending trial be tried as quickly as possible, while respecting their right to defence. Any delays in bringing a case to trial must be assessed in terms of the complexity of the case. The lengthy periods of provisional detention individuals face in Cambodia are in contravention of the right to an expedient trial.

PROVISIONAL DETENTION DURING JUDICIAL INVESTIGATION AND PRIOR TO TRIAL

In principle a charged person should remain at liberty and only be detained under exceptional circumstances, according to Cambodian law.²⁷ The exceptional circumstances necessary to order the provisional



²² Article 206, Criminal Procedure Code.

²³ International Bar Association, Justice versus corruption: Challenges to the independence of the judiciary in Cambodia: <https://www.ibanet.org/Article/NewDetail.aspx?ArticleUId=fb11e885-5f1d-4c03-9c55-86ff42157ae1>.

²⁴ Articles 202 and 503, Criminal Procedure Code.

²⁵ In felony cases this includes an order for six months basic provisional detention that may be extended twice during the judicial investigation; at the closure of the judicial investigation, a judge may issue a separate warrant extending the detention of an individual until their trial – this separate order is effective for a maximum of four months (Article 249, Criminal Procedure Code).

²⁶ Article 14(3)(c), ICCPR.

²⁷ Article 203 of the Criminal Procedure Code

detention of an individual under judicial investigation, and override their presumption of continued liberty, are defined in Article 205 of the Criminal Procedure Code.²⁶

If pre-trial detention is applied, the judge must make a clear statement of justifications for the deprivation of liberty, both to the charged person and within the provisional detention order itself. According to the UN Human Rights Committee, pre-trial detention must be based on an individual determination that it is reasonable and necessary, and it should be the exception rather than

they no longer pose a risk under the criteria included in Article 205.

Prosecutors may also request the judge to release any charged individual on bail, and charged persons have the right to apply for bail. While bail is sometimes granted in the Cambodian judicial system, it is not often presented as an option to those who are eligible. Many pre-trial detainees interviewed by LICADHO's prison researchers were never informed about the possibility of bail. In 2017, prison researchers interviewed 1,211 prisoners. Only 105

prisoners (8.7 percent of those surveyed) requested bail and the remaining prisoners did not benefit from judicial discretion to grant bail. Many of those interviewed did not request bail due to lack of information or understanding about their right to request bail.

JUDICIAL SUPERVISION AS AN ALTERNATIVE

Judges also have a range of non-custodial measures available to ensure the appearance of an individual at their trial without the absolute deprivation of liberty. Cambodian law provides for more proportionate alternatives to provisional detention that maintain liberty, even if that liberty is

conditional. Article 223 of the Criminal Procedure Code allows for the use of judicial supervision of charged persons as an alternative to detention. According to the article, the judge has 12 possible judicial supervision restrictions that can be placed on a charged person while maintaining their broader liberty; the judge may choose to use one or all of these options as a full spectrum of alternatives to provisional detention.

the rule.²⁷ These provisions also apply to pre-trial detention orders issued at the closure of a judicial investigation that serve to detain an individual until their trial.

Despite having the power to order pre-trial detention, an investigating judge does not have to use it, and is thus authorized to maintain a person's liberty. If a suspect has already been placed in pre-trial detention, the investigating judge is empowered to order a release at any point in time, as no request from the accused is required. An individual's release should be a necessity the moment



²⁸ Pre-trial detention may be ordered when it is necessary to: 1. Stop the offence or prevent the offence from happening again; 2. Prevent any harassment of witnesses or victims or prevent any collusion between the charged person and accomplices; 3. Preserve evidence or exhibits; 4. Guarantee the presence of the charged person during the proceedings against him; 5. Protect the security of the charged person; 6. Maintain public order to avoid any chaos caused by the offence.

²⁹ Human Rights Committee, General Comment no. 35 (2014) para. 38: If an investigating judge fails to provide justifications, the provisional detention would be in breach of international human rights law, specifically Article 9(3) of the International Covenant on Civil and Political Rights (ICCPR), protecting individuals against arbitrary arrest or detention. On this matter, the Human Rights Committee stated that "[t]he notion of 'arbitrariness' is not to be equated with 'against the law', but must be interpreted more broadly to include [...] lack of predictability and due process of law, as well as elements of reasonableness, necessity and proportionality."

Statistics of Provisional Detainees in Prisons*

Name of Prison	Pre-trial detainees			Total Number of Prisoners			% Pre-trial Detainees		
	M	F	Total	M	F	Total	M	F	Total
PJ	47	21	68	247	47	294	19%	45%	23%
CC1	3,319	0	3,319	6,711	0	6,711	49%	0%	49%
CC2	288	337	625	561	1,079	1,640	51%	31%	38%
CC3(Tra.Ploug)	0	0	0	1,725	0	1,725	0%	0%	0%
CC4	0	0	0	707	0	707	0%	0%	0%
Takhmao	579	31	610	1,796	113	1,909	32%	27%	32%
Kg Som	480	34	514	886	104	990	54%	33%	52%
Kg Speu	292	23	315	596	50	646	49%	46%	49%
Kampot	262	16	278	786	36	822	33%	44%	34%
Kg Chhnang	347	21	368	756	50	806	46%	42%	46%
Kg Cham	614	108	722	1,689	145	1,834	36%	74%	39%
Kg Thom	121	9	130	527	36	563	23%	25%	23%
Koh Kong	113	16	129	432	64	496	26%	25%	26%
Pursat	179	16	195	424	29	453	42%	55%	43%
B. Bang	393	38	431	1,631	117	1,748	24%	32%	25%
B.M.Chey	458	41	499	1,318	126	1,444	35%	33%	35%
Siem Reap	1,093	93	1,186	2,511	215	2,726	44%	43%	44%
Svay Rieng	125	13	138	380	32	412	33%	41%	33%
Total	8,710	817	9,527	23,683	2,243	25,926	37%	36%	37%

*As of May 2018

Note: This includes only charged and accused persons who have been detained and have not yet been to trial ie. pre-trial detainees.

RECOMMENDATIONS

- Everyone who is eligible should be asked if they wish to apply for bail, especially in cases of vulnerable populations, i.e. women with babies and juvenile detainees.
- Ensure that pre-trial detention is used appropriately and as a last resort, in accordance with the presumption of innocence.
- Ensure that proper consideration, in accordance with legal protection, is given to the personal circumstances of all charged persons, especially in cases of vulnerable populations such as pregnant women and mothers with young children and juvenile detainees, before making an order for detention.
- Ensure the 2014 pre-trial detention forms are used correctly, clearly explaining which of the six reasons for provisional detention apply to the case and containing a strong argument for the provisional detention decision.
- Ensure that every charged person has their pre-trial rights and protections upheld including access to adequate legal representation, being correctly informed of the charges against them and knowledge of the procedures regarding the application and granting of bail and the capacity to apply for bail, especially in cases of vulnerable populations such as juvenile detainees, pregnant women and mothers with young children. These proceedings should be explained clearly and implemented in a timely manner.
- Prioritise the bail hearings of cases of vulnerable populations such as pregnant women and mothers with young children, juvenile detainees and human rights defenders so that they do not stay in provisional detention for lengthy and undetermined periods of time.
- Bail should be set at a reasonable monetary value, taking into account the financial circumstances of the charged person.
- Bail funds taken as surety should be returned at the end of proceedings, whether that results in imprisonment or an innocent verdict.

