

UNIVERSAL PERIODIC REVIEW (3rd Cycle) – CAMBODIA – DRUG POLICY - JOINT NGO SUBMISSION

Brief of Submission

Since the last UPR review of Cambodia in 2014, there are concerns about the nationwide anti-drug campaign launched in 2017 that would place Cambodia in violation of existing human rights obligations, comprising:

- A. Arresting and detaining people, including women, juveniles and children, in severely overcrowded prison and detention facilities, without adequate standards of treatment or access to medical care, thereby violating their rights to health and to be protected against torture and cruel, inhuman or degrading treatment or punishment, and
- B. Denying access to adequate drug treatment and harm reduction services and medical care, by targeting people who use drugs for arrest, detention and incarceration, including women, juveniles and children, in violation of their rights to health and to be protected against torture and cruel, inhuman or degrading treatment or punishment.

Key Concerns

Underpinning the human rights violations against people who use drugs in Cambodia is their criminalisation. The 2012 Drug Control Law provides that the prosecutor and court have the discretion to divert a person accused of using drugs from imprisonment or to postponement of sentencing if s/he agrees to enter into a ‘voluntary’ treatment programme and completes it. However since at least 2015, the rates of imprisonment and detention of people who use drugs have rapidly increased.ⁱ

1. In 2017 alone, following the government’s launch of a anti-drug campaign, over 17,800 people were arrested for drug-related offences – almost equal to the number of people arrested in 2014, 2015 and 2016 combined—of whom more than 50% were reportedly people who use drugs.ⁱⁱ
2. During the anti-drug campaign, police were targeting people who use drugs by arresting drug treatment patients.ⁱⁱⁱ In May 2017, a person who had been using heroin and living with HIV named Thhan Dang died during his incarceration at the Prey Speu detention centre in Phnom Penh, after being unable to access methadone (a medicine used in drug dependence treatment) and antiretroviral therapy (a medicine use in HIV treatment).^{iv}
3. Prison conditions in Cambodia were already poor and overcrowded, even before the anti-drug campaign was launched . Cambodia’s overcrowded prison population increased by 20 per cent in the first 10 months of 2015 (from 14,780 prisoners in December 2014 to 17,522 prisoners in October 2015) due to higher rates of drug arrests and delays in the justice system, resulting in inhumane conditions and raising serious health concerns. In addition, minors are not always separated from adults, untried and convicted prisoners are not separated, girls are often neglected, with none of the 28 prisons in Cambodia exclusively catering for juveniles.^v
4. In 2016, the government declared that 2,599 people who use drugs were detained in public and private rehabilitation centers.^{vi} Children are also being detained in youth centres, despite the UN Human Rights Committee raising concerns in its 2015 report on Cambodia about “reports of arbitrary

arrest and detention of homeless people, beggars, people who use drugs, children in street situations” and “allegations of torture, ill-treatment and other abuses committed by staff working at these institutions.”^{vii}

Recommendations

- A. Take action to end the arrest and detention of people suspected of drug use and possession for personal use, especially women, children and juveniles, and as an alternative, adopt policy responses to drug use centred upon principles of health, harm reduction and human rights.**
- B. Ensure the achievement of international standards of treatment including medical care for people held in prisons, detention and other closed settings, including the UN Standard Minimum Rules (‘Mandela Rules’ and ‘Bangkok Rules’), particularly people who use drugs or living with HIV, women and children**
- C. Take steps to implement voluntary and evidence-based harm reduction services (ie. opioid substitution therapy, needle and syringe programmes, and overdose prevention measures such as naloxone), and drug dependence treatment programmes designed and implemented in accordance with international standards established by the WHO and UNODC, in the community as well as in prisons, detention facilities and other closed settings.**

ⁱ Tuort, S. et al. (2017) “How understanding and application of drug-related legal instruments affects harm reduction interventions in Cambodia: a Qualitative Study”, *Harm Reduction Journal*, 14:39, 1-13, available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5477156/pdf/12954_2017_Article_167.pdf

ⁱⁱ Surrusco, M. and Phan, S. “As drug arrests rise, government weighs treatment shift”, *The Cambodia Daily*, July 3, 2017 available at <https://www.cambodiadaily.com/news/as-drug-arrests-rise-government-weighs-treatment-shift-132053/>

ⁱⁱⁱ Kimsay, B. and Surrusco, M. “Methadone Users Arrested Near Clinic, NGO Says,” *The Cambodia Daily*, June 14, 2017, <https://www.cambodiadaily.com/news/methadone-users-arrested-near-clinic-ngo-says-131316/>

^{iv} Bourmont, Martin de and Chakrya, Khouth Sophak “Is Cambodia’s war on drugs working?” *The Phnom Penh Post*, June 14, 2017, available at <https://www.phnompenhpost.com/national-post-depth/cambodias-war-drugs-working>

^v Verstraeten, T. “The Status of Children in Conflict with the Law in Cambodia and Vietnam,” *World Vision Report*, November 2016, p. 35, <https://www.wvi.org/sites/default/files/CICLreportVietnamandCambodiaFinalNov2016.docx.pdf>

^{vi} National Authority for Combating Drug (2017) Report on Drug Control for 2016 and Plan for 2017 (Phnom Penh: National Authority for Combating Drug)

^{vii} Verstraeten, T. “The Status of Children in Conflict with the Law in Cambodia and Vietnam,” *World Vision Report*, November 2016, p. 37, <https://www.wvi.org/sites/default/files/CICLreportVietnamandCambodiaFinalNov2016.docx.pdf>