

2008

## A Future for Cambodia's Children: My Journey to the Villages of Battambang

Cerise Fritsch

Follow this and additional works at: <http://lawcommons.luc.edu/pilr>



Part of the [Human Rights Law Commons](#)

---

### Recommended Citation

Cerise Fritsch, *A Future for Cambodia's Children: My Journey to the Villages of Battambang*, 13 Pub. Interest L. Rptr. 141 (2008).  
Available at: <http://lawcommons.luc.edu/pilr/vol13/iss2/6>

This Article is brought to you for free and open access by LAW eCommons. It has been accepted for inclusion in Public Interest Law Reporter by an authorized administrator of LAW eCommons. For more information, please contact [law-library@luc.edu](mailto:law-library@luc.edu).

# A FUTURE FOR CAMBODIA'S CHILDREN: MY JOURNEY TO THE VILLAGES OF BATTAMBANG

*by* CERISE FRITSCH

**M**y first year of law school in the United States and my knowledge of the laws affecting children in conflict with the law in Cambodia proved inadequate in preparing me for my journey to the northeastern villages of Cambodia, a country marked by a history of civil war, turmoil and genocide by the Khmer Rouge.

In a Battambang Province court room, a 9-year-old boy sat next to his brother, swaying his feet back and forth. He appeared small for his age, his clothes were torn and stained, his bare feet were infected with sores, and his head

gazed down as he quietly waited. The boy's father, a tall figure, protectively held his arm around his son as the family sat on an old wooden pew covered with cobwebs. The boy, Samnang,\* had been accused of stealing from a neighboring farmer.

The room was strikingly silent except for the whispering of a young woman and man sitting to the left in pulpit-like boxes designated for the lawyers of the accused and the victim. The prosecutor, wearing a black robe that draped to the floor, sat to the right shuffling through papers. Villagers filed in, taking seats in the gallery. The judge entered from the door at the front and sat in a large chair towering over the courtroom.

Samnang was represented by Hok Meng Eam<sup>1</sup>, a 25-year-old lawyer with the Juvenile Unit (JU) at the Legal Aid of Cambodia (LAC).<sup>2</sup> Meng Eam has worked at LAC for approximately four years, but has tried few cases in the courtroom.<sup>3</sup> This is because JU's primary roles are to train law enforcement officers on children's rights, advocate on behalf of children and conduct outreach with at-risk children, children in conflict with the law and the Cambodian people.<sup>4</sup> During the summer of 2007, I worked as a legal intern with the JU on a pilot project to help children like Samnang.

#### A DIVIDE BETWEEN CAMBODIAN LAW AND CHILDREN'S RIGHTS

According to Meng Eam, Samnang's case had been delayed for more than one year so that the judge could investigate the alleged incident.<sup>5</sup> However, Meng Eam states that oftentimes "the judge does not properly investigate" by failing to interview all the witnesses and parties.<sup>6</sup> Samnang's trial exposed the shortcomings in the implementation of the United Nations Convention on the Rights of the Child in Cambodia, the difficulties Cambodian children face in accessing justice and the misinterpretation of the laws and corruption that still plague the Cambodian legal system.<sup>7</sup>

Children in conflict with the law not only experience trial delays but face excessive pre-trial detention and bribery by local authorities.<sup>8</sup> LAC's Juvenile Litigation Project (JLP) found that court procedures and the complexity of

---

\* Samnang's name was changed to protect his privacy.

cases involving children in conflict with the law lead to these problems in juvenile cases.<sup>9</sup>

The problem is exacerbated by prison officials and judges who often misunderstand the applicable law for juveniles.<sup>10</sup> The 1992 United Nations Transitional Authority in Cambodia (UNTAC) prohibits pre-trial detention for minors under 13, but allows such detention for a maximum of two months for minors between 13 and 18-years-old who commit felonies.<sup>11</sup> However, in 2006, 50 percent of children in Battambang prison reported excessive pre-trial detention of up to six months.<sup>12</sup>

Another obstacle is the lack of knowledge at the enforcement level. "Local authorities and police have very little expertise and no basic legal knowledge about children's rights" said Mr. Op Vibol, Head of the JU at LAC.<sup>13</sup> Additionally, local authorities arresting children for drug use or fighting will often extort the children for money in exchange for freedom.<sup>14</sup>

In Samnang's case, his fate was at the sole discretion of a judge who probably failed to properly conduct his investigation. It is unknown whether the judge considered that Samnang's legal troubles were a result of his poverty and other social stressors, like many of the children who come in conflict with the law in Battambang.<sup>15</sup> Additionally, the judge in Samnang's case did not necessarily consider the boy's best interests.

#### A PILOT PROJECT TO HELP CHILDREN LIKE SAMNANG

In response to the growing inadequacies in the legal system, LAC received funding from the United Nations Children's Fund (UNICEF) for the implementation of a pilot project, *Community-based Prevention and Rehabilitation Program for Children at Risk and Transition Services for Child Prisoners*.<sup>16</sup>

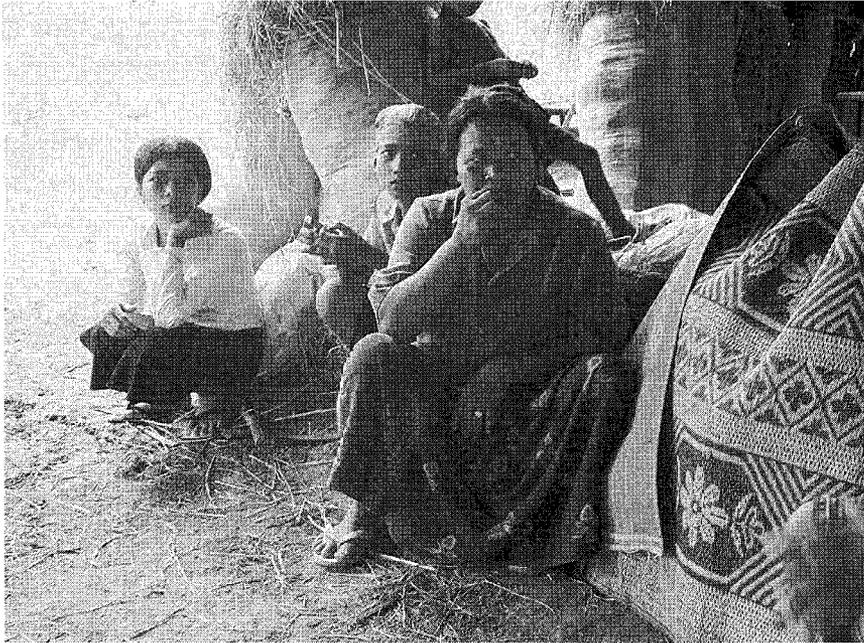
The project's goal was to provide at-risk children, children who had received alternatives to detention, and children in the Battambang prison with the skills necessary to succeed in the community.<sup>17</sup> Specifically, the JU staff hoped to provide life skills and vocational training to children in the Battambang Provincial Prison and the three pilot communes: Omal, Kea and Moung.<sup>18</sup>

One of the main obstacles was cooperation among key law enforcement officers and community members. Without support from the military police, village chiefs and commune leaders, the project would not likely succeed. As a formal diversion program has yet to be established by Cambodian law, many leaders in the legal community were apprehensive in their support of the program.<sup>19</sup> Although Meng Eam believes the program will greatly benefit the lives of children in Battambang, she shared in the concern of implementing a formal diversion program without a mandate by law.<sup>20</sup>

Throughout the summer, I traveled with the JU to the homes of all the children in the three target communes to discuss the new pilot project and assess the children's eligibility for the program. We traveled by *moo-dtoo*<sup>21</sup> along the dirt roads of the countryside to the various villages in each commune. We were guided to each child's home by a member of the local authorities, as word of mouth is the means of knowing where a family resides in the remote villages of Cambodia.

Driving through each village, we were greeted by children running after us laughing and yelling *baa-rang*<sup>22</sup> as they waved hello. Upon arrival at each child's home, the women would clear a place for us all to sit because in Cambodia it is considered ill-mannered to stand as a guest in another's home. The parents and the elders in the community stared at me; some stroking my skin, allowing me to take their picture, and smiling in amusement of my attempt to speak Khmer.

A typical interview lasted several hours as the families talked about their hardships. After hearing their stories, we informed the families of the new pilot project and our goals of providing the children with life-skills and vocational training. After explaining the process of choosing children, we asked each child if they would be interested in participating in the program and received their parents' permission. Before leaving each home, we thanked the family for their time and informed them we would be in touch.



### HOPES FOR THE PILOT PROJECT

To be eligible for the pilot project, the children must have previously committed a minor offense and received an alternative to detention, currently be detained in the Battambang prison, or be at-risk for criminal behavior.<sup>23</sup> Children were considered to be at-risk if they grew up in an abusive family situation, were homeless, had a mental disability or drug addiction, or previously committed a petty offense.<sup>24</sup>

The JU received funding to initially provide support services to 25 at-risk children or children in conflict with the law.<sup>25</sup> However, we discovered that many more children would benefit from the pilot project as the need for vocational and life-skills training was so great.

Poverty in the remote rural areas of Battambang Province has made children vulnerable to sexual exploitation and criminal victimization, and often leads to their own conflict with the law.<sup>26</sup> By providing these children with life-skills and vocational training, the JU hopes to take steps towards ending the cycle of poverty in the region. The life-skills training would equip the children with the knowledge necessary to make wise decisions in the community. Some

skills taught would be how to budget money, avoid exploitative situations and lead healthier lives, including protection against AIDS.<sup>27</sup> The vocational training component of the pilot project seeks to provide the children with a means to support their families beyond subsistence farming.<sup>28</sup> In my conversations with the children, they expressed interest in becoming barbers and school teachers.<sup>29</sup>

Additionally, the JU hopes the program will reduce the number of at-risk children who commit offenses and reduce the recidivism rate among children in the Battambang prison.<sup>30</sup> Another program goal is to increase awareness among the commune authorities of the importance of early intervention services for at-risk youth.<sup>31</sup>

#### THE FUTURE OF THE PILOT PROJECT

At the end of the summer, the JU was in the process of choosing which children to accept for the program. If the pilot project proves successful, perhaps UNICEF will extend its funding to target other communes in Battambang, including Samnang's. The project's success could also lead to the implementation of a formal diversion program for children in conflict with the law. Conversely, if the project fails to meet its objectives, the government may not be receptive to future programs focused on the rehabilitation of children in conflict with the law.

According to Meng Eam, the pilot project is "currently doing well," but the JU faces the challenge of working with the children to "reform them to be good persons."<sup>32</sup> Meng Eam states that additional time and funding is needed in order to fully accomplish the goals of the pilot project.<sup>33</sup> Since Cambodia does not have a separate juvenile justice system, the JU is hopeful that the project will fill the gap in the Cambodian legal system by providing diversion programs for children at-risk and in conflict with the law.<sup>34</sup> Even this great accomplishment would be a small step towards helping children like Samnang.

---

#### NOTES

- 1 Cambodian surnames are listed prior to one's given name.

2 LAC is a non-profit/non-governmental Khmer legal organization that was founded in 1995 with the help of the UN Development Program. LAC's mission is to provide legal services to the poor and advocate for their rights to ensure fair and equal treatment in society, which it does through its Land Law Project, Juvenile Unit, and Juvenile Litigation Project. LAC serves clients in its 10 offices throughout the country. LAC Home Page, <http://www.lac.org.kh/> (last visited Mar. 16, 2008).

3 In order to be qualified to practice law in Cambodia, one must study law for 4 years at the university, pass an exam to be admitted to study 1 year at the lawyer center, and train for 1 year. If one elects to become a judge, separate legal courses are required. It is still uncommon for women to become lawyers in Cambodia since most women are expected to marry in high school or shortly thereafter in lieu of continuing on with their education. In Meng Eam's class at the lawyer center there were 12 women out of 60 students. Interview with Hok Meng Eam, Lawyer, Legal Aid of Cambodia, in Phnom Penh, Cambodia (June 2007); Email from Hok Meng Eam, Lawyer, Legal Aid of Cambodia, to Cerise Fritsch, Staff Writer, Public Interest Law Reporter (Apr. 2, 2008, 04:14:00 CST) (on file with author).

4 Op Vibol & Peung Yokhiep, *UNICEF Funding Proposal*, Phnom Penh, Cambodia (2007).

5 In Cambodia's civil law system, the judge takes an inquisitorial role and along with the prosecutor investigates the case. Cases are not published so there is a lack of accountability among the judges. Interview with Hok Meng Eam, Lawyer, Legal Aid of Cambodia, in Battambang, Cambodia (June 2007).

6 *Id.*

7 NGO Forum on Cambodia, *NGO Position Papers on Cambodia's Development in 2006: Monitoring of Joint Monitoring Indicators and Implementation of the National Strategic Development Plan 2006-2010*, (June 2007), available at <http://www.ngoforum.org.kh/Development/Docs/doc.htm>; Aekje Teeuwen, Touch Chiva, & Tep Neth, *Securing Children's Rights in Cambodia: Pre-Trial Detention and Legal Representation for Minors*, (2006), available at [danchurchaid.org/content/download/11420/98030/file/LAC\\_Report\\_Childrens\\_rights.pdf](http://danchurchaid.org/content/download/11420/98030/file/LAC_Report_Childrens_rights.pdf).

8 Op & Peung, *supra* note 4; Teeuwen, Touch, & Tep, *supra* note 7.

9 Teeuwen, Touch, & Tep, *supra* note 7.

10 *Id.*

11 *Id.*

12 *Id.*

13 Interview with Op Vibol, Head of Juvenile Unit, Legal Aid of Cambodia, Phnom Penh, Cambodia (June 2007).

14 Op & Peung, *supra* note 4.

15 *Id.*

16 *Id.*

17 *Id.*

18 *Id.*

19 Interview with Hok Meng Eam, *supra* note 5.

20 *Id.*

21 Khmer word for motorcycle.

22 Khmer word for someone from France. Because of my white skin and blonde hair, the people of Cambodia knew that I was a foreigner; many of them had never seen a person with white skin before as I was told by the JU. Because of Cambodia's history of French occupation, Cambodian's refer to most foreigners as *baa-rang*.

23 Op & Peung, *supra* note 4.

24 *Id.*

25 *Id.*

Loyola Public Interest Law Reporter

26 *Id.*

27 *Id.*

28 *Id.*

29 Interview with Cambodian children, Battambang Province, Cambodia (June – July 2007).

30 Op & Peung, *supra* note 4.

31 *Id.*

32 Email from Hok Meng Eam, *supra* note 3.

33 *Id.*

34 *Id.*