CAMBODIA’S judges and court officials may have a poor understanding of the Kingdom’s controversial anti-human trafficking legislation, leading victims to be “re-victimised” as their cases proceed through the legal system, a new report suggests.

The report, released yesterday by the Cambodian Centre for Human Rights, found problems associated with attempts to prosecute cases using the 2008 Law on the Suppression of Human Trafficking and Sexual Exploitation. CCHR trial monitors observed 18 trials between August and December last year and found evidence to suggest that judges need a better understanding of the laws they are implementing.

“It is clear that the application of the law has been inconsistent at best and incorrect at worst,” the report says.

Though trial monitors found that judges usually informed suspects of the charges they were facing and the relevant laws, they also found that satisfactory explanations were rare. This finding, the CCHR report says, “casts doubt on the judiciary’s understanding” of human trafficking laws.

The report says that many victims involved in human trafficking cases are juveniles, and that courts may be ill-prepared to deal with young victims.

“The data revealed no clear evidence that the courts possesses a deep understanding of issues relating to juvenile justice,” CCHR stated.

In one case, a defence lawyer for a 51-year-old man accused of forcing an 11-year-old girl to perform sex acts was permitted to ask the victim questions in a loud, intimidating voice. The trial judges, meanwhile, frequently left the courtroom and spoke on their telephones.

In a separate case, trial monitors suspected that a 19-year-old suspect was allowed to contact his 6-year-old alleged victim before the trial. The victim’s lawyer also did not ask that her identity be kept secret.

The rights of the accused, as well, may not be adequately protected, CCHR found. Trial monitors found that public notices for human trafficking hearings were rarely posted, and that unacceptable delays to trials were common.

In one case, a hearing was delayed five times. In most cases, delays were attributed to lawyers or judges who failed to show up to hearings.

“Undue delay of trials is not only a violation of the rights of the accused, but can have negative psychological impacts on the victim as well as increasing the opportunities for intimidation of the victim prior to testifying,” it states in the report.

Trial monitors raised “major concerns” over the length of pretrial detention. In one case, an
accused person was held in pretrial detention for 20 months – five times the maximum allowed.

The report did note some positive findings. Trial monitors were pleased to find a high proportion of female lawyers representing female trafficking victims, with 11 of 15 trials that proceeded to court including female lawyers.

In June, the United States state department removed Cambodia from a watchlist of countries judged to be making insufficient gains in fighting human trafficking, saying the Kingdom had stepped up the apprehension and prosecution of offenders.

American officials have noted “confusion” in the government’s implementation of the trafficking law, however, as “trafficking” was sometimes conflated with non-coerced sex work and other offences.

Minister of Justice Ang Vong Vathana said yesterday that he could not comment because he had not yet seen the report.