Some progress seen in report on courts

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Courts in Phnom Penh and Kandal province have made strides in ensuring that defendants have the right to fair trials, but there remain worryingly high levels of pre-trial detention and low levels of legal representation, according to a new report released yesterday by the Cambodian Center for Human Rights.

The report documents 532 criminal trials held at Phnom Penh Municipal Court and Kandal Provincial Court during the first six months of 2010. It marks the second such trial monitoring project CCHR has conducted in the Kingdom – the first assessed court cases from the second half of 2009 – and the results in the new study are measured against the previous report.

"Judges at the Phnom Penh and Kandal Court appear to be doing a good job of adhering to fair trial standards in a number of areas," the report said. It cited an increase in the rate of legal representation for those charged with felonies, from 95 percent to 97 percent, and a 19 percent increase in the number of trials in which evidence was presented, up to 96 percent.

However, the study also revealed a number of concerning trends in relation to the continuing high rates of pre-trial detention of accused persons, the low levels of legal representation for those charged with misdemeanours, the inconsistent application of legal provisions relating to juveniles, and judges’ persistent use of mobile phones in court," CCHR said in a statement.

The number of accused persons serving pre-trial detention in monitored cases decreased from 88 percent to 84 percent, though CCHR still characterised that number as "excessive," given that most of the trials in the study dealt with misdemeanour charges. The overall rate of legal representation for accused persons dropped from 66 percent to 59 percent.

The CCHR made a series of recommendations to the courts based on the study, such as ensuring that all interrogations and confessions be documented on video tape or conducted in the presence of a defence lawyer. This practice, the group said, could help address the persistent allegations regarding police corruption and beatings of suspects in custody that have long dogged the Kingdom’s justice system.

Confessions were presented by the prosecution as evidence in 206 trials at the Municipal Court in the study. Of those, the report cited "indications" that confessions were extracted by threats in 13 percent of the trials and extracted through violence and torture in 16 percent.

Khieu Sophoeak, spokesman for the Ministry of Interior, said the country’s court system lacked the equipment in order to implement a videotaped confession policy.

"We know we lack equipment, but a suspect’s confession with his thumbprint is enough," he said.

The report made several additional recommendations to the courts, including allowing defendants to wear civilian clothes and limiting the use of cell phones by judges during trial.

Kandal Provincial Court President In Van Vibol said cell phone reduction was a "good idea" and said he recognised the problems it presented in ensuring a fair trial.

"In principle, we do not allow judges to use a phone during a hearing, but it is still difficult" to enforce, he said.