

**Refugee Review Tribunal
AUSTRALIA**

RRT RESEARCH RESPONSE

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This response was prepared by the Country Research Section of the Refugee Review Tribunal (RRT) after researching publicly accessible information currently available to the RRT within time constraints. This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum.

Questions

1. Is there any evidence that people who have been charged with a criminal offence, sentenced and served the sentence overseas may be imprisoned in Cambodia because of this?

RESPONSE

1. Is there any evidence that people who have been charged with a criminal offence, sentenced and served the sentence overseas may be imprisoned in Cambodia because of this?

No evidence was found to indicate that a criminal deportee would be re-imprisoned in Cambodia on account of crimes committed overseas and the sentence for which had been served. While no reports were found on the treatment by the Cambodian government of criminal deportees from Australia upon return to Cambodia, a considerable number of reports on the lives of criminal deportees from the United States do exist. Since the signing of a repatriation agreement between the two countries in March 2002, approximately 126 persons have been returned to Cambodia with close to 1400 still awaiting deportation. Cambodian and overseas newspapers, as well as Cambodian legal aid and non-government organisations, have reported on the returnees. These reports indicate that while the returnees are detained for a period of several weeks upon arrival, and face considerable challenges in reintegrating and establishing work and familial contacts, none stated that they were re-incarcerated by the authorities for crimes committed and for which they were punished in the United States. Selections from these reports are quoted below. *The Christian Science Monitor* provided an early report on the situation of the US deportees in January 2003:

After months of wrangling, Cambodia consented last March to receive nearly 1,500 Cambodians who have been convicted of “aggravated felonies” in the US and completed their prison sentences. Mr. Kim, convicted of manslaughter in a drive-by shooting, arrived late last year.

The deal has turned officials here and deportees into reluctant partners in an arranged marriage. None of the deportees has jobs, some are completely alone, and most have only a vague idea of contemporary Cambodian life. Kim has managed to be civil when he has been the target of rude comments and gestures. But rights groups worry that without more help reintegrating deportees may get involved in fights or other types of violence. Bill Herod, a coordinator for the Returnee Assistance Project, an organization set up after the arrival of the first batch of deportees, says he's aware of two recent cases of "vicious" clashes between locals and returnees.

"We fear that some of those people who have committed very serious crimes or are involved in organized crime might be too sophisticated for our police," says Cambodian government spokesman Khieu Kanharith. "But we had a lot of pressure to accept them."

... But without assistance from the US, Cambodia has done little to ensure their integration beyond contacting relatives. **Rights workers criticize the deportees' prolonged detentions in a government "guesthouse" near the airport.** Some accuse the government of deliberately slowing the process to protest the US refusal to give more money. They argue that the deportees should be treated as what they legally are – innocent Cambodian citizens.

Simply locking them up for weeks could have unintended consequences. "These guys go from these places to detention here and eventually when they get out, they see it as a negative experience and have a negative concept of the government," Mr. Herod says.

He's especially worried that gangs will re emerge in Cambodia as deportees cling together in their new home. "So far, these are little more than social groups. But if they feel threatened – and some do – they will become defensive." (Unmacht, E. 2003 'A bumpy road ahead for US deportees to Cambodia', *The Christian Science Monitor*, 21 January <http://www.csmonitor.com/2003/0121/p08s01-wosc.html> – Accessed 12 June 2007 – Attachment 1).

A February 2003 *BBC News* item on the forty men who had been returned by that date, indicated the following on their general condition:

Fending for themselves

Once back in Cambodia, the deportees get no government support and are left to fend for themselves in an unfamiliar country.

"It never occurred to them that they would be coming back to Cambodia," says Bill Herod, a long-time resident in Cambodia who has set up a support network for the newcomers.

... Back in Phnom Penh, some of the deportees have already got into trouble with the law, perhaps predictably after their long confinement. It is mostly minor stuff, although some incidents have turned violent.

Sending violent gang members back to a poor, lawless country is also cause for concern among Cambodian officials. But there are success stories too. Some have found good jobs and two of the initial returnees have got married and settled down.

Blending in

"Some of the returnees have made the adjustment so they are blending in," says Bill Herod.

“They just live ordinary lives in Cambodia, wear ordinary clothes (Montlake, S. 2003 ‘Cambodians deported home’, *BBC News* website, 11 February <http://news.bbc.co.uk/2/hi/asia-pacific/2745181.stm> – Accessed 13 June 2007 – Attachment 2).

The *Phnom Penh Post* provided further details on the Cambodian authorities’ treatment and attitude toward the deportees in February 2003, including the practice of initial detention:

Bill Herod coordinates the Returnee Assistance Project, a network that helps provide employment, training and accommodations to the returnees. He says many of those facing deportation do not speak Khmer and some have never lived in Cambodia, as they were born in refugee camps. All entered the US legally as refugees and many have been forced to leave behind their wives and children, unable to return.

“I just had an email from a guy who’s about to be deported and he’s only met one Cambodian in his life,” says Herod. “He was born in a refugee camp and has [had] no contact with Khmer culture. He’s petrified.”

Herod says it is very hard for the returnees to adjust successfully to their new lives and a culture which is so foreign. The older men, including 80-year-old returnee Nou Nim, are fitting in better, but the younger men experience many difficulties.

... Others say the deportations constitute human rights violations. Chea Vannath, president of the Center for Social Development, believes the practice goes against the USA’s commitments under the Universal Declaration of Human Rights.

“It is very unfair for those people having been brought to the US as refugees and now being forced to return to Cambodia against their will,” she says.

Her thoughts are shared by Thun Saray, executive director of human rights NGO ADHOC. “This is a human rights violation. These people have lived in America from their childhood, [some] don’t speak Khmer, they did their time already, so why are they sent back to Cambodia?” Saray asks.

... **The Cambodian government has also been criticized for unduly detaining the returnees upon arrival.** “When [the returnees] come here sometimes their human rights are also violated by our authorities, who keep them in custody and say they are trying to educate them about their lives and how to integrate,” explains Thun Saray. “But they keep them too long.”

Herod says the immigration authorities have generally handled the situation well, but objects to detention periods of up to one month on arrival, claiming this has no legal basis. “During the time of detention there have been some forms of extortion,” he explains. “All of the people I’ve talked to were asked to pay hundreds of dollars to be released.”

An immigration official, who did not want to be named, describes as groundless the accusations of extortion. The detention period is necessary, he says, so officials can contact the person’s family members here and verify where the men will be living.

“And also the local authorities will be notified of their presence,” he says. “These people are ex-convicts so we need to keep track of them. We are accountable for the security and public safety here and if anything goes wrong we would be blamed.”

... Herod now works with the arrivals to find employment, set up volunteer work such as the blind school, and provide them with free Internet services, counseling and food. He estimates that around one-third are employed, another third are looking but can't find anything, and the rest are not yet looking for work.

In most cases, he says, it is not practical to rely on the returnees' families for assistance as they are too poor. Besides, many do not have family here (Green, C. 2003 'Strangers in a Strange Land: Khmers who are not yet Cambodians' *Phnom Penh Post*, 14 February (sourced from the Cambodia Today website <http://cambodiatoday.bravepages.com/Stranger.html> – Accessed 13 June 2007 – Attachment 3).

The Legal Aid of Cambodia (LAC) organisation wrote in detail on the detention by immigration authorities of the returnees upon arrival in Cambodia "in a make-shift detention center near Pochentong airport". In its February 2003 quarterly newsletter, LAC argued at the time that the detention policy violated rights guaranteed by the Cambodian Constitution, including freedom from illegal prosecution, arrest and detention (Art.38), as well as international treaties like the Universal Declaration of Human Rights. The LAC concluded its report by stating that:

...even assuming that the Cambodian government were acting according to the letter of the law; the Returnees' detention would still violate their rights because it is arbitrary; **detention based solely upon the status of having been convicted of a crime in the United States is manifestly unjust and unreasonable.**

...LAC hopes that the Cambodian government will immediately cease its illegal practice of detaining the Returnees upon arrival, and immediately cease both its sponsorship and check-in requirements. While it is understood that the Cambodian government may be concerned about the Returnees' reintegration into Cambodian society, it is recommended that officials instead devote their energy towards working with the Returnee Assistance Project and any other concerned group or individual (Legal Aid of Cambodia 2003, *Quarterly Newsletter*, Issue 4, Legal Aid of Cambodia website, http://www.lac.org.kh/final_quarterly_newsletter_feb_2003.pdf – Accessed 13 June 2007 – Attachment 4).

The webpage of the Returnee Assistance Project (RAP), the non-government group assisting returnees from America run by Bill Herod referred to in the above reports, limits its comments on the Cambodian government to the following: "The Cambodian Department of Immigration attempts to locate relatives of the returnees to help them with orientation, housing and employment" (RAP – Returnee Assistance Project (undated), Cambodia Today website, <http://cambodiatoday.bravepages.com/rap.htm> – Accessed 13 June 2007 – Attachment 5).

Two recent reports compiled in 2007 refer to the situation of returnees from the United States to Cambodia. The first from the Refugees International website states that "Human rights advocates say there's no evidence of abuse of returnees":

...Lawyers can't help. The only exception under the law for an alien being tossed out of the U.S. for aggravated assault is to persuade U.S. officials that he is likely to face torture in his home country as a result of being deported. (Somalis, for example, aren't being deported at the moment because of the tumultuous security situation in their country.)

But the “fear of torture” clause doesn’t wash for Cambodians. Human rights advocates say there’s no evidence of abuse of returnees. On the contrary, Cambodia issues travel documents for their return and, on arrival, lets them claim the basic elements of Cambodian citizenship, including birth certificate, drivers license and passport. The passport, of course, wouldn’t be honored by the U.S.

As many as 2,000 American residents of Cambodian origin, nearly all of them young men, are in the same boat as Dropper. They’re sliding, inexorably, into a deportation pipeline that empties into Cambodia. Dropper and 162 others have arrived so far and for most, the transition has been grim.

... Now 29, he’s living a marginal existence in Phnom Penh. A handsome, slender young man, whose stylish grey polo shirt partially masks prison and street gang tattoos on his arms and neck, Dropper sits in the courtyard of Herod’s home on a quiet Phnom Penh side street and ponders his new life.

“I didn’t understand the situation at all,” he says. “I was a permanent resident. I had a green card. I thought it meant you could always stay in the United States. I didn’t know it could be taken from you if you violated the law.”

Now three years in Cambodia, he’s married and has a one-year-old son. He says he’s doing “average,” compared to other returnees.

Herod says some of the new arrivals are hopelessly lost – depressed and clinically psychotic. Three returnees have died and four are in Cambodian jails.

There are bright spots, however. A number have survived culture shock and found jobs. Returnees are working as telephone operators at the Intercontinental and Le Royale, two Phnom Penh luxury hotels. (Herod says he counsels new arrivals to capitalize on their English, always in demand on the local job market.) Others have used their computer skills to get jobs as web page designers (‘Cambodia: From LA gangs to Phnom Penh, lack of citizenship turns world upside down’ 2007, Refugees International website, 12 February <http://www.refugeesinternational.org/content/article/detail/9844/> – Accessed 14 June 2007 – Attachment 6)

The second 2007 report is from the *Inter Press Service/Global Information Network*. The article refers to the condition of Ms. Kew Chea’s brother, who was deported in August 2004 and whom she has visited twice:

When Chea’s brother signed his deportation order, the U.S. had no repatriation agreement with Cambodia. Several months later, however, in 2002, **the countries signed one. Currently, 1,400 Cambodian Americans are awaiting deportation and 126 have already been deported**, including Chea’s brother, who was deported in August of 2004. Chea has visited her brother twice in Cambodia. She said deportees such as her brother often struggle once they return.

“There are few that have jobs. Those with college degrees can’t find jobs. It’s a struggling country. ... A lot of guys have the stigma, U.S. has kicked [them] back, nobody wants them,” she said.

“The Cambodian government doesn’t want them. The civilians are afraid of them -- it’s really hard for them to survive. A lot of guys who were sent back are breadwinners -- they supported mothers, fathers, and wives and children. When they’re deported, their wives pick up the work, oftentimes working two jobs, raising their children, taking care of parents and

sending money back to Cambodia to make sure their husbands survive in Cambodia.” (Nguyen N. 2007 ‘Deportation of Felons Tears Apart Refugee Families’, *Inter Press Service/Global Information Network*, 29 May – Attachment 7).

List of Sources Consulted

Internet Sources:

International News & Politics

BBC News website <http://news.bbc.co.uk/>

The Christian Science Monitor <http://www.csmonitor.com/>

NGO organisations

Refugees International website <http://www.refugeesinternational.org/>

Region Specific Links

Cambodia Today website <http://cambodiatoday.bravepages.com/>

Legal Aid of Cambodia website <http://www.lac.org.kh/>

Search Engines

Google search engine <http://www.google.com.au/>

Databases:

FACTIVA (news database)

BACIS (DIMA Country Information database)

REFINFO (IRBDC (Canada) Country Information database)

ISYS (RRT Country Research database, including Amnesty International, Human Rights Watch, US Department of State Reports)

RRT Library Catalogue

List of Attachments

1. Unmacht, E. 2003 ‘A bumpy road ahead for US deportees to Cambodia’, *The Christian Science Monitor*, 21 January <http://www.csmonitor.com/2003/0121/p08s01-wosc.html> – Accessed 12 June 2007.
2. Montlake, S. 2003 ‘Cambodians deported home’, *BBC News* website, 11 February <http://news.bbc.co.uk/2/hi/asia-pacific/2745181.stm> – Accessed 13 June 2007.
3. Green, C. 2003 ‘Strangers in a Strange Land: Khmers who are not yet Cambodians’ *Phnom Penh Post*, 14 February (sourced from the Cambodia Today website) <http://cambodiatoday.bravepages.com/Stranger.html> – Accessed 13 June 2007.
4. Legal Aid of Cambodia 2003, *Quarterly Newsletter*, Issue 4, Legal Aid of Cambodia website, http://www.lac.org.kh/final_quarterly_newsletter_feb_2003.pdf – Accessed 13 June 2007.
5. RAP – Returnee Assistance Project (undated), Cambodia Today website, <http://cambodiatoday.bravepages.com/rap.htm> – Accessed 13 June 2007.
6. ‘Cambodia: From LA gangs to Phnom Penh, lack of citizenship turns world upside down’ 2007, Refugees International website, 12 February <http://www.refugeesinternational.org/content/article/detail/9844/> – Accessed 14 June 2007.

7. Nguyen N. 2007 'Deportation of Felons Tears Apart Refugee Families', *Inter Press Service/Global Information Network*, 29 May. (FACTIVA)