

FACTSHEET – UPR 2018 – Cambodia

3rd CYCLE UNIVERSAL PERIODIC REVIEW

Gender and Women's Rights

Joint submission by ActionAid Cambodia, CamASEAN, the Cambodian Center for Human Rights (CCHR), the Cambodian NGO Committee on CEDAW (NGO-CEDAW), DanChurchAid (DCA), Gender and Development for Cambodia (GADC), Khmer Youth and Social Development (KYSD), Legal Support for Children and Women (LSCW), Rainbow Community Kampuchea (RoCK), SILAKA, Solidarity Center and Women's Network for Unity (WNU)



SUMMARY OF KEY ISSUES FROM PREVIOUS UPR CYCLES

Gender was among the top five themes for key recommendations made to Cambodia in the 1st and 2nd UPR cycles, in 2009 and 2014 respectively. Over the two cycles, 42 recommendations addressed gender and women's rights (40 supported, 2 noted). During the 2nd UPR cycle, 24 recommendations on gender, girls, and/or women were supported. Of these, 12 were mostly or fully implemented, 6 were partially implemented, and 5 were not implemented or mostly unimplemented. Unimplemented recommendations include: 118.53 for a gender equality law addressing property and marriage, 118.65 for reform of legislation addressing gender-based violence, 118.94 on access to justice, 118.150 on free treatment for men and women living with HIV/AIDS (services had been provided by NGOs, whose funding has now been reduced), 118.151 on improving reproductive healthcare and contraception for rural women, and 118.161 on compulsory education.

NATIONAL FRAMEWORK

Cambodia is a party to the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and its Optional Protocol. Cambodia's Constitution references the treaty on women's rights in Article 31 and prohibits discrimination against women in Article 45. However, no law clearly and comprehensively defines discrimination, and criminal law does not ban all forms of discrimination. Cambodia has a domestic violence law which does not outlaw domestic violence, but merely urges the prevention of violence within households and between spouses. Cambodia's national action plan for gender equality, Neary Rattanak IV, sets broad goals for addressing specific areas of inequality.

CHALLENGES & IMPACTS

GENDER RESPONSIVE BUDGETING

While the Royal Government of Cambodia (RGC) has indicated a willingness to work toward gender-mainstreaming, the reality is that very little of the national and local budgets are dedicated to this goal. Most of the responsibility at the national level for any gender-related action is assigned to the Ministry of Women's Affairs, which does not receive the financial and technical resources necessary to fully implement these actions.

LACK OF SERVICES FOR GENDER-BASED VIOLENCE SURVIVORS

Few services are available to survivors of gender-based violence (GBV). Medical staff and other individuals bearing responsibility for addressing this issue are unaware of the need to treat survivors with sensitivity and to respond to all forms of violence. Many Cambodians do not acknowledge that GBV is wrong unless it results in severe physical injury or death, and/or violates a specific article in the Criminal Code. Access to justice is not a reality due to insufficient legal aid, lack of trust in the judicial system, a low conviction rate, and the rarity of protection orders.

WOMEN LEADERS

Women are underrepresented at all levels of leadership in both the government and the private sectors. There is no legal mandate or budgetary support for women's representation in political governance at the local or national level in Cambodia. Therefore, the RGC's voluntary targets for increased representation often go unmet.

Negative gender stereotypes and norms have contributed to the creation of discriminatory selection criteria by leaders of all political parties. Male-dominated power structures make it difficult for a woman candidate to be certain of her nomination on the top of the list. This has the practical effect of excluding most women from the political process regardless of the intention of the leaders not to deliberately discriminate against women.

WOMEN IN PRISON

The Cambodian government has recently engaged in a high-profile campaign against illegal drug sales and use; the methods used have resulted in a significant increase of women in prisons. Instead of providing treatment options for Cambodian women using drugs, the government often sends them directly to prison. The already overcrowded prisons had an influx of 37% more female inmates in 2017. Capacity of many prisons is more than 200%, and the main women's prison reached 257% capacity in 2017.

Notably, numbers have increased for pregnant women and mothers who have no choice but to bring their young children with them to prison. Article 41 of the Prison Law, the Convention on the Rights of the Child, and the Bangkok Rules require these children's needs to be paid for by the State. Yet, in reality, the government allots only 35 cents per day per child, and mothers are forced to pay for basic necessities themselves.

DISCRIMINATION AGAINST SEX WORKERS

Cambodian criminal and anti-trafficking laws focus on prosecuting and restricting those who exploit women and girls for prostitution; yet, they also penalize women who should be protected. Not only sex workers, but women in any part of the entertainment industry are at risk of prosecution or harassment by authorities. Women who are merely suspected of engaging in prostitution are often denied basic services by local authorities, treated as criminals even if they are not violating any specific laws, and placed at risk. In early 2017, one woman drowned to death after a group of district government security guards chased her into a river because they suspected that she was a sex worker. Moreover, due to the lack of access to safe reproductive health care, sex workers suffer an unusually high maternal mortality rate, often related to abortion.

EDUCATION

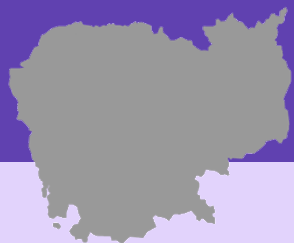
Girls still lag behind boys in education. Cambodia is rated 126th out of 144 nations for secondary school enrolment. Cambodia does not require children to attend school despite prior UPR recommendations that education be mandatory for all children. There is no incentive to encourage parents to keep their daughters in school. Some girls are forced to marry at an early age (marriage is legal at age 16 with parental consent). Women traditionally take care of the family, which leads to girls leaving school earlier than boys, often to work in factories, sending money home to support their families.

LABOR

Cambodian women are employed at almost the same rate as men, but are more likely to be in the informal economy or in lower-paid positions. Regionally, relatively few women are employed at senior or managerial levels. The majority of women are employed at the lower end of the value chain, typically performing entry-level clerical and sales roles. Cambodian women make up a high percentage of the garment sector (80-90%) and 30-40% of the construction sector. The majority of these workers are internal migrants and are especially susceptible to mistreatment.

RECOMMENDATIONS

- 1) Establish a budget line for gender responsive budgeting for every ministry/agency in the Royal Government of Cambodia (RGC) national budget by 2020 and allocate 5 percent of the total national budget to these budget lines.
- 2) Enact all necessary measures, including regulations and policies, by the next review session requiring local commune governments to allocate 20 percent of their annual development budgets to support the administration and activities of the Commune Committees for Women and Children.
- 3) Establish and allocate in the national budget adequate human and financial resources for the Royal Government of Cambodia to manage and operate at least 5 one-stop service centers by 2024 which provide medical, legal, psychological and economic (shelter, food, cash assistance, vocational training and job placement) services free of charge to all victims of all forms of gender-based violence, in accordance with SDG 16.1.
- 4) Adopt effective legal and practical measures to guarantee that 35 percent of government decision-making positions will be filled by women by 2023, at the national and subnational levels including civil service, elected office, and all parts of the justice system, in line with SDG 5.5.
- 5) End pre-trial detention in prisons of pregnant women and women living with young children by 2020.
- 6) Conduct nationwide public service announcements on TV, radio and, social media by 2022 aimed at combatting stereotypes and violence against sex workers, in line with SDG 16.1
- 7) By 2020, establish free, full-time, high quality education for all children, including nationwide access to preschools, and make education compulsory for all children.
- 8) Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families by 2020.



FACTSHEET – UPR 2018 – Cambodia

3rd CYCLE UNIVERSAL PERIODIC REVIEW

SOGIESC-SRHR

Sexual Orientation, Gender Identity and Expression and Sex Characteristics Rights & Sexual Reproductive Health and Rights in Cambodia.

Joint-submission by the Cambodian Center for Human Rights (“CCHR”), Rainbow Community Kampuchea (“RoCK”), Destination Justice (“DJ”), Micro Rainbow International (“MRI”), the Reproductive Health Association of Cambodia (“RHAC”), the International Lesbian, Gay, Bisexual, Trans and Intersex Association (“ILGA”), ILGA Asia, ASEAN Sexual Orientation and Gender Identity/Expression Caucus (“ASC”), the Swedish Association for Sexuality Education (“RFSU”), ActionAid Cambodia, DanChurchAid Cambodia (“DCA”), and CamASEAN

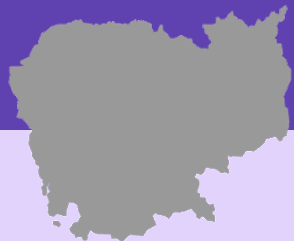
SUMMARY OF KEY ISSUES FROM PREVIOUS UPR CYCLES

During Cambodia’s Second UPR cycle in 2014, no recommendations were made to the Royal Government of Cambodia (“RGC”) specifically regarding the rights of Lesbian, Gay, Bisexual, Transgender, Intersex and Queer (“LGBTIQ”) people, and two recommendations made by Uruguay addressed SRHR specifically and were partially implemented.

NATIONAL FRAMEWORK

Cambodia’s LGBTIQ communities and activists enjoy some visibility, with a wide range of LGBTIQ events taking place and with select support from members and institutions of the Royal Government of Cambodia (“RGC”). The Ministry of Education Youth and Sport (“MOEYS”)’s current work to revise the ‘Life skills’ curriculum to include SOGIESC rights is particularly commendable. However, several discriminatory laws and policies remain in place, as do discriminatory practices, including by the Cambodian police. While commendable progress has been made in respect of LGBTIQ inclusion in Cambodia, LGBTIQ people in Cambodia continue to endure various forms of legal and social discrimination, and significant steps by the RGC are required to ensure Cambodia’s compliance with its international human rights obligations in respect of LGBTIQ rights.

CHALLENGES	IMPACT
Legal discrimination against LGBTIQ people	<p>LGBTIQ people in Cambodia face numerous forms of discrimination, partly because of a legal framework which denies them basic equality. Four forms of legal discrimination have been identified as priorities by the communities:</p> <ul style="list-style-type: none"> (1) the lack of legal protection against discrimination and violence against LGBTIQ people; (2) the absence of legal recognition of self-defined gender identity: there is no legislation which supports transgender people’s right to be legally recognized according to self-determination which leaves transgender people subject to individual decisions of relevant officials; (3) the absence of marriage equality in Cambodian law: The Cambodian Constitution, at Article 45, determines that marriage is between a “husband” and a “wife”, which effectively excludes the possibility of same-sex marriage. However, 87.85% of rainbow couples asserts that marriage would be vital for them. (4) the denial of full adoption rights to rainbow couples, while many currently co-habiting rainbow couples across Cambodia already have children in their care, the regime of simple adoption leaves them without essential legal protection.
Social discrimination against LGBTIQ people	<p>Despite the fact that the LGBTIQ community is becoming more visible, in part due to a growing LGBTIQ rights movement and a context lacking strong religious or institutional opposition, Cambodian LGBTIQ people continue to be discriminated against and excluded in several areas of social life. 77% of LGBTIQ people said they limit their coming out to close friends and 54% to immediate family members for fear of being discriminated, judged, bullied, and harassed in their daily lives. In a 2016 survey of trans women in urban centers, 53.49% of the respondents said a family member had tried to force them to get married in the past, and 48.85% have felt they needed to leave home because of their SOGIESC. A 2015 survey revealed that 62.71% of respondents experienced bullying at any point during their time in school, and 93.59% of them felt the bullying was either partly or entirely because of their SOGIESC. In a 2015 survey, 92% of trans women surveyed experienced verbal abuse, 43% physical violence, 31% sexual assault, and 25% rape. In the same survey,</p>



FACTSHEET – UPR 2018 – Cambodia

3rd CYCLE UNIVERSAL PERIODIC REVIEW

SOGIESC-SRHR

Sexual Orientation, Gender Identity and Expression and Sex Characteristics Rights & Sexual Reproductive Health and Rights in Cambodia.

CHALLENGES	IMPACT
Employment opportunities & the economic situation of LGBTIQ people	LGBTIQ people in Cambodia face discrimination in accessing and keeping employment , as well as discrimination and exclusion in the workplace . 34.35% of all transgender women surveyed by CCHR in 2016 reported having been refused a job because they are transgender and 26.72% reported having been previously harassed or bullied by a boss or colleagues on the basis of their SOGIE. LGBTIQ people in Cambodia work principally in certain marginalized sectors , which prevents them from escaping the cycle of poverty. This is exacerbated by widespread family rejection and exclusion in schools and the wider community. Of those who reported engaging in sex work at some point in the past, 95.74% have been verbally harassed, 91.3% physically assaulted and 85.11% sexually assaulted while engaging in sex work.
Status of Intersex people	The status of intersex people is largely unexplored in Cambodia. There is a complete absence of government data and published research on intersex people.
Health Rights of LGBTIQ people	There is limited knowledge and understanding on SOGIESC issues among health professionals in Cambodia, and sensitization and capacity-building on this issue has been very limited so far. 22% of LGBTIQ report feeling shameful of being themselves. As a result, limitations remain in terms of offering LGBTIQ friendly health services that address their needs. Cambodia has committed to ending AIDS by 2025 . Gender affirming healthcare services are not available and there are no laws, regulations or administrative documents stating whether such services are legal or illegal. As a consequence, any such services that are available are unregulated .
Achieving SOGIESC-inclusive Comprehensive Sexuality Education in schools	In 2017, the MoEYS, with technical support from CSOs, developed a proposed new “Life Skills” curriculum for grades 5-12 that offers inclusive instruction on sexual orientation issues, sexual education and Gender Based Violence, and is scheduled to be available nationwide by 2023.

RECOMMENDATIONS

1. Introduce an Anti-Discrimination Law by the end of 2023, which guarantees equality and explicitly prohibits discrimination of all kinds, including on the basis of SOGIESC, in line with SDG 5.1. [Rec i.]*
2. Introduce a Gender Recognition Law by the end of 2021. [Rec iii.]
3. Amend Article 45 of the constitution to enable legal marriage equality by the end of 2022. [Rec iv.]
4. Amend the relevant provisions of the Civil Code (Articles 1008-1015) governing adoption to guarantee that full adoption rights are made available to any couple by the end of 2021. [Rec v.]
5. Adopt specific policies of non-discrimination on the basis of SOGIESC across all Cambodian public services, in priority in the education system (in line with SDG 4), health sector (in line with SDG 3), in the media, and in the police departments at the local and national level (in line with SDG 16), by 2020. [Rec vii.]
6. Amend Article 12 of the 1997 Labor Law to include a provision prohibiting discrimination in employment on the basis of SOGIESC, by the end of 2021, in line with SDG 8.5. [Rec x.]
7. Ensure the effective protection of LGBTIQ people who engage in sex work, in line with SDG 8. [Rec xii.]
8. Ensure that all health-care professionals are trained on SOGIESC, including through the inclusion of SOGIESC in the medical and nursing school curriculums, by the next UPR cycle, in line with SDG 3. [Rec xvi.]
9. Ensure that all teachers receive comprehensive training on SRHR, including SOGIESC rights, by the end of 2022. [Rec xx.]

- *Please refer to the full joint-submission on SOGIESC rights and SRHR for comprehensive recommendations. -



For any inquiries, please contact:
rainbowjustice@destinationjustice.org



PREVIOUS UPR KEY ISSUES

Cambodia was reviewed that first in 2009 and second 2014. Over two cycles, 51 recommendations addressed Child Rights (48 supported, and three noted). In second cycle, Cambodia received 31 recommendations addressing the rights of the child.

Among of received 31 recommendations, there were 19 supported (accept) such as 118.26, 118.37, 118.43, 118.55, 118.59, 118.62, 118.63, 118.65, 118.66, 118.67, 118.68, 118.69, 118.70, 118.71, 118.72, 118.73, 118.74, 118.76, 118.77, 118.78, 118.93, 118.125, 118.137, 118.151, 118.153, 118.155, 118.167, 118.171. **Out of these, three were noted (rejected) recommendations: 118.5, 118.57, and 118.161.**

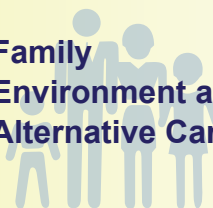
NATIONAL FRAMEWORK

Cambodia made significant progress in developing and implementing laws and policies such as National Action Plan (NAP) for Child Development 2016-2018, Positive Parenting Strategy 2017-2021, Action Plan for Improving Child Care 2016-2018, 3rd Health Strategic Plan 2016-2020, Education Strategic Plan 2014-2018, Master Plan for Child Friendly School 2015-2018, Policy on Child Protection in School 2016, the National Policy on Early Childhood Care and Development 2010 with accompanying Action Plan 2014-2018, NAP on the Reduction of Child Labor and Elimination of Worst Forms of Child Labor 2016-2025, Policy on Child Development and Protection in the Agricultural Sector 2016-2020, Policy on Child Labor Migration 2014, Guidelines for addressing child labor in the fisheries sector, Joint Action Plan to Prevent and Respond to Violence Against Children 2017-2021, the Law on Juvenile Justice, etc.

CHALLENGES

IMPACT

Family Environment and Alternative Care



As many 'other' types of Residential Care Institute and Facilitator (RCIF) fail to provide care for children shows a need for greater policy reform and monitoring. MoSVY needs to expand its purview to better respond to the increased number of RCIFs in Cambodia. The number of Cambodian social workers is limited, one social worker covers 1-2 districts. This is too large an area for effective social protection.

Basic Health and Welfare



Young people face many sexual and reproductive health concerns such as Sexually Transmitted Infection, unwanted pregnancies, unsafe abortion and HIV and AIDS. Child marriage has a multifaceted and profound impact on children's lives, affecting their health, education, psychological development, social life, relationships and increased risk to future adversities. Children under 5 suffering from malnutrition has remained high that showing sign of stunting, underweight, etc.

Education



The enrollment in early childhood education by children 3-5 years old is still low - especially for children in remote areas, ethnic minority, poor family, and children with disability. The children with disability were either never enrolled in school or dropped out, and reasons for school dropout of children with disabilities include the costs associated with school, concerns for safety, bullying, and the student not feeling welcome or supported. The perception of the violence against children in school, teachers and school directors made distinction between punishment and violence.

Child Labor



Cambodian lacks standardized guidelines for conducting labor inspections. The Child Labor Department did not receive any funding for inspection-related costs and that due to these financial constraints, the inspectorate was only able to conduct inspections in and around the capital city of Phnom Penh. There are limited the legal framework to protection domestic workers, whilst Cambodian Labor Code explicitly excludes them.

Juvenile Justice



The justice system in Cambodia is not yet fully equipped to respond to the needs of children who conflict with the law, victims, witnesses or suspects. Necessary procedures and facilities for dealing with minors in the justice system are lacking. As a result, children are routinely processed through the criminal justice and prosecuted as adults.



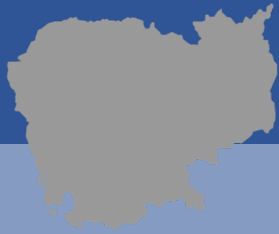
RECOMMENDATIONS

- 1 Increased budget and human resources to implement the Positive Parenting Strategy 2017-2021 nationwide, current strategy prioritize only five provinces; and set up the better coordination and clearer roles and responsibilities among relevant ministries such as MoWA, MoSVY, CNCC, and Mol; (SDG 1.1 and 16.2).
- 2 Develop National Action Plan for Improving Child Care (2019-2023) with a specified budget for implementation, regularly conduct monitoring and evaluation of Residential Care Institution and Facilities based on MOSVY's standards to ensure effective of reintegration of children to their families and communities (SDG 11.7).
- 3 Increase budget by 2020 to improve child friendly environment, education, and food in Residential Care Institution and Facilities so children living in Residential Care Institution and Facilities and transit center of Department of Social Affairs, Veterans and Youth Rehabilitation receive better education, nutrition and less violence; (SDG 2.1).
- 4 Provide professional social workers for every commune and district in Cambodia to respond the needs of communities through recognizing the existing community social workers, expand recruitment and formally include as a member of the CCWC by 2020; (SDG 11.1).
- 5 Increase budget and human resources in commune health centers, raise awareness among community people on negative impact of teenage pregnancy and child marriage, and educate community people on safety sex and reproductive health by 2020; (SDG 3.7).
- 6 Strictly enforce the legal age for marriage to prohibit child marriage through take the certain measures to promote awareness-raising and to strictly prohibit child marriage ceremonies and prevent children from being an illegal couple living together by 2020; (SDG 5.3).
- 7 Make quality education more inclusive and equitable for the most vulnerable children including children with disability by training teachers about inclusive education for all and integrate the inclusive education into the curriculum of pedagogy school, and developing comprehensive tools and methodologies for teaching disability students, by 2019; (SDG 4.a).
- 8 Increase accessibility of early childhood under six years old, especially under three years old by 2020; building more Early Childhood Care and Development (ECCD) centers; and adequate enough school facilities by 2020; (SDG 4.1).
- 9 Amend the Labor Law by stipulating the specific provisions to protect workers' rights mainly focus on children in domestic work, car wash garage, restaurant, and agriculture (over 15 years old) such as working hours, freedom of expression-rights in creation or participation in labor union, effective labor dispute and inspection mechanisms and procedure, by 2020; (SDG 8.8).
- 10 Develop a Child Protection Law in different settings in consultation with civil society organizations and development partners within the development process, with a sufficient budget allocation for implementation in all relevant ministries, by 2020; (SDG 16.3).
- 11 Set up a comprehensive data collection system and to analyze data collected as a basis to assess progress achievement in the realization of child rights and to help design policies and programs to implement the Convention. The data should be disaggregated by age, sex, geographic location, ethnicity and socio-economic background to facilitate the analysis of the situation of all children; and to inform a national plan of action and program development to ensure that data can drive the effective programming for the best benefit of children and their families. This data should be consistent standard and realizable for both government and NGOs to identify or use in the implementation stage, by 2021; (SDG 16.6).
- 12 Establishment of an independent national human rights institution, including child rights unit, well-resourced in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the "Paris Principles"), by 2023; (SDG 16.6).
- 13 Enforce the implementation of Juvenile Justice Law through developing its operational plan and adequate sufficient recourse, instantly set up the child friendly court procedure and facilities; and make availability of Juvenile Justice Expert; and expert child friendly judicial police official at least one in all police stations in charge of criminal justice both subnational and national level; and separate of child prisoners from adult prisoners; and set up the child friendly prison for children prisoners, by 2021; (SDG 16.3).

SUBMITTED BY: CHILD RIGHTS COALITION CAMBODIA (51 NGO MEMBERS) AND 3 CYL NETWORKS



AEA, BSDA, CCASVA, CCD, CCH, CCPCR, CHC, CIAI, CKIMHRDA, CKO, CLA, COCD, COLT, CPCDO, CRF, CVCD, CWDA, ERIKs, GNC, HAGAR, Happy Tree, HCC, HOMELAND, ICS, KHEMARA, KKKHRDA, KnK Cambodia, Krousar Thmey, KYA, KYCC, LAC, MithS amlanh, OEC, PE&D, PJJ, Plan International Cambodia, PSOD, RAO, RCYCD, Santi Sena, Save the Children, SCADP, SFODA, Sovan Komar, TdH Germany - Cambodia, ThH NL – Cambodia, TLC, VCAO, Wathnakpheap, WOMEN, World Vision International; and **3 Child and Youth Led Networks: CAN, AYRG and CCYMCR.**



FACTSHEET – UPR 2018 – Cambodia

3rd CYCLE UNIVERSAL PERIODIC REVIEW

Khmer Krom and Minority Rights in Cambodia

Despite the authorities' undertakings to protect the rights of minorities in Cambodia, including that of the Khmer Krom, in reality, minorities face significant challenges: inability to obtain Khmer citizenship, to own land or to access education, and their efforts to advocate for their rights are often hindered.

Joint submission by: Khmer Kampuchea Krom for Human Rights and Development Association (KKKHRDA); Minority Rights Organization (MIRO); Alliance for Conflict Transformation (ACT); Cambodian Centre for Human Rights (CCHR); Khmer Kampuchea Krom Community (KKKC); Union of the Khmer Kampuchea Krom Buddhist Monk Students (UKKBS); Friendship of Khmer Kampuchea Krom Association (FKKKA); Khmer Kampuchea Krom Cultural Centre (KKKCC); Khmer Fund for the Poor (KFP).

SUMMARY OF KEY ISSUES FROM PREVIOUS UPR CYCLES

Previous recommendations included:

- The adoption of strategies to assist those displaced as a result of land issues and ensure their right to adequate housing and to access to basic services, health care and employment;
- The ratification of the Optional Protocols to the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention of the Rights of the Child, which set out a communication procedure;
- The realization of the right to education for all children in Cambodia;
- The continued adoption of measures guaranteeing the birth registration of children, without any discrimination against migrant children;
- The strengthening of the legal framework related to the procedure of acquisition of nationality;
- The creation of conditions favorable to inter-ethnic tolerance in Cambodia;
- The promotion of a safe and favorable environment, allowing individuals and groups to exercise freedoms of expression, association and peaceful assembly;
- The need to ensure that all restrictions on fundamental freedoms are lawful, necessary and proportionate;
- The end of harassment, intimidation, arbitrary arrests and physical attacks;
- The enforcement of the right of individuals and organizations to defend and promote human rights.

NATIONAL FRAMEWORK

Article 31 of the Cambodian Constitution protects human rights as stipulated in the UN Charter, the Universal Declaration of Human rights and the covenants and conventions related to human rights, women's rights and children's rights. They are directly applicable in domestic law, and include the International Covenant on Civil and Political Rights, but also the International Convention on the Elimination of all Forms of Racial Discrimination.

The Cambodian government has, over the past twenty-five years, repeatedly and publicly stated that it considers Khmer Krom who were living in Kampuchea Krom (southern Viet Nam) but then move to Cambodia to be Cambodian citizens, including in official documents as well as responses given to the UN Committee on the Elimination of all forms of Racial Discrimination in 2010. Yet, in practice, there is no specific legal or administrative procedure by which Khmer Krom can realize their rights.



FACTSHEET – UPR 2018 – Cambodia

3rd CYCLE UNIVERSAL PERIODIC REVIEW

Khmer Krom and Minority Rights in Cambodia

CHALLENGES

Lack of Access to Citizenship Rights

There is no specific legal or administrative procedure by which Khmer Krom can realize their rights. As a result, there is a **gap between the high-level statements of the Royal Government of Cambodia and their implementation at the local level**. In practice, Khmer Krom are not recognized as Khmer citizens.

Restrictions on Freedom of Expression

Authorities **interfere with activities** of the Khmer Krom associations, in the temples of Khmer Krom Buddhist monks, as well as on social media and other online platforms.

Violations of Freedom of Assembly

In June 2017, **Khmer Krom were prohibited from organizing a peaceful procession** to the National Assembly and Ministry of Foreign Affairs to submit a petition calling for respect for the rights of Khmer Krom people, and threatened with arrest, by the Phnom Penh City Hall.

Inability to Secure Land or Housing

Many Khmer Krom **do not have legal rights to own land or property**. Hundreds of families in Phnom Penh (Po Senchey and Sen Sok districts), and hundreds more in Takeo province, are experiencing land conflicts with the authorities.

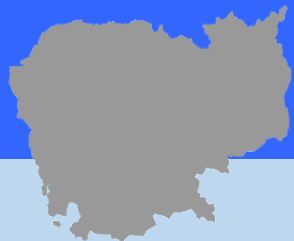
Lack of Access to Education

Over 95% of ethnic minority children who were born from foreign parents who have lived long-term in Cambodia, especially those living on floating communities along the Tonle Sap Lake, **cannot access primary school** because they do not have the required basic documentation such as birth certificate.

RECOMMENDATIONS

1. Ensure that implementation of **the National Strategic Plan on Identification 2017-2026 takes into account the needs of minorities**, including Khmer Krom, and addresses the specific issues they face in accessing identification documents;
2. Issue **a clear restatement of the RGC's position that Khmer Krom are Khmer citizens**, and therefore, enjoy the rights and protections accorded to all citizens under the Constitution and domestic law;
3. Issue a legal instrument **clarifying that the Law on Nationality applies to Khmer Krom** and confirming that if an individual of Khmer Krom origin can show Khmer nationality by way of Khmer Krom ethnicity/parentage, they are eligible for identity documentation;
4. Establish a **public program to tackle and reduce discrimination** against the Khmer Krom and ethnic minorities including the revocation of discriminatory legislation;
5. Ensure **equal rights to legal ownership of land and housing** for Khmer Krom and other minorities;
6. Ensure that the Phnom Penh and provincial authorities **enable Khmer Krom people and associations to conduct celebrations in places and times that do not silence their impact**, in accordance with the Law on Peaceful Assembly;
7. Ensure that all police and local authorities **refrain from any acts of discrimination** against Khmer Krom people, by characterising them as foreign nationals or as supporters of opposition political parties.

For additional details and full recommendations, please refer to the full submission.



FACTSHEET – UPR 2018 – Cambodia

3rd CYCLE UNIVERSAL PERIODIC REVIEW

Rights of Persons with Disabilities

This factsheet was prepared by the Cambodian Disabled Peoples Organisation (CDPO), which represents 74 Disabled Peoples' Organisations across Cambodia, following consultation with a range of its members and other disability organisations.

SUMMARY OF KEY ISSUES FROM PREVIOUS UPR CYCLES

Cambodia has been reviewed on two previous occasions – in 2009 and 2014. During the 18th Session of Cambodia's UPR in 2014, Cambodia received 205 recommendations from 76 delegations. Of these, four recommendations were directly concerned with persons with disabilities.

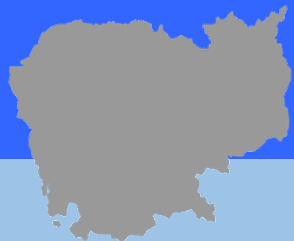
A range of important issues concerning improved outcomes for persons with disabilities were discussed. These are highlighted below and are elaborated on in this report, along with recommendations. These recommendations are linked to the Sustainable Development Goals (SDG's), the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), and the Cambodian National Disability Strategic Plan (NDSP) 2014 – 2018.

The observations from the UN Special Rapporteur on the situation of human rights in Cambodia (referred to hereafter as the UN Special Rapporteur) concerning persons with disabilities since October 2016 and most recently in its Annual Report 2017-2018, provides further context for the challenges facing persons with disabilities in Cambodia.

NATIONAL FRAMEWORK

The Cambodian Constitution in Article 74 obliges the State to assist the disabled and the families of combatants who sacrificed their lives for the nation. Cambodia signed the UNCRPD in 2007 and ratified it in December 2012. In 2009, the Royal Government of Cambodia (RGC) adopted "Law on the Protection and the Promotion of the Rights of Persons with Disabilities." It is a progressive law including non-discrimination in employment and a quota for employing persons with disabilities, accessibility, inclusive education and the right to vote. Ratification of the UNCRPD and adoption of the disabilities rights law are certainly significant milestones for protecting and promoting the rights of persons with disabilities in Cambodia. The challenge, however, lies in the effective implementation of these disability rights instruments. The RGC through its National Disability Strategic Plan 2019-2023 has the key leadership, coordinating and regulatory role in the implementation phase.

CHALLENGES	IMPACT
1. Access to Justice	Although the RGC has adopted a recommendation regarding access to justice from the last UPR process and a Memorandum of Understanding (MOU) between RGC and the United Nations Development Program (UNDP) has been signed, there is still a need for improvement in the awareness of key stakeholders in the legal system, law enforcement and the prison system.
2. Climate Change / Disaster Risk Reduction (DRR)	During the 2014 UPR process, the Cambodian disability sector had recommended that disability inclusion be included in the Strategic National Action Plan for Disaster Risk Reduction 2008–2015, disability remains to be included in the National Climate Change Strategic Plan 2014-2023.
3. Social Protection – Disabilities Pension Scheme	Steady progress has been made by RGC on the development and implementation of several schemes to provide a safety net for the most vulnerable including persons with disabilities; there are opportunities to further improve social protection.
4. Health Care	Although several recommendations regarding access to health services were made during the 2014 UPR process and encouraging improvement has been made, there are barriers facing persons with disabilities when accessing health services. In the 2018 Annual Report, the Special Rapporteur noted reports of discrimination at health centres and the lack of centralized data and the lack of documentation certifying that they are persons with disabilities often hamper their access to some specific services including health.
5. Employment	Employment is a key to the alleviation of poverty among persons with disabilities and underpins their inclusion in Cambodian society. Although there were no specific recommendations in the previous UPR, this area is still underdeveloped with great potential.



FACTSHEET – UPR 2018 – Cambodia

3rd CYCLE UNIVERSAL PERIODIC REVIEW

Rights of Persons with Disabilities

CHALLENGES	IMPACT
6. Accessibility	During the UPR process of 2014, accessibility was not highlighted as an important issue. Although progress has been made such as the initiative to develop the National Accessibility Guideline, there are many opportunities to build on these improvements. Physical accessibility was mentioned as a matter of concern in the report of the Special Rapporteur of Human Rights in 2017, specifically “... during discussions with ministries and through field visits it has become apparent that many public services, including health and education, as well as polling stations, are not physically accessible.”
7. Education	In a recommendation from the previous UPR process, continued work on the National Plan ‘Education for All’ was noted. In reality there are still many factors which contribute to low enrolment rates of persons with disabilities in the education system, particularly girls. In the 2018 Annual Report, the Special Rapporteur noted reports of discrimination against children with disabilities at schools.
8. Mental Health and Intellectual Disability	These items were not discussed in the previous UPR process in 2014. The report of the Special Rapporteur from 2017, stated concern regarding the rights of persons with psychosocial or mental health conditions and then noted the welcome development of a psychosocial rehabilitation centre in its 2018 report. The issue of Intellectual Disability in the developing world has been largely overlooked; this is the case in Cambodia.
9. Data Collection	The Special Rapporteur noted issues of lack of data and documentation caused service access problems. There has been progress with improved data collection and identification, though there are still gaps in systematic, reliable and disaggregated data on persons with disabilities.

RECOMMENDATIONS

General

1. Support the implementation of the National Disability Strategic Plan 2019-2023.

Justice

2. Develop and adopt national justice system guidelines to ensure fairness and equitable access to services for persons with disabilities (inclusive of all types of disabilities).

Climate Change and Disaster Risk Reduction

3. Implement the relevant sections of the SENDAI Framework for Disaster Risk Reduction 2015-2030.

Social Protection

4. Implement the National Social Protection Policy Framework 2016 -2025.

5. Ensure all persons with disabilities, including those working in the informal sector, have access to the National Social Security Fund (NSSF).

Health

6. Ensure all existing health staff are trained in the area of disability and that disability is included as part of the curriculum of training for all new health staff.

7. Develop and implement comprehensive disability identification and prevention programs across Cambodia such as eye care, non-communicable diseases and vaccinations, as part of the implementation of the Ministry of Health’s Strategic Plan 2016-2020.

Employment

8. Assist the private sector to comply with the Cambodian law related to the employment quota system, through a system including tax exemption, training and support.

9. Ensure access to Technical Vocational Education and Training (TVET) programs for persons with disabilities through improved support and in all locations in Cambodia.

Accessibility

10. Adopt, implement and monitor progress according to the prospective National Accessibility Guideline.

Education

11. Support the enrolment of children with disabilities at primary schools utilizing integrated and inclusion approaches.

12. Include disability as part of the national teachers training curriculum.

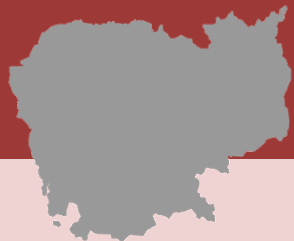
Mental Health and Intellectual Disability

13. Implement the strategic objectives from the Ministry of Health’s Strategic Plan 2016-2020 concerning mental health.

14. Develop an action plan for people with an intellectual disability to address their specific needs.

Data Collection

15. Create a centralised database across all health facilities where identification of disability can be included.



FACTSHEET – UPR 2018 – Cambodia

3rd CYCLE UNIVERSAL PERIODIC REVIEW

Public Health and the Rights to Health



SUMMARY OF KEY ISSUES FROM PREVIOUS UPR CYCLES

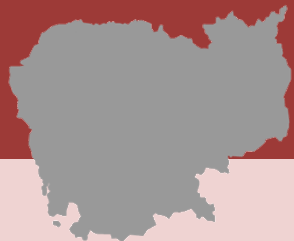
In last UPR submission, the RGC has not fully implemented recommendations linked to public health, although some milestones have been achieved, in particular in regard to strengthening the social protection for all Cambodian workers. Many key concerns and issues regarding to public health still exist and need urgent solutions. Those key issues are: universal access to health care and medicine; universal and comprehensive national social security; and achieving comprehensive health education.

NATIONAL FRAMEWORK

Article 72 of the Constitution of Kingdom of Cambodia states clearly the human rights to healthcare: *“The health of the people shall be guaranteed. The State shall give full consideration to disease prevention and medical treatment. Poor citizens shall receive free medical consultation in public hospitals, infirmaries and maternities”*. Beside this, the Global Health Declaration in 1998 also clearly states about the commitment to achieve significant goal on a new global health policy *“Health for all in the 21st century”*.

Though human rights to free healthcare services for the poor are stated in above mentioned laws, the spending on healthcare per capita is still high. Base on Health Financing Profile (May 2016), per capita out-of-pocket spending on healthcare in 2014 is accounted 63%, while government expenditure is around 18.5%. Privatization in public health becomes main barrier for citizens especially the poor in access to adequate and free healthcare and treatment. Furthermore, the current legal framework and the percentage of the national budget allocation remain too limited to meet all citizens’ basic needs in terms of public health. As stated in 2016-2020 Health Strategic Plan, there is an expectation of budget gap of USD 1,104 million for healthcare. This needs an increase in percentage of the national budget allocated by the State with the support of development partners to fill in this gap, and numbers of urgent solutions to address to the needs of people in order to ensure fundamental human rights to health.

CHALLENGES	IMPACT
Privatization in public healthcare, and access to free healthcare with quality and equity	Privatization in health services including the adoption and promotion of private sector’s role in providing services, Public-Private-Partnership, and especially the implementation of user-fee at public health facilities become main barriers to access to free and quality healthcare and services for people particularly the poor, and those, approximately 71% of Cambodian population, who are living just above poverty line.
Budget gap in health expenditure	The current percentage of the national budget allocation remains too limited to meet all citizens’ basic needs in terms of public health. In 2016-2020, there is an expectation of budget gap of USD 1,104 million for healthcare. This needs an increase in percentage of the national budget allocation by the State with the support of development partners to fill in this gap especially the expansion and increasing budget for Health Equity Fund for the poor, and paying the cost for treatment including free and/or affordable medicine to patients including the poor and those who live just above poverty line.
Lack of access to safe abortion	Despite relatively progressive legislation on abortion, which was passed in 1997, lack of access to safe abortion remains a challenge in Cambodia, infringing on women reproductive health and rights. When they do access it, women have abortions because of ill health, pre-marital pregnancy, short birth interval, competing family responsibilities, and poverty. However, as in many developing countries, there is limited data on abortion in Cambodia. Although abortion is accessed by older women, the high adolescent fertility rate (12%) remains a key issue, impacting unsafe abortion rates as a result of the conditions placed on access to abortion for young people.



Public Health and the Rights to Health

Social Protection with contributory scheme, and the exclusion for the poor and those who just live above poverty line

Having National Social Protection Policy Framework, adoption, and implementation of Social Security schemes can address to somewhat of needs of people. However, it still lacks of a comprehensive measure, programs, and mechanism to ensure that the poor and those who live just above poverty line will access to free and/or affordable basic social services, and social security such as pension, and necessary support/ subsidies to elders, disabilities, poor women and children. Informal sector, irregular income groups, and those who have income just above poverty line are still excluded from the scheme, though having some access to social assistance.

Pre-payment or contributory scheme, though it is a compulsory obligation of employers and owners of enterprise/establishment, in the long-term, makes more burdens on citizens in addition to tax.

Intellectual Property Right in Medicine

Intellectual Property Rights gives tremendous risk to access to affordable medicine which will be also impeding a universal access to treatment for all Cambodian. The law on Compulsory Licensing for Public Health was passed on 18 April 2018 with the aims to enhance the right to access to pharmaceutical products. However, the law is not yet widely explained and disseminated among implementers and citizen.

Furthermore, the fast integration by government in various free-trade agreement that imposing Trade Related Intellectual Property Rights (TRIPS) and TRIPS-plus especially recent Regional Comprehensive Economic Partnership and other bilateral trade agreements may pose limitation to the use of Compulsory Licensing Law, and thus pose huge threat on access to essential and life-prolonging medicine for communicable and non-communicable disease including HIV/AIDS, TB, Malaria, Diabetes, Cancer, Blood Pressure, Hepatitis C, Anti-biotic.

RECOMMENDATIONS

1. Ensure and extend free healthcare and treatment services for patients with communicable and non-communicable diseases including patients with HIV/AIDS, Hepatitis C, Blood Pressure, Diabetes, TB, Malaria, Cancer, and Anti-microbial Resistant, and access to medicine which are free from Intellectual Property Rights protection by 2022.
2. Increase the percentage of the national budget allocation to healthcare and medicine to effectively meet the current needs (for the poor and those who live just above poverty line) by 2020.
3. Ensure the implementation of the law on abortion while addressing the barriers that prevent adequate implementation including increased awareness particularly amongst the marginalized, service provision and adequate information provision including stronger referral systems and ensuring the right to contraception information and services for all women, including young women, by 2022.
4. Ensure that the existing National Policy on Social Protection is based on Universal Declaration of Human Rights and Fundamental of Human Rights in Access to basic needs and basic social services by implementing the schemes to ensure free access to basic social services for all, via a fair, accountable, and transparent tax-based financing.
5. Enlarge the implementation of the pension scheme in support to all Cambodian, in particular, people with disabilities, elders, LGBTIQ individuals, women and children by 2022.
6. Ensure free access to health education as well as facilities for all Cambodian citizens in line with the National Health Strategic Plan 2016-2020 and with SDG 3, including the enhanced cooperation with neighboring countries and development partners by 2023.

Labor Rights Thematic Group



Joint-Submission by:

Solidarity Center Cambodia (ACILS), Independent Democracy of Informal Economy Association (IDEA), Cambodian Youth Network (CYN), Cambodian Food and Service Workers Federation (CFSWF), The Cambodian Confederation Unions (CCU), Cambodian Labor Confederation (CLC), Center for Alliance of Labor and Human Rights (CENTRAL), Coalition of Cambodian Farmer Community Association (CCFC), Legal Support for Children and Women (LSCW)

SUMMARY OF KEY ISSUES FROM PREVIOUS UPR CYCLES

Cambodia was last reviewed in 2014 in its second cycle. Its first cycle of UPR was in 2009. There were twenty-two recommendations during the two cycles regarding labor rights, some of which are:

- Take all necessary measures to ensure that the trade union rights of workers in Cambodia are fully respected and that trade unionists are able to exercise their activities in a climate free of intimidation and risk to their personal security and their lives. (United States)
- Take action to ensure that Cambodian legislation enables all political parties, labour unions and other civil society groups to exercise their rights to freedom of expression, association and peaceful assembly, and that peaceful demonstrations can occur safely and without fear of intimidation or excessive use of force on the part of the Cambodian authorities. (Canada)
- Strengthen its policies to improve labour standards for all workers and continue its efforts in reducing child labour. (Spain)
- Establish labour courts in an effort to guarantee respect for worker rights and to provide legal and efficient solutions to labour disputes, and revise the law on trade unions. (United States)
- Publicly speak out on reported cases of intimidation and violence - including murder - of trade unionists, the staff of non-governmental organizations and journalists and to ensure effective investigations and accountability for perpetrators. (Austria)

NATIONAL FRAMEWORK

- Trade Union Law (2016) and Prakas 249 (2016): Both, read together, grant authorities excessive discretionary control over Trade unions' ("TU") registration, creating an environment that is conducive to arbitrary refusal of registration. It also further contains provisions restricting strikes and collective bargaining and imposes disproportionate sanctions when such provisions are violated.
- Notification #1753 on the Operation of Association and NGOs increases scrutiny to regulate CSOs and TUs. This notification requires associations and NGOs which want to conduct activities to inform provincial or local authorities three days prior to the activity. Failure to inform grants authorities the right to stop the activities. Moreover, it provides grounds for legal action against unregistered NGOs conducting activities.
- The Minimum Wage Law, adopted in June 2018, contains heavy administrative fines with no explicit right of appeal. These fines, if unpaid, could lead to penalties of imprisonment.
- Provisions on the crime of incitement are similarly concerning. Article 495 of the Criminal Code is broadly interpreted and does not require a crime to actually take place as a result of incitement. This vague and overly broad provision has been used by authorities to sanction union leaders and labor rights activists for openly advocating for labor standards.

CHALLENGES

- Burdensome registration and reporting procedures for unions result in the denial of freedom of association and collective bargaining
- Regulations that restrict the gathering of CSO's and unions and the recently enacted Trade Union Law and the Minimum Wage Law, adopted in June 2018, contains provisions which limit the ability of labor rights activists, union leaders and CSOs to express their views on the minimum wage.
- Imposed pre-hearing certification requirements for workers to bring cases before the Arbitration Council constrain access to justice

IMPACT

The Royal Government of Cambodia (RGC) adopted burdensome registration and reporting requirements for unions in the Trade Union Law and Prakas which result in the denial of peoples' right to freedom of association and collective bargaining. For example, the government requires that organizations have legal personality and status that trade union leaders are literate and educated, and that extensive information of the leaders' spouse and family is provided prior to registration. Once unions are registered, onerous reporting requirements at penalty of suspension of the trade union are used by the Ministry of Interior to request reports to harass associations and obstruct their work. These laws open the door to excessive state interference in trade unions, and threaten the very concept of independent unions in Cambodia.

The Royal Government of Cambodia (RGC) adopted burdensome registration and reporting requirements for unions in the Trade Union Law and Prakas which result in the denial of peoples' right to freedom of association and collective bargaining. For example, the government requires that organizations have legal personality and status, that trade union leaders are literate and educated, and that extensive information of the leaders' spouse and family is provided prior to registration. Once unions are registered, onerous reporting requirements at penalty of suspension of the trade union are used by the Ministry of Interior to request reports to harass associations and obstruct their work. These laws open the door to excessive state interference in trade unions, and threaten the very concept of independent unions in Cambodia.

Regulations have been adopted that stall access to justice for workers seeking remedy for rights violations. While Cambodia in 2002 took steps to increase access to justice for workers through the establishment of an Arbitration Council dedicated to labor rights, the newly adopted Trade Union Law ("TUL") significantly restricts this path. The TUL requires unions to (1) obtain a registration certificate that is notoriously difficult to attain, and (2) obtain the support of 30 percent of the workers. Workers are often spread out over many buildings and sections which makes voting procedures to obtain support difficult, if not impossible for unions to conduct. The inability for workers to seek remedies through local courts due to length of procedures, lack of expertise of the court and a culture of corruption, coupled with the imposed limits to litigate cases before the Arbitration Council perpetuate a broken system that prevents workers from asserting rights.

LABOR RIGHTS THEMATIC GROUP

CHALLENGES	IMPACT
<ul style="list-style-type: none"> ➤ Criminalization and anti-union discrimination, including threats and acts of violence, marginalize union leaders and labor right activists ➤ Rights violations in employment persist due to gaps in the Labour Law leaving workers vulnerable to forced overtime and other exploitative working conditions ➤ Cambodia's institutional and normative framework fails to protect migrant workers in Cambodia, and Cambodians abroad 	<p>The deteriorating political environment has resulted in the prosecution and imprisonment of political opponents and human rights defenders, as well as union leaders, members and labor right activists, who face judicial harassment and threats made by authorities. Authorities use recent amendments to the constitution and criminal code to impose criminal charges on union leaders and labor right activists. For example, articles 305, 307 and 495 of the Criminal Code setting out the offences of defamation, insult, and incitement are defined in overly broad terms which enable far-reaching exercise of discretion. For example, provisions require merely that the defamation or insult be "circulated in public or exposed to the sight of the public." This clause exposes union leaders and labor rights activists to risks of being prosecuted for private conversations that are later publicized without their consent.</p> <p>The RGC's failure to adopt mechanisms that offer protection against forced overtime, occupational safety and health and other exploitative working conditions in the Labor Law and Trade Union Law has resulted in ongoing human rights violations. Specifically, workers are often caught in a system that leaves them no choice but to work overtime. When workers work 8 hours a day, they often only receive the minimum wage of \$170 per month—a wage insufficient to support living conditions. To compensate for low wages, workers are forced to work overtime, in some cases to a total of 10-14 hours per day. Because of the proliferation of short-term contracts, workers who refuse overtime frequently do not have their contracts renewed. The weakening of unions further limits workers' representation and ability to bargain for better conditions. For example, construction workers encounter difficulties joining unions, resulting in low wages, harsh working environments, and lack of health care. This power lock on workers limits their freedoms and induces compulsory overtime.</p> <p>Cambodian migrant workers sent abroad are poorly protected and face challenges including physical and mental abuse, exploitation, human trafficking and enslavement. The overall level of protection received by Cambodians traveling abroad remains fragile. A recent study released by the ILO indicated that out of four researched Southeast Asian countries, migrant workers from Cambodia have the worst experiences. Eight out of ten workers experience labor rights abuses while abroad, and more than two-thirds reported mental or physical health problems upon return. In addition, recruitment costs form a major source of the exploitive system for migrant workers in Cambodia. Compared to other countries, recruitment fees are high—estimated at \$70 to \$100. Cambodia has not impose any limits on these fees. While recruiters charge high fees, they do not always send migrant workers abroad, are sent on incorrect visas. The lack of proper documentation limits their access to foreign justice mechanisms, social security, and health care.</p>

RECOMMENDATIONS

- Revoke trade union registration and reporting requirements that result in the restriction of the freedom of association, assembly, and expression, including prior authorization requirements from TUL and Prakas N 249 and provisions that require high standards for union leaders to register, including literacy and family background requirements.
- Remove the penalty of suspension for failure to meet reporting requirements from the TUL and Prakas.
- Eliminate regulations that constrain people's right to protests, conduct legal strikes, the ability of unions to gather data to formulate the annual minimum wage, and engage in collective bargaining without fear of intimidation to guarantee peoples' freedom of expression, association and peaceful assembly.
- Enable the judicial system to effectively address workers' rights by allowing workers to take cases directly to the Arbitration Council.
- Eliminate the requirement of obtaining Most Representative Status, 30% of votes from workers in the workplace, for unions to bring cases to the Arbitration Council.
- Protect TU leaders and TU members from all forms of discrimination, violence and threats, including defamation and incitement charges and repeal the offenses in the Criminal Code that allow for the criminalization of union leaders and labor rights activists. Specifically, public defamation (Article 305), insult (Article 307), malicious denunciation (Article 311), lèse majesté (Article 437 bis), incitement (Article 495), publishing commentaries intended to unlawfully coerce judicial authorities (Article 522) and discredit judicial authorities (Article 523); Articles 66, 80, and 93-95 of the Telecommunications Law; and Article 41 of the Anti-Corruption Law.
- Take affirmative measures to promote and protect workers' rights at the national level by increasing the number of labor inspectors and resources allocated to them, and grant labor inspectors unannounced and unrestricted access to all worksites to ensure that conditions such as overtime, low wages, and exploitative working conditions are reported to the Ministry of Labor and properly addressed.
- Establish a wage enforcement mechanism to ensure access to justice of guaranteed wage claims, and impose sanctions on employers who use low wages as a mechanism to compel workers to work overtime.
- Take affirmative action to guarantee further protection of Cambodian migrant workers in bilateral agreements with third states by increasing labor inspections and making available complaints mechanisms.



FACTSHEET – UPR 2018 – Cambodia

3rd CYCLE UNIVERSAL PERIODIC REVIEW

Theme: Land Rights & Natural Resource Governance

Submitted by:

CCD, CWDCC, SAMAKY, CYN, UPWD, CCFC, GVO, CGCN, DRM/LTS, BCV, CCD, STT, PADEK, CTO, NGO-F, PKH, SK & CVS

SUMMARY OF KEY ISSUES FROM PREVIOUS UPR CYCLES

In the past few years, the Royal Government of Cambodia has been trying to transform its governance at the ministry and department level by switching the leaders of the Ministry of Land Management, Urban Planning and Construction (MLMUPC), the Ministry of Environment (MoE) and Ministry of Agriculture, Forestry and Fishery (MAFF) in order to increase commitment to findings solutions to land conflict, which have become chronic all over the country. Contrary to these aims of easing land conflict, these ministries have adopted policies against the existing laws and constitution, which have worsened land conflict, particularly in regards to rural farmer's land, and efforts to conserve natural resources and forestland. The Sub-Decree on Economic Land Concessions, the legislative framework enabling economic land concessions (ELCs) are a prime example of this, due to the widespread land grabbing that has ensued as a result. MAFF has also been trying to adopt a new law entitled "Draft Law on Agricultural Land" which would cause further land grabbing due to the law's promotion of corporations and aggressive privatization which would come at the expense of other marginalized social groups.

NATIONAL FRAMEWORK

The 'win-win' approach used by the government, which is meant to benefit small-holder farmers, rural communities and private concessionaires, have given little benefit to vulnerable and oppressed groups, with a strong tendency to favor corporate interests. These vulnerable and oppressed people have actively and non-violently advocated for their land rights, which they claim have been unjustly taken. Instead of achieving a fair result, the resolution process has frequently benefited elites and many land conflicts in a number of provinces are left unresolved. The victims of these cases continue non-violent advocacy through filing legal complaints, attending face-to-face meetings, using alternative dispute resolutions, using public forums to requested a response from decision makers, and posting their distressing experiences on social media channels in attempts to influence to politicians and policy makers.

Even though, the MoE increased reformed and protected areas, these do not reflect the needs of local people. Instead, many local people and Indigenous people living in and around these areas are being arrested and punished while the powerful people and companies who promulgate the most environmental destruction aren't held accountable. Moreover, the government has canceled a number of MOU's of ELC companies, in addition to problematic decentralization efforts to the sub-national level. This is largely due to a lack of capacity, technical skill and knowledge, which has in turn affected decision making on land and natural resource management. The MoE has played a role on natural protected areas or zones and MAFF has played a role on developing land zones, especially ELCs. In 2016-2017 the government restructured forest management and plans to combine three previously distinct types of laws governing land, forestry and protected areas.

There are many development projects which have affect public area and natural resources such as lakes and rivers. This includes no transparency surrounding the exporting of sand to other countries as well as for domestic use has degraded local ecosystems and violated on local community's rights. For instance, in the case of Koh Kong province, people lost their fishery based jobs while corporations occupied their fishing areas for sand extraction, and in Phnom Penh the city has become more susceptible to floods because of degraded water catchments and lakes around the city. Furthermore, water pollution made by private corporations for plantations, hydro power dams and mineral extraction has been severe in Cambodia. In early May, 2018, polluting of Prek Ter River in Kratie caused dozens of Indigenous people to die and made hundreds more ill.

The operation of aggressive development projects, such as those previously mentioned, have destroyed a huge portion of Cambodia's natural resources. In doing so, it has posed serious threats to the communities who depend on these resources for their livelihoods and survival. Due to no proper monitoring by the government and local authorities, more opportunity have been created to grab and control resources through illegal logging and mining.

Theme: Land Rights & Natural Resource Governance

CHALLENGES

- Poor enforcement of laws protecting land and natural resources. This has enabled land grabbing through ELCs, mining concessions, dam projects and urban development.
- Community voices, victims of land grabbing and natural resources and forest dependent communities are excluded from the decision making process.
- Rights to information, public participation and access to remedies are not considered as part of development projects.
- Crackdowns and criminalization of activists and environmental defenders.

IMPACTS

- More than 2.1 million hectares of Cambodia's land is covered by ELCs. Many people have been impacted from development projects. Many victims and impacted communities which have lost their land, ancestral and spirit forests and victims have not received fair and just compensation.
- There have been many urban poor communities in Phnom Penh that have suffered forced eviction because of urban development projects. These include, the cases of Boeung Kak Lake, Dey Kram and Borei Keila and number of victims have still not received free and fair compensation.
- Well-known environmentalist, Chut Wutty was assassinated in 2012 with no proper investigation to find the real perpetrator. Furthermore, a number of youth activists and environmental defenders were unjustly arrested and jailed. For instance, from 2015-2017, 5 environmental defenders from Mother Nature Cambodia were jailed because of their advocacy efforts to protect natural resources.

RECOMMENDATIONS

Recommendations on Land Issues:

1. Address all land conflict cases, particularly those caused by ELCs, by returning land back to communities, providing fair compensation, and issuing land tenure for communities and people.
2. Stop granting any new large-scale ELCs.
3. End all forms of violation and intimidation against affected communities, land rights activists and environmental activists.
4. Provide small and medium ELCs to small-holder farmers and local communities, ensuring they benefit both government and the people.
5. Ensure that land will be redistributed to landless people, communities and farmers.
6. Ensure a fair and just judicial system so that the public, especially people affected by land grabbing, can effectively seek justice from the court system and stop political discrimination against land dispute victims, community leaders and NGOs working on land issues.

Recommendations on Natural Resources:

1. Amend the current Forestry Law, Fishery Law, Sub-Decree on Economic Land Concessions and other related laws and policies in a transparent manner which is inclusive of affected people, by recognizing rights of local people and communities.
2. Return the original Cambodian Constitutional Law 1993 to life and fully respect it.
3. Strengthen the enforcement of good provisions within Forestry Law, Fishery Law, Free Prior Informed Consent (FPIC), Corporate Social Responsibilities (CSR) and human rights and other related policies.
4. Investigate those who are involved in illegal natural resources destruction and extraction crimes and prosecute accordingly.

FACTSHEET – UPR 2018 – Cambodia

3rd CYCLE UNIVERSAL PERIODIC REVIEW

Free and Fair Elections in Cambodia

NAMES OF ORGANISATIONS ENDORSING THE SUBMISSIONS

The report is jointly submitted by the Committee for Free and Fair Elections in Cambodia (COMFREL), and Neutral and Impartial Committee for Free and Fair Elections in Cambodia (NICFEC) and other 10 CSOs.

SUMMARY OF KEY ISSUES FROM PREVIOUS UPR CYCLES

In 2014, the Royal Government of Cambodia totally received and accepted eight election-related recommendations during the 2nd cycle UPR. These recommendations aimed to uphold the election integrity in Cambodia based on the multi-party democracy principle. In 2015, several legal frameworks were revised and created under the electoral reform agenda. Consequently, the voter registration, the voter list and formation of electoral commission are significantly improved.

However, some important addressed recommendations remain unimplemented. They include a citizen's accessibility for voting right, a political

party's meaningful participation in election, an efficient mechanism for electoral dispute and resolution and fair access to media, and restriction of political abuses of power and of state resource.

Beside unimplemented recommendations, Several legal frames including amendment of Law on Associations and Non-Governmental Organizations, Law on Political Party and Law on Elections, were developed and played as political motivate in the last the national assembly election. The implementation of these amendments result an elections without democratic principles that remains Cambodia as a single party state.

NATIONAL FRAMEWORK

The reformed of election regulations in 2015 has contributed positive impacts to a number of electoral process, such as: the voter registration and procedure of the selection of the members of the National Election Committee (NEC), the immunity status for the members of NEC, and the authority and operation of NEC in general. The reformed, however, has also presented negative impacts.

The amendments of Law on Political Party in 2017 gives the ruling party the legal authority to dissolve any political party, including the ban members from

political participation and imprisoning its leadership. The amendment of the Law on Associations and Non-Governmental Organizations and provision in elections law limits and narrow CSO's space for participation in electoral process. This extends to the observers and CSOs, that are viewed threats to political power. The legislation has threatened and undermined the principles of multi-party democracy and free and fair election in Cambodia. Particularly it is being used to restrict the active and meaningful participation of other political parties and the public.

CHALLENGES

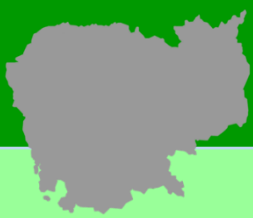
Law on Associations and Non-Governmental Organizations (LANGO) and Law on General Elections:

- To limit electoral observation participation
- To restrict financial independency of CSOs

IMPACT

The Law on Association and Non-Governmental Organizations (LANGO) and Law on General Elections, it is noteworthy to empathy that, have threatened the rights and fundamental freedom to assembly and association of the Cambodian peoples and CSOs in Cambodia. Basing on the LANGO, the Royal Government of Cambodia continue to question and threaten the legitimacy of CSOs. The Situation Room, a voluntarily collective electoral observation of joint CSOs, is no longer allowed to take place in the future elections.

The Government has imposed a set of unsupportive law and regulation that restrict the activities and financial independency of members of the civil society organizations (CSOs) in Cambodia. The independent media outlets including,



FACTSHEET – UPR 2018 – Cambodia

3rd CYCLE UNIVERSAL PERIODIC REVIEW

Free and Fair Elections in Cambodia

Law on Political Party:

- To disrespect the people's will
- To end up democratic process
- To disregard CCPR

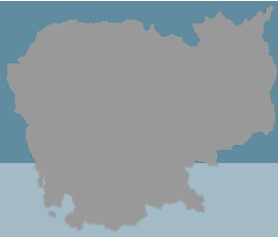
the Cambodia Daily, The Phnom Post and other well-noted media agency, were hit with manipulated tax payment. Consequently they were forced to shut down and to be sold who is linked to the Cambodian Prime Minister Hun Sen. A number of local and internet radio, it is important to note that, were forced to shut down and a number of its journalists are on self-exiled and placed behind bar.

The amendment of the Law on Political Parties in 2017 which proposed by Prime Minister Hun Sen and adopted by parliamentarians from the ruling party has given his government the legitimate and unchallenging authorities to suspend and dissolve political parties, effectively removing their leadership from politics. It is considered to be politically motivated and aims to preventing competition from the activities of opposition political parties in elections; and in the violation of the International Convention on Civil and Political Rights which Cambodia itself is the state party.

In November 2017, the court, which is notorious for a political motivate, marked the death of democracy in Cambodia. The main opposition, Cambodia National Rescue Party (CNRP), was forcefully dissolved at the hand of supreme court basing on the groundless complaint filed by the Ministry of Interior (MoI) claiming the CNRP was attempting to overthrow the government through the so-called colour revolution funded by the United States. Resulting from the dissolution, the total 118 senior members of CNRP, also, are banned from political activity for five years. 55 out of 123 parliamentary seats and 5,007 local councillor seats of CNRP, which were elected from 44% of the popular vote in general elections, were distributed and re-allocated to unelected members of the ruling and other political parties. The outcome of implementation of the law amendment leave Cambodia as the state disrespecting people's will.

RECOMMENDATIONS

1. Repeal the amendments of Law on Political Party, as such: article 6 new (two), article 11 new, article 12 new, article 17 new, article 18 new, article 19 new, article 25 new article 16 new, article 29 new, article 34 new, article 38 new, article 39 new, article 40 new, article 41 new, article 42 new, article 43 new, article 44 new (two), article 45 new (double), article 46 new, article 47 new and article 48 new (double); to promote multi-party democracy, before 2020.
2. Repeal the amendments of the Constitution of Cambodia; i.e. article 34 new (one), article 42 new, article 49 new and article 53 (new); to ensure the exercise of civil and political rights of all Cambodian citizens, before 2022.
3. Create and safeguard an enabling environment for members of civil society organization (CSOs) to monitor elections, by lifting all undue restrictions on activities and funding of NGOs, including the Law on Associations and Non-Governmental Organizations (LANGO); and repeal Article 18, Article 84, Article 137, Article 148, Article 159; and Article 160 of the Elections laws which restricts and regulates the civil and political rights of Cambodian citizens that is constitutionally mandated, by 2022.
4. Enable genuine multi-party democracy principle through the establishment of a meaningful election competition based on the principle of inclusiveness, transparency, integrity, accountability and accessibility for all political parties. And adopt the legal framework to ensure that all candidates have fair access to the media, by 2022. (Rec.8.9 and 10 in the Submission Report)
5. Adopt and safeguard a legal framework which will enable Cambodia citizens who resident abroad to exercise their right to vote and uphold the right to vote of all citizens, including those in pre-trial detention, by 2022.



FACTSHEET – UPR 2018 – Cambodia

3rd CYCLE UNIVERSAL PERIODIC REVIEW

Access to Justice

Access to justice is often inaccessible in Cambodia due to a lack of judicial independence and impartiality, insufficient legal aid, limited access to legal information, as well as routine fair trial rights violations.

Joint submission by: Destination Justice (DJ), the Cambodian Center for Human rights (CCHR), and the Cambodian Human Rights and Development Association (ADHOC). Supported by Transparency International Cambodia (TI), International Bridges to Justice (IBJ), the Advocacy and Policy Institute (API) and IFEX.

SUMMARY OF KEY ISSUES FROM PREVIOUS UPR CYCLES

During Cambodia's 2nd UPR cycle, 59 recommendations were made in relation to access to justice, covering topics such as the functioning of judicial system, fair trial rights, the lack of judicial independence and legal aid. Of these, the Royal Government of the Kingdom of Cambodia (RGC) accepted 45 and noted 14. While some progress has been made, most recommendations have not been fully implemented, undermining access to justice.

NATIONAL FRAMEWORK

Cambodia is a party to most key international human rights treaties, including the International Covenant on Civil and Political Rights; in 2007, the Constitutional Council ruled that such treaties were directly applicable in Cambodian domestic law. Further, the Constitution guarantees respect for human rights as stipulated in international human rights treaties and sets out key principles such as equality before the law, protection against arbitrary arrest and detention, and the right to a fair trial (Arts. 31 & 38). The Penal Code, the Code of Criminal Procedure and the 1995 Law on the Bar also contain key protections for those within the judicial system, such as the presumption of innocence and the right to free legal representation for those without financial means to access it independently. In 2014, the Law on the Organization and Functioning of the Courts, the Law on the Organization and Functioning of the Supreme Council of the Magistracy and the Law on the Statute of Judges and Prosecutors ("laws on the judiciary") were promulgated. In 2016, a Law on Juvenile Justice was adopted. The RGC is working on a nationwide legal aid policy and a law on access to information.

CHALLENGES & IMPACTS

Lack of Independence and Impartiality of the Judiciary

- In 2018, Cambodia ranked 112 out of 113 countries in terms of rule of law, and scored zero in relation to the independence of the judiciary.
- The 2014 laws on the judiciary give the executive **excessive control over the judiciary**.
- High-level actors such as the Supreme Court's President and Appeal Court's President are **members of the ruling party's central committee**.
- The judicial system is used as a tool to target political opponents, rights activists, journalists and critical social media users. **Between April 2017 and March 2018, legal actions were taken against at least 36 HRDs as a result of their work.**
- **The judiciary's lack of independence has fostered impunity**, with crimes against environmental defenders, land-activists, garment workers, trade unionists, and journalists often not investigated or investigated without transparency, independence and impartiality.
- Allegations of wrongdoings by those connected to the government are **rarely thoroughly investigated or prosecuted**.

Insufficient Access to Legal Aid

- Due to the **inadequacy of the State-sponsored legal aid system**, the right to a lawyer is not fully respected. There is no framework to ensure access to information about legal aid services.
- Cambodia has a **lack of lawyers**. In 2017, there were 1,019 registered lawyers, amounting to six per 100,000 people. Only 98 were registered to provide state-sponsored legal aid.
- Legal aid is **not compulsory for cases involving a misdemeanor** (even if it includes a prison sentence) **or at all stages of proceedings**, violating international standards.
- Lawyers often meet their clients for the first time at the hearing, making it **impossible to prepare an effective defence**.

- **The legal aid budget is grossly insufficient**, despite recent increases. In 2017, the Bar Association of the Kingdom of Cambodia (BAKC) received approximately 5,000 requests in mandatory cases, yet, the budget only covered 2,000 cases.
- The insufficiency of legal aid **disproportionately impacts vulnerable groups** such as those living in rural or remote areas, women and marginalized groups.

Limited Access to Legal Information

- **Access to laws and jurisprudence remains limited, irregular and decentralized** with little efforts made to disseminate them, creating a significant obstacle to the rule of law.
- **Access to information is not legally protected.** A law is currently being drafted but the contents of the draft published in February 2018 fails to meet international standards.
- Access to justice is **particularly limited outside of the capital** (the only Appeal Court is located in Phnom Penh). Considering that most of the population live in rural areas, many have limited information about their rights. However, the Ministry of Justice has announced the construction of three additional appeal courts by July 2019 and four additional courts in following years.

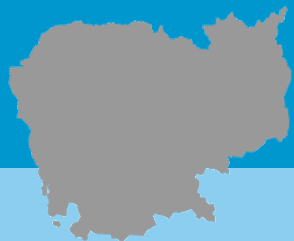
Violation of Fair Trial Rights

- Imprisonment prior to a final judgment being issued is quasi-automatic, including for juveniles. As of May 2018, **74% of all detainees were in pre-trial detention.**
- Judges generally fail to undertake an in-depth, objective and evidence-based assessment of whether detention is justified, and **fail to consider alternatives to prison.**
- **The presumption of innocence is routinely ignored.** Confessions are often the sole basis for a conviction, with the judges ignoring claims that they were obtained under coercion or torture.
- **The right of the accused to present and challenge evidence is not respected**, while the incriminating evidence often fails to meet the requisite standard for a finding of guilt.
- When issuing their judgment, **judges often fail to detail the legal basis and the evidence they rely upon for their ruling.**
- There are **insufficient protections for women inside the judicial system**, and the lack of female representation in the judiciary creates a hostile environment where victims are often re-traumatized and/or blamed.
- **The 2016 Law on Juvenile justice is not properly implemented**, leaving juvenile defendants particularly vulnerable.

RECOMMENDATIONS

- I. Amend the **three laws on the judiciary** to ensure their compliance with international human rights standards.
- II. Guarantee the **effective and impartial application** of the Constitution, legislation and court rulings, in accordance with SDG 16.3.
- III. Take all measures required to effectively **combat impunity**, including through independent investigations, prosecutions and trial of alleged perpetrators.
- IV. Ensure that all criminally accused persons have **access to legal aid**, including in cases of misdemeanors and felonies, in accordance with the Code of Criminal Procedure, the ICCPR and SDG 16.3.
- V. Allocate a **sufficient legal aid budget**, which allows for the provision of legal aid at all stages of criminal proceedings, including at the investigative and appeal stages.
- VI. Establish **regional Appeal Courts**, in accordance with the Law on the Organization of the Courts, and ensure their proper operationalization by the end of 2023.
- VII. Enact and ensure that **the Law on Access to Information effectively safeguards the right to obtain legal information**, in full compliance with Cambodia's international human rights obligations and with SDG 16.10.02.
- VIII. Create a **free, accessible and up-to-date official legal information database**, including all the laws, decrees, royal decrees, circulars and regulations, by 2021.
- IX. Ensure that the competent judicial authorities, when ruling on pre-trial detention, **interpret the justifications for pre-trial detention strictly and narrowly.**
- X. Require that all judges strictly **respect the presumption of innocence.**
- XI. Drawing from the Extraordinary Chambers in the Courts of Cambodia, **adopt legislation protecting the rights of victims of gender-based violence** in legal proceedings, focusing on respect of privacy, legal and psychological support, in compliance with SDGs 5.2 and 5. C.
- XII. Take measures to ensure **respect for juvenile's privacy** in judicial proceedings, as provided by the Law on Juvenile Justice, by 2020.

For additional details and full recommendations, please refer to the full Access to Justice submission.



FACTSHEET – UPR 2018 – Cambodia

3rd CYCLE UNIVERSAL PERIODIC REVIEW

Civic Space and Fundamental Freedoms

CIVICUS **ifex** **Joint-Submission by CIVICUS: World alliance for Citizen Participation, the Cambodian Center for Human Rights (CCHR), the Cambodian Human Rights and Development Association (ADHOC), IFEX, and Solidarity Center.**



Since the 2nd UPR cycle, the Royal Government of Cambodia (RGC) has enacted legislation that excessively restricts fundamental freedoms, and misapplied laws to undermine civil society, leaving civic space severely curtailed.

SUMMARY OF KEY ISSUES FROM PREVIOUS UPR CYCLES

During the 2nd UPR cycle, Cambodia received 35 recommendations relating to civic space. Of these, 25 were accepted and 10 were noted. Cambodia has **not implemented 24 accepted recommendations** and **partially implemented one accepted recommendation relating to civic space**. The received recommendations included eight on freedom of association, 10 on the protection of human rights defenders (HRDs), activists and journalists, 23 on freedom of expression, and 11 on freedom of peaceful assembly. The government committed, for example, to “Promote a safe and favorable environment that allows individuals and groups to exercise the freedoms of expression, association and peaceful assembly and put an end to harassment, intimidation, arbitrary arrests and physical attacks...”.

GUARANTEES OF FUNDAMENTAL FREEDOMS

The **International Covenant on Civil and Political Rights (ICCPR)** (Articles 22, 21 and 19), to which Cambodia is a party, and the **Constitution of the Kingdom of Cambodia** (Articles 41 and 42) guarantee **freedoms of association, peaceful assembly and expression**. Further, Cambodia’s Constitutional Council authoritatively interpreted Article 31 of the Constitution to mean that the provisions of the ICCPR are directly applicable in domestic law.

FREEDOM OF ASSOCIATION

The government has enacted legislation that excessively restricts the freedom of association, and misapplied these laws to undermine civil society, including trade unions, as well as opposition political parties.

- ➔ The Law on Associations and Non-Governmental Organisations (LANGO, 2015), Ministry of Interior letter on prior notification for associations activities (2017), Trade Union Law (TUL, 2016), amendments to the Law on Political Parties (LPP, 2017) and amendment to the Constitution (2018) violate international standards for freedom of association.
- ➔ From April 2017 to March 2018, 184 incidents* of government oversight of CSOs that violated international standards were recorded, with frequent extra-legal interruptions of activities. Surveillance of CSOs accused of participating in an alleged ‘colour revolution’ increased, which has led to further monitoring and harassment.
- ➔ Provisions of the LANGO were invoked to close or suspend number of critical CSOs (such as NDI, EC & FCIS). Many CSOs are unable to meet the onerous activity and financial reporting requirements (LANGO).
- ➔ Amendments to LPP were used to dissolve 10 political parties (including the main opposition party CNRP), and deregister 22 parties. 118 senior CNRP officials were banned from participating in political activity for five years.

HUMAN RIGHTS DEFENDERS

HRDs, civil society activists, journalists, and trade union leaders have faced judicial harassment and extra-legal violence, threats and surveillance, severely undermining their ability to exercise their fundamental freedoms.

- ➔ The Criminal Code and other legislation is regularly used to criminalise the work of HRDs. From March 2017 to April 2018, legal action was taken against at least 36 HRDs as a result of exercising their fundamental freedoms.
- ➔ HRDs’ communications and activities are subject to surveillance. In December 2017, 44 per cent of CSO and trade union leaders surveyed believed that their communications had been monitored.
- ➔ Harassment of HRDs is widely met with impunity, whilst others face threats in an attempt to restrict their activism. This creates a fear of engaging in legitimate activities, with many HRDs fleeing Cambodia due to perceived threats.
- ➔ Whilst some HRDs have been released from prison in the post-election climate, charges or convictions against them have not been overturned, and this is not indicative of the broader space for HRDs to undertake their work.

* Numbers of incidents and percentages cited in this factsheet rely on the Fundamental Freedoms Monitoring Project (FFMP), ‘Cambodia Fundamental Freedoms Monitor, Second Annual Report, April 2017-March 2018’, CCHR, SC/ACILS and ADHOC, available at: <https://bit.ly/2liVDvK>

The government enacted several laws that violate freedom of expression and utilised the legal framework to suppress and criminalise the legitimate expression of dissent and political speech, amidst a crackdown against the political opposition, the media and dissenting voices, increasingly in relation to online speech.

- Several provisions of the legal framework criminalize legitimate speech and excessively restrict the right to freedom of expression, such as the Criminal Code (Arts. 305, 307, 495, 496, 522, 523) including a 'lèse-majesté' amendment (Art. 437-bis, Feb. 2018), Law on Telecommunications (2016), amendment to the Constitution (Arts. 42 & 49, Feb. 2018); Inter-ministerial Prakas on Website and Social Media Control (May 2018) and the National Election Committee Code of Conduct for the Media (May 2018).
- 187 violations of freedom of expression were recorded from April 2017 to March 2018. A surge in criminal charges were brought against individuals for critical social media commentary which corresponded with an increase in self-censorship. Three individuals arrested and charged under the 'lèse-majesté' offense in May and June 2018.
- A severe crackdown against media perceived as critical towards the government was seen throughout 2017-2018, severely curtailing citizens' access to information.

Whilst the legal framework governing assemblies largely complies with international standards, the RGC consistently misapplies it and arbitrarily restricts the right to freedom of assembly, including through the arbitrary prohibition of planned assemblies and excessive state use of force.

- 111 violations of the freedom of peaceful assembly were recorded from April 2017 to March 2018. Notably, 33% of protests concerning land disputes and 22% of strikes resulted in violations of fundamental freedoms.
- In practice assembly organisers are often required to obtain permission for assemblies. From April 2017 to March 2018, 26 prohibitions of assemblies were recorded, including blanket bans imposed with no basis in law. Time and location restrictions were frequently imposed, subduing assemblies' impact. Restrictions on the freedom of movement were also utilized to undermine the freedom of peaceful assembly.
- The use of force by state-sanctioned authorities, including soldiers and government-contracted private security guards, violated international standards. Threats of violence and legal action were also utilized to deter assemblies.

RECOMMENDATIONS

1. Take measures to foster a **safe, respectful and enabling environment for civil society**, including by removing legal and policy measures that unjustifiably limit the right to freedom of association.
2. **Amend the LANGO** (including Arts. 6, 8, 24, 25 and 30), **TUL** and related secondary legislation (including Arts. 15 and 17 and Prakas 249), and **LPP** (including Arts. 6, 18 and 45) to bring them into line with Cambodia's obligations under the ICCPR.
3. **Repeal the Ministry of Interior letter of October 2017** and clarify that **CSOs do not need to notify authorities** prior to conducting activities.
4. **Cease judicial harassment of and drop charges against all HRDs**, including journalists, for exercising their fundamental freedoms.
5. **Ensure that HRDs are able to carry out their legitimate activities** without fear or undue hindrance, obstruction or harassment.
6. **Conduct impartial, thorough and effective investigations** into all cases of attacks on and harassment and intimidation against HRDs, and **bring the perpetrators to justice**.
7. **Amend the Criminal Code**, including articles 437-bis (Insulting the King), 305 (Defamation), 307 (Insult), 495 & 496 (Incitement), 522 (Unlawful Coercion of Judicial Authorities) and 523 (Discrediting Judicial Decisions) to bring them in line with Cambodia's obligations under the ICCPR.
8. Ensure an enabling environment for freedom of expression online, including by immediately **revoking the inter-ministerial Prakas (No. 170 Br.K) on website and social media control** of 28 May 2018.
9. **Amend the Law on Telecommunications** (including Arts. 80 and 97) to ensure that all provisions are in accordance with international standards.
10. **Re-create an enabling environment for a free and pluralistic media**, including by ceasing judicial harassment against journalists, and abuse of tax regulations to harass media outlets and associations.
11. Ensure that all **restrictions or prohibitions on assemblies are prescribed by law**, pursue a legitimate aim, are necessary and proportionate, and are provided with timely and fulsome reasoning, in accordance with the Law on Peaceful Assembly.
12. Ensure that the **use of force at assemblies is exceptional and strictly complies with principles of legality**, precaution, necessity, proportionality and accountability, and provide comprehensive and periodic training to security forces charged with policing assemblies.

- Please refer to the full joint-submission on Civic Space and Fundamental Freedoms for comprehensive recommendations. -