Access to Justice in Cambodia

Joint Submission to the Human Rights Council of the United Nations
Third Universal Periodic Review of the Kingdom of Cambodia

Overview - UPR Pre-session, Geneva, Switzerland

December 2018
Access to justice in Cambodia - UPR submissions

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Access to justice in Cambodia - Overview

- 2nd UPR cycle:
  - 59 recommendations
  - 45 accepted
  - 14 noted

- Key issues:
  I. Lack of independence & impartiality of the judiciary
  II. Insufficient access to legal aid
  III. Limited access to legal information & to courts
  IV. Violation of fair trial rights
Lack of independence & impartiality of the judiciary

- 2014: the “3 laws on the judiciary” were adopted
  - Gave the executive excessive control over the judiciary
- Supreme Court’s President & Appeal Court’s President are members of the ruling party’s central committee

**Recommendations**

1. Amend the 3 laws on the judiciary to ensure their compliance with international human rights standards
2. Guarantee the effective and impartial application of the Constitution, legislation and court rulings
Insufficient access to legal aid

- **Legal aid budget insufficient**: 50-70$ per case (average)
- Not available for all crimes
- **Not available at all stages of proceedings**
- 6 lawyers/100,000 people

**Recommendations**

1. Conduct a comprehensive needs assessment to determine the required annual legal aid budget

2. 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
Limited access to legal information & courts

- Access to legal information not legally protected
- Judgments are not easily accessible or publicly available
- Only one Court of Appeal, in Phnom Penh

Recommendations

1. Enact and ensure that the Law on Access to Information effectively safeguards the right to obtain legal information

2. Create a free, accessible and up-to-date official legal information database by 2021

3. Establish regional Appeal Courts & ensure their operationalization by the end of 2023
Violations of fair trial rights

- Presumption of innocence is routinely ignored
- 74% of all detainees in pre-trial detention (May 2018)
- No detailed justification is provided for judgments
- Juveniles rights, esp. privacy, are not respected
- Insufficient consideration of women's rights, esp. GBV

Recommendations

1. Require that all judges strictly respect the presumption of innocence
2. Ensure that the competent judicial authorities interpret the justifications for pre-trial detention strictly & narrowly
3. Adopt legislation protecting the rights of victims of gender-based violence and of juveniles in legal proceedings
Thank you!

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