



List of issues submission for the Human Rights Committee’s third review of the Kingdom of Cambodia

May 2020

The [Cambodian Center for Human Rights](http://www.sithi.org/) (“CCHR”), founded in November 2002, is a leading nonaligned, independent, non-governmental organization that works to promote and protect democracy and respect for human rights – primarily civil and political rights – in the Kingdom of Cambodia (“Cambodia”). We empower civil society to claim its rights and drive change; and through detailed research and analysis we develop innovative policy, and advocate for its implementation.

CCHR is a member of International Freedom of Expression Exchanges (“IFEX”), the global network for freedom of expression. CCHR is also a member of the World Organization Against Torture (“OMCT”) SOS-Torture Network, the South East Asian Press Alliance (“SEAPA”), and the CIVICUS alliance.

The Cambodian Human Rights Portal www.sithi.org/ is the 2011 winner of the Information Society Innovation Fund Award in the category of Rights and Freedoms and the 2013 winner of the Communication for Social Change Award, awarded by the Centre of Communication and Social Change at the University of Queensland in Brisbane, Australia.

Executive summary

CCHR is making submissions to the Human Rights Committee on the following Articles of the International Covenant on Civil and Political Rights (“ICCPR”): Article 2; Article 3; Article 4; Article 6; Article 7; Article 9; Article 10; Articles 12; Article 14; Article 17; Article 19; Article 21; Article 22; Article 23; Article 25 & Article 26. CCHR also submits an annex outlining the status of implementation of the recommendations from Cambodia’s second review in April 2014.

This list of issues outlines CCHR’s concerns in relation to a number civil and political rights issues in Cambodia. Violations of the right to vote and electoral irregularities plagued Cambodia’s 2018 National Elections, which resulted in the creation of a *de facto* one-party state. There have been repeated acts silencing dissenting voices, and human rights defenders (“HRDs”), journalists, trade union leaders, former opposition members and ordinary Khmer citizens have been intimidated, harassed, and arbitrarily arrested for exercising their fundamental freedoms. Various freedom-impacting laws have been adopted and misapplied over the years, creating a climate of fear and self-censorship. The persistent shortcomings of the judicial system, including frequent imposition of excessively lengthy pre-trial detention, lack of independence of the judiciary and the impunity it allows, are also serious causes for concern. Other areas of concern highlighted in this list include violations of the freedom of movement and the right to marry, the persistence of gender inequality,

as well as the discrimination that minority groups and lesbian, gay, bisexual, transgender, intersex and queer (“LGBTIQ”) individuals continue to face.

List of Issues

1. Article 2: Right to an Effective Remedy

1.1. Impunity

Impunity remains a serious concern in Cambodia. Crimes perpetrated against environmental activists,¹ land rights activists,² garment workers,³ former political opposition party members, trade unionists, as well as journalists are often either not investigated at all or investigated without transparency, independence and impartiality.⁴ When perpetrators are convicted, they often receive a suspended sentence or are released early. The 2016 murder of Kem Ley, a prominent political analyst and government critic, is perhaps the most illustrative example of impunity. Kem Ley was shot dead in broad daylight on 10 July 2016. His murder came a few days after his comments on the radio about a controversial Global Witness report alleging corruption at the highest levels in Cambodia.⁵ Kem Ley’s shooter, Oeuth Ang - who initially gave his name as “Chuob Samlab” meaning ‘meet to kill’⁶ - was convicted of premeditated murder on 23 March 2018, and sentenced to life imprisonment. However, the process that led to his conviction has been heavily criticized,⁷ as the alleged investigations into other suspects, if they have occurred at all, failed to meet the minimum requirements of transparency and independence.⁸ The ruling convicting Oeuth Ang was upheld by the Supreme Court in May 2019.⁹ This case is just one example of impunity for the deaths of dissenting voices, and other high profile cases of impunity include the murder of environmental activist Chut Wutty and prominent union leader Chea Vichea.¹⁰ The right to remedy for victims of human rights violations includes access to justice, reparations for the harm they have suffered, access to the details surrounding the violations they experienced, and access to reparation mechanisms. The Royal Government of Cambodia (“RGC”)

¹ CCHR, ‘Tireless activist Chet Wutty shot dead in Koh Kong province’, 26 April 2012,

https://cchrcambodia.org/index_old.php?url=media/media.php&p=alert_detail.php&alid=18&id=5.

² Amelia Woodside and Khouth Sophak Chakrya, ‘Land rights activists under threat’, *The Phnom Penh Post*, 18 April 2014,

<https://www.phnompenhpost.com/national/land-activists-‘under-threat’>.

³ Human Rights Watch, ‘Public letter urging an immediate investigation into the disappearance of Khem Sophath’, 23

March 2014, <https://www.hrw.org/news/2014/03/23/cambodia-public-letter-urging-immediate-investigation-disappearance-khem-sophath>.

⁴ See the CCHR’s 2017 ‘End Impunity’ campaign for details of all cases:

https://www.cchrcambodia.org/index_old.php?url=our_work/our_work.php&p=campaigns/impunity-2017/index.php&lang=eng.

⁵ CCHR, ‘Campaign Against Impunity - Victim’s profile: Kem Ley’ (2017),

https://www.cchrcambodia.org/our_work/campaigns/impunity-2017/lmg/profile/22-Kem-Ley-en.png.

⁶ BBC News, ‘Killer of Cambodian activist Kem Ley sentenced to life’, 23 March 2017, <https://www.bbc.com/news/world-asia-39362264>.

⁷ BBC News, ‘Killer of Cambodian activist Kem Ley sentenced to life’, *BBC*, 23 March 2017,

<https://www.bbc.com/news/world-asia-39362264>.

⁸ See Human Rights Watch, ‘Joint Letter on Investigation into Killing of Kem Ley’, 7 July 2017,

<https://www.hrw.org/news/2017/07/07/joint-letter-investigation-killing-kem-ley>. See also: International Commission of

Jurists, ‘Cambodia: Three Years and Still No Effective Investigation Into Dr. Kem Ley’s Killing’, 9 July 2019,

<https://www.ici.org/cambodia-three-years-and-still-no-effective-investigation-into-dr-kem-leys-killing/>.

⁹ Khuon Narim, ‘Supreme Court upholds life sentence for Kem Ley’s killer’, *Khmer Times*, 27 May 2019,

<https://www.khmertimeskh.com/50607926/supreme-court-upholds-life-sentence-for-kem-leys-killer/>.

¹⁰ See, for example, CCHR, ‘2017 Campaign to End Impunity in Cambodia – “Never Forget”’, 2017,

https://www.cchrcambodia.org/index_old.php?url=our_work/our_work.php&p=campaigns/impunity-2017/index.php&lang=eng.

is failing to uphold the victims' right to truth, justice and remedies by failing to carry out independent and transparent investigations into the crimes against activists and those with dissenting voices.

1.2. [National Human Rights Institution \(“NHRI”\)](#)

Through their second cycle Human Rights Committee review¹¹ and in their 2019 third cycle Universal Periodic Review,¹² the RGC has committed to establishing an NHRI to remedy human rights abuses. In establishing an NHRI, the RGC must ensure compliance with international standards, including the Paris Principles, and ensure its independence. The RGC must ensure the NHRI is provided with adequate powers of investigation and adequate resources and facilities, including funding, to operate autonomously from the RGC, and that NHRI is composed of staff independent from the RGC and a pluralist representation of social forces, including independent experts.¹³

1.3. [Optional Protocol to the International Covenant on Civil and Political Rights](#)

The RGC has not ratified the Optional Protocol to the ICCPR. Given the lack of NHRI, the culture of impunity that prevails in Cambodia and the difficulties in obtaining a remedy through domestic court systems, the government should allow individuals to submit complaints to the Human Rights Committee regarding violation of ICCPR rights.

1.4. [Recommendations](#)

The Human Rights Committee may wish to consider:

- Calling on the RGC to take all measures to effectively combat impunity for acts of violence against all individuals, particularly HRDs, land activists and marginalized groups;
- Calling on the RGC to ratify the Optional Protocol to the ICCPR to allow individuals, including HRDs, to submit complaints to the Human Rights Committee regarding alleged violations of the rights in the ICCPR;
- Calling on the government to follow through their commitment following the Universal Periodic Review and establish an independent NHRI in compliance with international standards, including the Paris Principles.¹⁴

2. [Article 3: Gender Equality](#)

2.1. [Underrepresentation of women at decision-making levels as well as in the justice system](#)

The significant underrepresentation of women in all decision-making levels in Cambodia greatly impedes on women's ability to equally enjoy their civil and political rights. The RGC has repeatedly committed to voluntary goals to increase the number of women in elected and appointed political offices and in civil service.¹⁵ Despite these commitments, since the last National Election, the number

¹¹ UN Human Rights Committee, 'Third periodic report submitted by Cambodia under Article 40 of the Covenant', 5 August 2019, CCPR/C/KHM/3, p 8.

¹² UN Human Rights Council, 'Report of the Working Group on the Universal Periodic Review: Cambodia', 2019, UN Doc A/HRC/41/17.

¹³ UN, 'Principles relating to the Status of National Institutions (the Paris Principles)', adopted by the General Assembly resolution 48/134, 20 December 1993.

¹⁴ UN Human Rights Council, 'Report of the Working Group on the Universal Periodic Review: Cambodia', 2019, UN Doc A/HRC/41/17.

¹⁵ Such as Neary Rattanak IV (the overall gender equality plan) and the National Action Plan to Prevent Violence Against Women.

of women in politics has fallen from already low numbers. As at November 2017, women only represented 14% of members of the Senate and 15% of the National Assembly. In addition, at the local level, women make up approximately 20% of positions,¹⁶ and as at April 2019, women represented only 4% of provincial governors, and 3% of city governors.¹⁷ Moreover, women are significantly underrepresented in all parts of the justice system in Cambodia. The number of women in the judiciary is drastically low; as of 2017, only 14% of all judges, 12% of prosecutors and 20% of lawyers were women.¹⁸ Such inequality in accessing judicial professions has an impact on women defendants, victims and witnesses.

2.2. Gender-based discrimination and violence

Although the RGC has introduced measures to tackle gender-based violence (“GBV”) in recent years, violence against women remains a pervasive problem in Cambodia. It impacts the lives of millions of women across Cambodia and is inextricably linked to the inability of women to realize their human rights.¹⁹ Statistics show that at least one in five women in Cambodia have experienced physical or sexual violence by an intimate partner.²⁰ This rate is higher for transgender women, women from lower socio-economic backgrounds and sex workers.²¹ The barriers women face in accessing assistance and justice have considerably amplified this problem. There is a significant lack of services for survivors of GBV in Cambodia. Moreover, the functioning of the criminal justice system in Cambodia is a major concern generally, as discussed below in s.9. In relation to GBV, one core problem is the inability of the criminal justice system to afford sufficient sincerity to the rights of women who are disproportionately affected by it. Despite the introduction of the *Domestic Violence Law* in 2004, perpetrators of domestic violence, who are overwhelmingly male, are often not held accountable for their crimes.²² Moreover, courts and judges often lack specialized knowledge on adjudicating GBV cases. Impunity also prevails for the most violent cases of GBV. For example, the death of sex worker Pen Kunthea²³ or of singer San Sreylai were never resolved.²⁴ The result is a total lack of confidence in the judicial system, with many people experiencing GBV not turning to the courts for justice.

2.3. Budget for the advancement of women’s rights and gender equality

One impediment to the advancement of gender equality in Cambodia is the lack of budgetary support

¹⁶ Leonie Kijewski, ‘Only two women join National Assembly’, *The Phnom Penh Post*, 30 November 2017

<https://www.phnompenhpost.com/national-politics/only-two-women-join-national-assembly>.

¹⁷ UN Human Rights Committee, ‘Third periodic report submitted by Cambodia under Article 40 of the Covenant’, 5 August 2019, CCPR/C/KHM/3, p10.

¹⁸ Leonie Kijewski and Yon Sineat, ‘In Cambodia’s courts, it’s a man’s world – with the effects felt by female employees and victims alike’, *The Phnom Penh Post*, 23 February 2018, <https://www.phnompenhpost.com/national-post-depth/cambodias-courts-its-mans-world-effects-felt-female-employees-and-victims-alike>.

¹⁹ CCHR, ‘Factsheet: Violence Against Women in Cambodia’ (December 2018), https://cchrcambodia.org/admin/media/factsheet/factsheet/english/CCHR%20Factsheet_Violence%20Against%20Women_ENG.pdf.

²⁰ The Royal Government of Cambodia, World Health Organization and UN Women Cambodia, ‘National Survey on Women’s Health and Life Experiences’ (2015), <https://asiapacific.unwomen.org/en/digital-library/publications/2015/11/national-survey-on-women-s-health-and-life-experiences-in-cambodia#view>

²¹ CCHR, ‘Factsheet: Violence Against Women in Cambodia’ (December 2018), https://cchrcambodia.org/admin/media/factsheet/factsheet/english/CCHR%20Factsheet_Violence%20Against%20Women_ENG.pdf

²² Ibid.

²³ Leonie Kijewski, ‘Sex Workers Death Still Unpunished’, *The Phnom Penh Post*, 4 January 2018, <https://www.phnompenhpost.com/national/sex-workers-death-still-unpunished>.

²⁴ Mech Dara, ‘Voice Cambodia star San Sreylai shot dead murder suicide’, *The Phnom Penh Post*, 16 October 2017, <https://www.phnompenhpost.com/national/voice-cambodia-star-san-sreylai-shot-dead-murder-suicide>.

and resources dedicated to implementing national action plans and women’s rights initiatives. Traditionally, many non-governmental organizations (“NGOs”) and foreign governments have contributed to these programs. However, the RGC will need to increase its own role significantly if progress is to be achieved to ensure that gender equality becomes a reality. The overreliance on NGOs and foreign aid to provide basic services and implement programming to achieve national goals of gender equality leads to inconsistent, incomplete implementation of action plans. Moreover, the RGC does not dedicate enough of its growing budget toward the training, technology and human resources needed to fully implement plans such the National Action Plan to Prevent Violence against Women. In addition, the RGC places most of the responsibility for managing these plans upon the Ministry of Women’s Affairs (“MoWA”), whose budget is relatively small considering its far-reaching responsibilities. The national budget also does not fund gender mainstreaming effectively.

2.4. Recommendations

The Human Right Committee may wish to consider:

- Urging the RGC review budgets for women’s initiatives, action plans and the MoWA and implement gender-responsive budgeting in order to advance gender equality;
- Recommending the RGC adopts effective legal and practical measures to guarantee that 35% of government decision-making positions will be filled by women by 2023, at the national and subnational levels, and all parts of the justice system, in line with target 5.5 of the Sustainable Development Goals (“SDGs”);
- Calling on the RGC to amend the *Domestic Violence Law* and Criminal Code to comprehensively address the complex and diverse forms of GBV experienced by women in Cambodia; follow up efforts to monitor acts of violence and discrimination against women by publicly disseminating information on the frequency of the problem and its negative impacts; provide sufficient resources to the police to ensure that all sexual violence cases are fully and properly investigated; and take meaningful steps to eliminate discriminatory attitudes towards women in institutions of justice, for instance by adequately training judicial actors and law enforcement officials about gender-specific issues.

3. Article 4: Times of Public Emergency

In May 2020, the RGC passed the heavily criticized *Law on the Management of the Nation in State of Emergency* (“*State of Emergency Law*”),²⁵ which grants the RGC extensive powers to restrict human rights if a state of emergency is declared.²⁶ The *State of Emergency Law* was impulsively drafted without adequate consultation with civil society or the UN Office of the High Commissioner for Human Rights to ensure the protection of human rights.

A number of the provisions in the *State of Emergency Law* do not comply with the standards outlined in Article 4 of the ICCPR.²⁷ The powers granted to the government under Article 5 of the new Law are particularly alarming. The Law prescribes vague, sweeping and unfettered powers to the government

²⁵ Ben Sokhean, ‘State of Emergency draft signed into law’, *Khmer Times*, 30 April 2020, <https://www.khmertimeskh.com/50718535/state-of-emergency-draft-signed-into-law/>.

²⁶ ‘Joint Statement: CSOs call for the Royal Government of Cambodia to Amend the State of Emergency Law to Protect Human Rights’, CCHR, 13 May 2020, https://cchrcambodia.org/index_old.php?title=Civil-Society-Organizations-call-for-the-Royal-Government-of-Cambodia-to-Amend-the-State-of-Emergency-Law-to-Protect-Human-Rights&url=media/media.php&p=press_detail.php&prid=756&id=5&lang=eng.

²⁷ Ibid.

to implement measures during states of emergency, including restricting or prohibiting movement, free speech and business activities, closing public and private spaces, surveilling communication as well as monitoring and controlling social media. These measures have the potential to severely constrain a range of fundamental freedoms including freedom of association, assembly, information, expression, movement, as well as the right to work and the right to ownership of property. The Law also encompasses a catch-all clause granting undefined and unimpeded powers to the government to implement any other measures that it deems appropriate. There are no limitations written into the Law restraining these measures in compliance with Article 4 of the ICCPR and no oversight mechanism to ensure accountability. The potential for utilizing the Law to target HRDs, civil society and the media is exacerbated by the imprecise criminal offenses created by the Law which mandate severe penalties for not complying with emergency measures for both individuals and organizations.

3.1. Recommendations

The Human Rights Committee may wish to consider:

- Calling on the RGC to undertake legitimate consultation with stakeholders, including the UN Office of the High Commissioner for Human Rights, and substantially amend the *State of Emergency Law* to ensure its compliance with Article 4 of the ICCPR.

4. Article 6: Right to Life

Various incidents over the last few years seem to suggest a pattern of use of excessive, and sometimes lethal, force to subdue those perceived as activists, dissidents or critics of the government.

4.1. Deaths in police custody

Of particular concern are the deaths of Tith Rorn and Tuy Sros, who both died while in police custody. Tith Rorn, a Cambodian National Rescue Party (“CNRP”) activist, died on 18 April 2019 in a police station in Kampong Cham province.²⁸ The police have claimed his death was a result of a fall in the jail restroom but suspicious bruises on Rorn’s body and a lack of independent or impartial investigation into his death have raised concerns by his family that he was subject to police brutality.²⁹ Moreover, in December 2019, Tuy Sros and four other villagers from Changha commune in O’Chrov district were detained by provincial military police after joining a protest regarding a land dispute from 28 - 31 of December in Banteay Meanchey province. While in detention on 31 December 2019, Tuy Sros was sent to the provincial referral hospital for an unspecified illness and died the next day. A statement was released by the police after his death, saying Sros had “*died as a result of sickness*”. However, protesters who were arrested alongside Sros said they witnessed military police personnel repeatedly beat him and severely torture him over the course of his detention.³⁰ A subsequent investigation into the death of Sros identified two military officers involved in his torture who have been charged with

²⁸ Richard Finney, ‘CNRP, Cambodia Rights Groups Call for Investigation into Death in Custody,’ *Radio Free Asia*, 6 May 2019, <https://www.rfa.org/english/news/cambodia/investigation-05062019155435.html>.

²⁹ Richard Finney, ‘CNRP, Cambodian Rights Group Calls for Investigation into Death in Custody,’ *Radio Free Asia*, 6 June 2019, <https://www.rfa.org/english/news/cambodia/investigation-05062019155435.html>.

³⁰ Sun Narin, ‘Land Dispute Victims Point to Military Police Beatings In Tuy Sros Death,’ *VOA*, 28 January 2020, <https://www.voacambodia.com/a/land-dispute-victims-point-to-military-police-beatings-in-tuy-sros-death/5263669.html>; and Joshua Lipos, ‘Authorities in Cambodia Arrest Police Officials Over Role in Alleged Torture Case,’ *Radio Free Asia*, 21 January 2020, <https://www.rfa.org/english/news/cambodia/torture-01212020170057.html>.

‘intentional violence with aggravating circumstances’, however there has not been a public update on their trials.³¹

4.2. Lack of protection for human rights defenders and critical voices

The lack of protection for HRDs, outspoken activists and dissenting individuals has led to life-threatening situations for former opposition members, trade unionists and other critical voices. Several former-CNRP members and activists have been the targets of violent attacks by unknown assailants riding motorbikes and wielding metal bars.³² The similar circumstances of these attacks suggest these individuals were not targeted at random, but rather for their association to the CNRP. CCHR has recorded eight reported attacks of CNRP members between April 2019 and March 2020. Moreover, trade unionist Soeun Man, Vice President of the Coalition of Cambodian Apparel Workers Democratic Union, was subject to a similar attacks in January 2020.³³

4.3. Recommendations

The Human Rights Committee may wish to consider:

- Recommending the RGC thoroughly and transparently investigates the death of Tith Rorn, and ensure the trial of the military officers found to be involved in the torture and ill-treatment of Tuy Sros;
- Inquiring with the RGC as to steps taken to provide training to enforcement officials charged with overseeing the custody of suspects;
- Recommending that the RGC provide regular seminars to Cambodian security forces on the *United Nations Code of Conduct for Law Enforcement Officials* and the *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*;
- Calling on the RGC to systematically conduct thorough, independent and impartial investigations into the deaths and injuries of human rights defenders, protesters, activists and civilians and hold those responsible to account.

5. Article 7: Right to Freedom from Torture or Cruel, Inhuman or Degrading Treatment or Punishment

5.1. Torture and violence, as recorded by CCHR’s Fair Trial Rights team

In recent years, there have been many reports of individuals being tortured while in police custody in order to obtain confessions, in breach of Cambodia’s obligations under Article 7 of the ICCPR. CCHR’s Fair Trial Rights Project, which conducts court monitoring of criminal trials in Cambodia, recorded 21 cases of individuals who stated violence or torture was used against them in order to obtain a

³¹ Sun Mesa, ‘Two provincial military police officers involved in torturing villager’, *Khmer Times*, 20 January 2020, <https://www.khmertimeskh.com/681290/two-provincial-military-police-officers-involved-in-torturing-a-villager/>.

³² See for example: Muang Nareth, ‘Opposition activist in Phnom Penh was attacked by two strangers on a motorbike’, *RFA*, 20 January 2020, <https://www.rfa.org/khmer/news/politics/cnrp-activist-in-phnom-penh-attacked-01202020084622.html>; Hul Reaksmey ‘Rights Groups Fear Increased Violence Against CNRP Activist’, *VOA*, 17 October 2019, <https://translate.google.com/translate?hl=en&sl=km&u=https://khmer.voanews.com/a/twenty-one-rights-groups-call-on-authorities-to-protect-political-participation-for-all/5127656.html&prev=search>; and Khut Sokun, Khan Leakhena, Vann Vichar and Nhim Sokhorn ‘Rainsy’s Former Body Guard Attacked; Ex-CNRP Arrest Count to 28’, *VOD*, 23 September 2019, <https://vodenglish.news/rainsys-former-bodyguard-attacked-ex-cnrp-arrest-count-up-to-28/>.

³³ Heng Raksmeay, ‘A W&D vice president hit in the head during lunch break’, *RFA*, 10 February 2020, <https://www.rfa.org/khmer/news/social-economy/union-leader-of-wd-factory-assaulted-02102020071544.html>.

confession during investigations in its October 2019 Report,³⁴ and 40 cases in its June 2018 Annual Report.³⁵

5.2. Deaths in police custody

There have been reports of suspicious deaths in custody attributed to torture and cruel treatment at the hands of the police, as discussed above at s.4.1.

5.3. Recommendations

The Human Rights Committee may wish to consider:

- Recommending the RGC, Ministry of Justice and relevant Courts promptly and thoroughly investigate claims of coercion, duress or torture to obtain confessions of guilt;
- Recommending the RGC reviews measures, laws and policies in place and the training of staff to prevent torture in detention centers and police custody across Cambodia.

6. Article 9: Right to Liberty and Security

6.1. Arbitrary deprivations of liberty of former CNRP members, HRDs and journalists

The intimidation and harassment of former-CNRP members, activists, HRDs and journalists have remained widespread over the years, and the judicial system is regularly used to arbitrarily detain dissidents and critics of the government on politically motivated charges, depriving them of their liberty. On 12 September 2019, for instance, a former member of CNRP's executive committee, Chim Sinoeun, was detained by Kampong Chhnang authorities for conspiracy to engage in fishing offenses.³⁶ CNRP officials claim that the arrest came after Sinoeun's refusal to join the CPP. The Cambodian judicial system has also been used to prosecute HRDs and environmental activists. For example, land rights defender Tep Vanny has been subject to significant judicial harassment for her work as an activist. She has been convicted five times since 2008 for multiple criminal charges relating to her participation in peaceful assemblies, some of which were reactivated cases relating to events up to five years prior. Due to this judicial harassment, Tep Vanny has been repeatedly deprived of her liberty and in total spent over two years in prison. In August 2018, Tep Vanny received a royal pardon. Other prominent examples include the arbitrary arrests and deprivation of liberty of five members of human rights NGO Adhoc, referred to as the 'Adhoc 5' in 2016 for bribery of a witness in a case involving Kem Sokha; and the detention of environmental NGO Mother Nature activists Hun Vannak and Doem Kundy in 2017 for filming suspected sand dredging off the coast of Koh Kong Province. The Adhoc 5 spent fourteen months in pre-trial detention, deemed as arbitrary by the UN Working Group on Arbitrary Detention,³⁷ before being convicted and sentenced to five years in prison, with the sentence

³⁵ CCHR, 'Fair Trial Rights in Cambodia Annual Report' (June 2018), <https://cchrcambodia.org/admin/media/report/report/english/CCHR%20Report%20on%20Fair%20Trial%20Rights%20ENG.pdf>.

³⁶ Heng Raksmeang, 'Kongpong Chhngg Provincial Court Charged an Opposition Activist with Conspiracy to Commit a Fishing Offense,' *Radio Free Asia*, 12 December 2019, <https://www.rfa.org/khmer/news/politics/kompong-chhnang-court-presses-charge-opposition-activist-12232019225433.html>.

³⁷ UN Human Rights Council, Working Group on Arbitrary Detention, 'Opinion No. 45/2016 concerning Ny Sokha, Nay Vanda, Yi Soksan, Lim Mony and Ny Chakrya (Cambodia)' 17 January 2017, UN Document A/HRC/WGAD/2016/45, p11.

suspended.³⁸ Similarly, the Mother Nature activists spent five months in pre-trial detention, before being convicted and sentenced to one year, with seven months suspended.³⁹

6.2. Excessive use of lengthy pre-trial detention

Incarceration, in the form of pre-trial detention, continues to be the norm for those awaiting trial, in clear violation of Article 9 of the ICCPR which states that “*it shall not be the general rule that persons awaiting trial shall be detained in custody*”. Pre-trial detainees reportedly make up for a staggering 72% of those currently occupying Cambodia’s prisons.⁴⁰ Kem Sokha, the former-CNRP leader, spent 26 months in pre-trial detention, either in prison or under *de facto* house arrest, amounting to an arbitrary deprivation of liberty.⁴¹

6.3. Recommendations

The Human Rights Committee may wish to consider:

- Urging the RGC to put an end to the judicial harassment of HRDs, opposition members and journalists and immediately release those detained for exercising their rights to freedom of association, peaceful assembly and expression;
- Recommending to the RGC to stop the use of incarceration as default for those awaiting trial and instead prioritize bail and trial hearings.

7. Article 10: Right to Humane Treatment in Detention

7.1. Deplorable conditions of detention

Many inmates in Cambodia carry out their sentence in squalid conditions. The corruption that purportedly dominates the prison system means that basic necessities, such as access to food and clean water, recreational time outside cells and medical care, are reportedly denied to those who cannot afford it.⁴² The denial of these basic rights means that conditions of detention in most Cambodian prisons often amount to cruel, inhuman or degrading treatment. Vulnerable detainees, such as persons suffering from mental health illnesses, pregnant women and mothers incarcerated with their young babies, face even direr conditions, as many prisons do not offer specialized care to accommodate their particular needs.⁴³ Furthermore, some vulnerable members of Cambodia’s population are detained in ‘rehabilitation centers’ in extremely poor conditions. For example, the heavily criticized Phnom Penh Social Affairs and Transit Centre (Prey Speu) houses people experiencing homelessness, beggars, and people suffering from mental illness or drug addiction, often

³⁸ Human Rights Watch, ‘Cambodia: Drop fabricated charges against ‘ADHOC 5’, 26 August 2018, <https://www.hrw.org/news/2018/08/26/cambodia-drop-fabricated-charges-against-adhoc-5> ; See also: Niem Chheng, ‘Adhoc 5’ free despite being sentenced to five years in jail, 26 September 2018, <https://www.phnompenhpost.com/national/adhoc-5-free-despite-being-sentenced-five-years-jail>.

³⁹ Joint statement, ‘CSOS call for immediate release of Mother Nature activists Hun Vannak and Doem Kundy’, 14 November 2017, https://cchrcambodia.org/index_old.php?url=project_page/project_page.php&p=press_detail.php&pro=PFF&pro_id=13&prid=676&id=3 ; See also: Niem Chheng and James Reddick, ‘Mother Nature activists found guilty’, *Phnom Penh Post*, 26 January 2018, <https://www.phnompenhpost.com/national/mother-nature-activists-found-guilty>.

⁴⁰ Amnesty International, ‘Cambodia : Exclusive footage reveals deplorable prison conditions’, 10 April 2020, <https://www.amnesty.org/en/latest/news/2020/04/cambodia-exclusive-footage-reveals-deplorable-prison-conditions/>.

⁴¹ Al Jazeera, ‘Cambodia Opposition Figure Kem Sokha Under House Arrest,’ *Al Jazeera*, 10 September 2018, <https://www.aljazeera.com/news/2018/09/cambodia-opposition-figure-kem-sokha-house-arrest-180910052227527.html>.

⁴² LICADHO, ‘Life in Prison : A Mother’s Story’ (2 December 2019), <https://www.licadho-cambodia.org/video.php?perm=86>.

⁴³ LICADHO, ‘Rights at a price: life inside Cambodia’s prisons’ (January 2015), https://www.licadho-cambodia.org/reports/files/202LICADHOREport-Rights%20at%20a%20price_ENG.pdf, pp. 18-20.

sent there during ‘beautification’ efforts of Phnom Penh.⁴⁴ There are reports that people are held against their will in extremely deprived conditions, with a severe lack of facilities, food and hygiene standards. There have been widespread calls for the center to be shut down,⁴⁵ and reports suggest that abuse is rife in the center, and that conditions are actually worse than in the prisons due to the lack of monitoring.⁴⁶ Similarly, there are reports that the new Kandal Stueng Health Center, is inappropriately detaining persons suffering from a mental health illness against their will, and are inadequately staffed with mental health professionals to provide facilities and treatment.⁴⁷

7.2. Lack of segregation between juveniles and adults and between accused and convicted prisoners

Overcrowding is a recurring concern in Cambodian prisons. Government data suggests that the country’s prisons are currently operating at more than 146% of capacity.⁴⁸ In some detention centers, overcrowding has reached such levels that prisoners can no longer be appropriately segregated: juveniles and adults are mixed, as are pre-trial and post-conviction detainees,⁴⁹ in clear violation of Article 10(2) of the ICCPR.

7.3. Recommendations

The Human Rights Committee may wish to consider:

- Urging the RGC to ease overcrowding by reviewing the need for continued custodial detention and only resorting to pre-trial detention when absolutely necessary;
- Reminding the RGC that judges are required to consider the personal circumstances of a suspect before ordering pre-trial detention, and should be even more vigilant to do so when dealing with vulnerable groups, such as people with a mental health illness, pregnant women and mothers with young children, in order to avoid harmful and unnecessary detention;
- Urging the RGC to take measures to improve conditions in prisons and rehabilitation centers, including through improved hygiene, food supply and medical facilities;
- Inquiring with the RGC about systems to monitor and act against corruption in prison and ‘rehabilitation centers’, to make sure that all detainees are ensured the same conditions of detention;
- Recommending the RGC improves conditions in ‘rehabilitation centers’ such as Prey Speu and thoroughly and transparently investigates reports of persons are being held against their will

⁴⁴ Kong Meta and Erin Handley, ‘Homeless ‘don’t look good’ *Phnom Penh Post*, 5 May 2016, <https://www.phnompenhpost.com/national/homeless-dont-look-good>.

⁴⁵ Niem Chheng, Smith: Overhaul the Prey Speu centre or shut it down’ *Phnom Penh Post*, 11 September 2019 <https://www.phnompenhpost.com/national/smith-overhaul-prey-speu-centre-or-shut-it-down>.

⁴⁶ Simon Springer, ‘The violence of homelessness: Exile and arbitrary detention in Cambodia’s war on the poor’, *The Asia Pacific Viewpoint*, 1 April 2020, <https://onlinelibrary.wiley.com/doi/full/10.1111/apv.12273>.

⁴⁷ Leonie Kijewski, ‘Shackled and locked up, Cambodia’s mentally ill languish in limbo’, *The Washington Post*, 16 February 2020, https://www.washingtonpost.com/world/asia_pacific/shackled-and-locked-up-cambodias-mentally-ill-languish-in-limbo/2020/02/14/a8c8bfbe-2df6-11ea-bffe-020c88b3f120_story.html.

⁴⁸ Amnesty International, ‘Cambodia : Exclusive footage reveals deplorable prison conditions’, 10 April 2020, <https://www.amnesty.org/en/latest/news/2020/04/cambodia-exclusive-footage-reveals-deplorable-prison-conditions/>.

⁴⁹ UN Human Rights Council, ‘Report of the Special Rapporteur on the situation of human rights in Cambodia’, UN Doc A/HRC/39/73 (15 August 2018), para. 46, https://cambodia.ohchr.org/sites/default/files/Annual-reports/Annual%20Report%202018%20of%20SR%20-%20A_HRC_39_73_EN.pdf.

8. Article 12: Freedom of Movement

When the opposition leader Sam Rainsy announced the end of his self-exile and his plan to return to Cambodia on 9 November 2019, the Cambodian authorities responded by taking various measures aimed at preventing Rainsy from entering the country. To prevent what it labelled as a ‘coup’, the RGC deployed thousands of troops to strategic border crossings with Thailand, Laos and Vietnam.⁵⁰ Commercial airlines were also threatened with complicity in an attempted coup if they let Rainsy board their flights.⁵¹ In addition, Prime Minister Hun Sen had earlier requested that all ASEAN countries arrest former-CNRP leaders and deport them to Cambodia.⁵² In a show of force, the weeks leading up to 9 November also saw an alarming escalation in political intimidation, arrests and charges filed against former-CNRP members in Cambodia.⁵³

Moreover, in April 2017, 150 Cambodian migrant workers working in Malaysia were left stranded after the RGC barred them from re-entering Cambodia. The RGC cited COVID-19 pandemic fears as the reason to refuse their entry, despite imposing no visa restrictions on Malaysia or travel restrictions on flights from Malaysia. As a result, the migrant workers have been deprived of their freedom of movement and right to return home.

8.1. Recommendations

The Human Rights Committee may wish to consider:

- Reminding the RGC that Cambodian citizens must not be arbitrarily deprived of their right to enter Cambodia and the need to respect freedom of movement.

9. Article 14: Fair Trial Rights

9.1. Shortcomings of the judicial system

Despite legal protections, fair trial rights are frequently not upheld in practice in the Cambodian judicial system. The presumption of innocence is regularly undermined, with use of excessive pre-trial detention, and court procedures that make no distinction between those accused of crimes and those convicted, as mentioned above at s.7.2. For instance, in their 2019 Annual Report, CCHR’s Fair Trial Rights team recorded that in 26% of monitored cases defendants were required to wear their prison uniform to court, which makes no distinction between remand and convicted prisoners.⁵⁴ This undermines the presumption of innocence as it may negatively influence the judge and the public’s perception of the accused. Evidentiary rights also remain a concern as the quality of evidence presented during trials is often unsatisfactory. Most of the time, the evidence presented is either a

⁵⁰ Al Jazeera, ‘Cambodian opposition leader Sam Rainsy announces Saturday return’, *Al Jazeera*, 6 November 2019, <https://www.aljazeera.com/news/2019/11/cambodian-opposition-leader-sam-rainsy-announces-saturday-return-191106055419909.html>.

⁵¹ Luke Hunt, ‘Counting the Costs of Sam Rainsy’s Failed Return to Cambodia’, *The Diplomat*, 13 November 2019, <https://thediplomat.com/2019/11/counting-the-costs-of-sam-rainsys-failed-return-to-cambodia/>.

⁵² Andrew Nachemson and Yon Sineat, ‘Cambodia’s Sam Rainsy faces hurdles as he attempts to return home’, *Al Jazeera*, 8 November 2019, <https://www.aljazeera.com/news/2019/11/cambodia-sam-rainsy-faces-hurdles-attempts-return-home-191108034858453.html>.

⁵³ Luke Hunt, ‘Counting the Costs of Sam Rainsy’s Failed Return to Cambodia’, *The Diplomat*, 13 November 2019, <https://thediplomat.com/2019/11/counting-the-costs-of-sam-rainsys-failed-return-to-cambodia/>.

⁵⁴ CCHR, ‘Fair Trial Rights in Cambodia Annual Report’, October 2019, https://cchrcambodia.org/admin/media/report/report/english/CCHR%20Report%20on%20Fair%20Trial%20Rights_%202017-2018_ENG.pdf, p. 30.

confession or documentary evidence.⁵⁵ As the quality of evidence considered during a trial is essential to ensure that due justice is done, more attention and consideration should be given to other types of evidence, such as live witnesses and medical and forensic evidence. As for the right to a public hearing, it was denied to Kem Sokha, the Cambodian opposition leader, when his trial for treason, seen as politically-motivated and labelled as “tainted” by three UN Special Rapporteurs, was initially closed to journalists and human rights monitors in January 2020.⁵⁶ Finally, the Ministry of Justice recently announced a campaign to resolve the severe backlog of cases in Cambodian courts and speed up case processing times.⁵⁷ This is a positive development as the timely processing of cases is an integral part of fair trial rights, and this campaign will reduce numbers of people in pre-trial detention. However, there is concern that this will exacerbate shortcomings of the judicial system, and it is crucial that fair trial rights and due process must not be overlooked in pursuit of speedier trials and shorter case processing times.

9.2. Lack of compliance of the domestic legal framework with international standards

Further violations of fair trial rights arise from the lack of compliance of the domestic legal framework with international standards enshrined in Article 14 of the ICCPR. Among other things, the *Code of Criminal Procedure of the Kingdom of Cambodia* denies the right of the suspect to have access to a lawyer during the first 24 hours in custody⁵⁸ and does not recognize the right to legal representation for all types of offenses.⁵⁹

9.3. Lack of independence of the judiciary

The severe lack of independence of the judiciary, both *de jure* (as laws on the judiciary negatively impact its independence) and *de facto* (as some convictions are handed down despite a clear lack of inculpatory evidence) further prevents due justice from being done. The RGC has acknowledged this shortfall and has committed to improving independence and impartiality of the court system, as well as strengthening the separation of powers. The absence of separation of powers between the executive and the judiciary, often attributed to the weak legislative structure of the laws pertaining to the judiciary,⁶⁰ permits a politicization of the justice system and the harassment and silencing of civil society and political opponents. Impunity, as discussed at s.1.1, therefore remains a serious concern in Cambodia, as cases involving crimes perpetrated against HRDs, former-CNRP members and journalists rarely involve accountability.

9.4. Recommendations

The Human Rights Committee may wish to consider:

⁵⁵ CCHR, ‘Fair Trial Rights in Cambodia Annual Report’, October 2018,, https://cchrcambodia.org/admin/media/report/report/english/CCHR%20Report%20on%20Fair%20Trial%20Rights_%202017-2018_ENG.pdf, p. 32.

⁵⁶ Human Rights Watch, ‘Cambodia: Opposition Leader’s Trial Blocked to Public’, 22 January 2020, <https://www.hrw.org/news/2020/01/22/cambodia-opposition-leaders-trial-blocked-public>.

⁵⁷ Khuon Narim, ‘Clearing court backlogs’, *Khmer Times*, 19 May 2020

⁵⁸ Article 98 of the Code of Criminal Procedure of the Kingdom of Cambodia, available at: http://sithi.org/temp.php?url=law_detail.php&id=190.

⁵⁹ *Ibid.*, Article 301.

⁶⁰ CCHR, ‘Fair Trial Rights in Cambodia Annual Report’, October 2019, https://cchrcambodia.org/index_old.php?url=project_page/project_page.php&p=report_detail.php&reid=131&id=3. See also: CCHR, ‘Factsheet: The Separation of Powers and the Rule of Law, June 2011, https://cchrcambodia.org/index_old.php?url=media/media.php&p=factsheet_detail.php&fsid=3&id=5.

- Recommending that the RGC adopt the necessary legislative measures to bring its domestic legal framework into line with Article 14 of the ICCPR;
- Inquiring about measures put in place to guarantee fair trial rights during campaigns to clear court backlog;
- Inquiring about possible plans for reform, both institutional and judicial, so as to ensure the independence of the judiciary and the full enjoyment of fair trial rights
- Recommending that the RGC implements accepted recommendations from the Universal Periodic Review on ensuring judicial independence.⁶¹

10. Article 17: The Right to Privacy

10.1. Surveillance powers

The *Law on Telecommunications* was promulgated in 2015, permitting overbearing surveillance powers, formalizing the surveillance of information sharing, increasing the RGC's control over the industry and seriously threatening the right to privacy of correspondence in Cambodia. Along with the creation of various criminal offenses related to the use of telecommunications devices, the Law grants the government power to surveil telecommunications without strictly requiring judicial oversight.⁶² Article 97 of the Law permits the secret listening, recording and publication of private dialogue if approval has been granted from a "legitimate authority". The term 'legitimate authority' remains undefined making this surveillance inadequately regulated and open to abuse.

These intrusive powers for the RGC to monitor telecommunications, including internet use, were vastly broadened with the introduction of the 2018 *Inter-ministerial Prakas on Publication Controls of Website and Social Media Processing via Internet in the Kingdom of Cambodia*.⁶³ The surveillance rights granted in the *Prakas* go beyond limitations permitted under international human rights law. The *Prakas'* stated objective is to manage "all news contents or written messages, audios, photos, videos, and/or other means on websites and social media by using internet" in Cambodia.⁶⁴ It establishes a joint "specialized unit,"⁶⁵ which has far-reaching powers, including monitoring and investigating of all online activities.

These vague and broad laws have enabled human rights violations to occur in Cambodia. There have been instances of authorities recording private phone conversations of former political opposition members and using the private correspondence to convict them.⁶⁶ The authorities have also utilized

⁶¹ N Human Rights Council, 'Report of the Working Group on the Universal Periodic Review: Cambodia', 2019, UN Doc A/HRC/41/17.

⁶² The Law on Telecommunications (2015), http://www.sithi.org/temp.php?url=law_detail.php&lg=&id=277.

⁶³ Prakas No. 170 Br.K/Inter-ministerial, 'Publication Controls of Website and Social Media Processing via Internet in the Kingdom of Cambodia' (28 May 2018), available at: <https://www.trc.gov.kh/wp-content/uploads/2018/06/praka-170.pdf>. An unofficial English translation of the Prakas on Social Media and Website Control is available at: http://safenetvoice.org/wp-content/uploads/2018/06/20180604_Inter-Ministerial_Prakas_On_Social-Media.pdf.

⁶⁴ Prakas on Social Media and Website Control, Clause 1.

⁶⁵ This special unit is composed of MoI, MPTC, and Ministry of Information.

⁶⁶ Andrew Nachemson and Kong Meta, 'Cambodia's digital surveillance serves to silence the opposition and suppress criticism of the government', *Post Magazine*, 19 October 2019, <https://www.scmp.com/magazines/post-magazine/long-reads/article/3033508/cambodias-digital-surveillance-serves-silence>; and Khan Leakhena, 'Three former CNRP members charged over phone discussion', *VOD*, 5 September 2019, <https://webcache.googleusercontent.com/search?q=cache:BV0mzn5Zxt0J:https://vodenglish.news/three-former-cnrp-members-charged-over-phone-discussion/+&cd=3&hl=en&ct=clnk&gl=kh>.

their surveillance powers to monitor private communications between citizens regarding COVID-19 and then using them to impose criminal charges on the individuals. Some of these private communications have also been publicized by government-aligned media outlets.

10.2. Surveillance and monitoring of CSOs and trade unions

Government surveillance of and interference with the work of civil society is particularly concerning. There have been instances of monitoring and interruption of private CSO activities and meetings.⁶⁷ In January 2020, when surveyed and asked about their experience over the last year, almost one-third of CSO and trade union leaders reported government interference in their organization. The same survey also recorded that 50% of CSO and trade union leaders reported that authorities engaged in monitoring or surveillance of their organization's activities over the last year.

10.3. Privacy of juveniles in judicial proceedings

The right to privacy of juveniles during criminal trial hearings is not sufficiently protected in Cambodia. During its court monitoring activities, CCHR recorded the privacy of juveniles to be protected in only three out of 18 cases. Furthermore, all 18 trials were open to the public. This is highly problematic, particularly as the Court of Appeal has refuted such findings in relation to the rights of juveniles.

10.4. Recommendations

The Human Rights Committee may wish to consider:

- Reviewing the legislation and procedures for lawful surveillance in Cambodia, including the *Law on Telecommunications* and the *Inter-ministerial Prakas on Publication Controls of Website and Social Media Processing via Internet in the Kingdom of Cambodia*, and encouraging the RGC to consider amendments to ensure the existence of independent and effective oversight mechanisms for accountability;
- Recommending the RGC to better protect the right to privacy of juveniles during criminal proceedings, for example, by utilizing video conferencing technology and the implementation of a diversion scheme for juvenile offenders as an alternative to criminal prosecution.

11. Article 19: Freedom of Expression

11.1. Legislative Barriers

There are multiple legislative barriers to freedom of expression in domestic law including criminal offenses such as defamation, incitement, insult and *lèse-majesté*, often used systematically to silence independent voices. Defamation is frequently misapplied in Cambodia to criminalize criticism of the Prime Minister, government officials, or the government itself. This contravenes standards set by the UN Human Rights Committee stating that "*the mere fact that forms of expression are considered to be insulting to a public figure is not sufficient to justify the imposition of penalties ... all public figures, including those exercising the highest political authority such as heads of state and government, are legitimately subject to criticism and political opposition.*"⁶⁸ The *lèse-majesté* offense, written into the Criminal Code on 27 February 2018, prohibits anyone from defaming, insulting or threatening the King

⁶⁷ Sek Bandeth, 'Battambang police interrupted NGOs meeting,' *Radio Free Asia*, 18 October 2019,

<https://www.rfa.org/khmer/news/human-rights/battambang-police-harasses-Adhoc-officer-10182019053713.html>.

⁶⁸ Human Rights Committee, General Comment No 34: Article 19: Freedoms of opinion and expression', 21 July 2011, at para. 39.

through “any speeches, gestures, writings, paintings or items that would affect the dignity of the King.”⁶⁹ Anyone found guilty under Article 437 *bis* faces one to five years imprisonment and a fine of between two and ten million riels.

Another legislative barrier was introduced in 2015 - the *Law on Telecommunications*. This problematic law institutionalizes the surveillance of online expression (see s.10 above) and creates a series of criminal offenses related to the use of telecommunications devices, violations of which are subject to imprisonment and significant fines.⁷⁰ In 2018 the *Inter-ministerial Prakas on Publication Controls of Website and Social Media Processing via Internet in the Kingdom of Cambodia* was introduced, affording the executive power to shut down social media pages or websites, as discussed above at s.10. Further laws impacting freedom of expression that are currently in the process of being drafted or amended include the draft *Anti-Cybercrime Law; Press Law Amendments*; and the draft *Access to Information Law*.

11.2. Free Media

The crackdown on press freedom was ignited in 2017 when the RGC shuttered approximately 30 print and broadcast operations.⁷¹ The Cambodia Daily, a long-standing English language newspaper, closed its doors in September 2017 after the government ordered it to pay a massive tax bill that was unsubstantiated and widely criticized as politically motivated.⁷² Soon thereafter, Radio Free Asia (“RFA”) closed its Phnom Penh office, citing “unprecedented” government intimidation.⁷³ In 2018 the Phnom Penh Post - the only remaining independent daily newspaper - was sold to a Malaysian businessman connected to Prime Minister Hun Sen. As a result there are few sources of independent media left in Cambodia with media ownership highly concentrated, and the RGC owning or having influence over the vast majority of media services in Cambodia.⁷⁴ In the 2020 World Press Freedom Index, Cambodia continued to drop, ranking at 144 out of 180 countries assessed.⁷⁵ The crackdown on free media has also included revocation of media licenses. In April 2020, for example, the Information Ministry ordered the termination of the licenses of news sites CKV TV and TVFB for reporting perceived as critical of the government.

11.3. Targeting of journalists

Journalists are the target of sustained attacks for exercising their freedom of expression which suggests a growing hostility towards journalists and free speech. In 2019, the Ratanakiri authorities opened criminal proceedings *in absentia* against former Cambodia Daily reporters Aun Pheap and

⁶⁹ Criminal Code of the Kingdom of Cambodia, Article 437 *bis*.

⁷⁰ CCHR ‘Protecting Fundamental Freedoms: A Desk Review of Domestic Legislation and its Compliance with International Law’ (December 2019) Page 37

https://cchrcambodia.org/index_old.php?url=media/media.php&p=report_detail.php&reid=140&id=5.

⁷¹ Reporters Without Borders, ‘RSF publishes report on media freedom under attack in Cambodia’, March 15, 2018

<https://rsf.org/en/news/rsf-publishes-report-media-freedom-under-attack-cambodia>.

⁷² Ibid.

⁷³ Voice of America, ‘2 Former Radio Free Asia Journalists On Trial in Cambodia’, August 9, 2019,

<https://www.voanews.com/press-freedom/2-former-radio-free-asia-journalists-trial-cambodia>.

⁷⁴ United States Department of State, ‘2019 Country Reports on Human Rights Practices: Cambodia’, March 2020, pgs. 11-

12 <https://www.state.gov/wp-content/uploads/2020/02/CAMBODIA-2019-HUMAN-RIGHTS-REPORT.pdf>

⁷⁵ Reporters Without Borders, ‘2020 World Press Freedom Index,’ <https://rsf.org/en/ranking>.

Peter Zsombor.⁷⁶ The authorities alleged that the accused had incited discord on the basis of their 2017 coverage of a commune election. That same year, former RFA journalists Yeang Sothearin and Uon Chhin were tried for supplying a foreign state with information prejudicial to national defense under Article 445 of the Cambodian Criminal Code, on allegations that they sent stories with national security implications to RFA headquarters in Washington D.C. Despite a lack of evidence the court declined to issue an acquittal and instead reopened the investigation, leaving them in limbo and inhibiting a resolution or definitive verdict to their case two and a half years since their original arrest on 14 November 2017.⁷⁷

11.4. Online expression

Over the last three years there has been a noted increase in the prevalence of online restrictions of freedom of expression. Increasingly citizens are being threatened, harassed and even prosecuted for their use of the internet and for exercising their right to free speech on online platforms. Internet freedom has also been restricted in additional ways, including the blocking of certain websites and online media outlets to restrict the flow of information around Cambodia. Between April 2019 and March 2020 it was noted that 48% of all violations to the freedom of expression occurred online.⁷⁸ One of the most frequent ways the RGC restricts freedom of expression is through the online platforms such as Facebook. Over 12 months 43 individuals were arrested for speech they made on Facebook.⁷⁹

11.5. 'Fake news'

Recent years has also witnessed a rise in 'fake news' rhetoric in Cambodia. Legitimate, investigative work from journalists and human rights defenders has been disparagingly labelled as 'fake news' by authorities to punish dissent and critical speech. In 2019, Rath Rott Mony, who worked for *Russia Today* on its film, "My Mother Sold Me" was sentenced by the Phnom Penh Municipal Court to two years in prison after he was found guilty for contributing to the production of a sex trafficking documentary dismissed as 'fake news' by the RGC.⁸⁰ 'Fake news' accusations have also extended to general citizens. In 2019, Interior Minister Sar Kheng assigned a working group of 14 members to monitor the Facebook page of Prime Minister Hun Sen to identify users who make "undesirable" comments. The 'fake news' rhetoric is very damaging and discourages the exercise of free speech. Between April 2019 and March 2020, 37 individuals were accused of 'fake news' for expression through Facebook, often being required to thumbprint agreements promising not to repeat their actions.

⁷⁶ Kann Vicheika, 'Ex-Cambodia Daily Reporters Reject Incitement Charges as Case Heads to Trial,' *VOA*, 25 December 2019, <<https://www.voacambodia.com/a/ex-cambodia-daily-reporters-reject-incitement-charge-as-case-heads-to-trial/5218836.html>>.

⁷⁷ American Bar Association Center for Human Rights, 'Trial Observation Report: Cambodia vs. Uon Chhin and Yeang Sothearin' January 2020, https://www.americanbar.org/content/dam/aba/administrative/human_rights/fairnessreport_cambodia_uc_ys.pdf.

⁷⁸ CCHR 'Online Expression Snapshot' (May 2020) https://cchrcambodia.org/index_old.php?url=media/media.php&p=newsletter_detail.php&nsid=135&id=5.

⁷⁹ Ibid.

⁸⁰ Taing Vida, 'Rott Mony Sentenced to Two Years In Jail,' *Khmer Times*, 27 June 2019, <<https://www.khmertimeskh.com/50618191/rott-mony-sentenced-to-two-years-in-jail/>>.

11.6. Covid-19

This increase in ‘fake news’ accusations is parallel to the spread of the Covid-19 pandemic, with concerns expressed that the RGC used the pandemic to further suppress freedom of expression. In April 2020 TVFB journalist Sovann Rithy was arrested and detained for a Facebook post quoting a speech by Prime Minister regarding Covid-19. He is currently detained and faces up to two years in jail on charges of incitement. In May 2020, Rithysen radio owner Sok Oudom was arrested on charges of incitement shortly after reporting on a local land dispute, with the media license for the radio station and website revoked.⁸¹ More broadly, Cambodia authorities have reportedly arrested at least 40 individuals since the onset of the pandemic, many on the basis of social media posts about the authorities’ response.⁸²

11.7. Other forms of expression

Notably, the authorities have also criminalized non-traditional forms of expression. Opposition activist Kong Raiya is due to be tried on incitement charges for advertising T-shirts bearing the visage of and quotes from slain government critic Kem Ley. Meanwhile, Ven Rachana (also known as Thai Srey Neang), a female vendor, was sentenced to six months in prison on pornography charges for advertising clothing and cosmetics for sale on Facebook.⁸³ She was arrested soon after Prime Minister Hun Sen denounced female vendors’ supposedly promiscuous outfits as undermining Cambodian culture and tradition. Article 19 broadly protects the communication of ideas and information and thus applies to such cases.

11.8. Recommendations

The Human Rights Committee may wish to consider:

- Encouraging amendments to the *Law on Telecommunications* and the *Inter-ministerial Prakas on Publication Controls of Website and Social Media Processing via Internet in the Kingdom of Cambodia*, in addition to revocation of the *lèse-majesté* offense from the Criminal Code and substantive amendments to the crime of defamation.
- Recommending to the RGC to restore the right to freedom of expression; dropping all unsubstantiated charges against journalists and cease targeting the free media, noting it is an essential accountability tool.
- Reminding the RGC that the online sphere ought to be a safe platform on which citizens can express their opinions, including dissenting or critical thoughts towards the government.

12. Article 21: The Right to Freedom of Peaceful Assembly

12.1. Legislative barriers

Several legal provisions continue to restrict the right to freedom of assembly in Cambodia. Under Article 2 of the *Law on Peaceful Assembly* and the *Constitution of the Kingdom of Cambodia (the “Constitution”*), the right to freedom of peaceful assembly is only guaranteed for Cambodian citizens, not all persons subject to the State’s jurisdiction as the ICCPR requires. Article 9(1) of the *Law on*

⁸¹ Sun Narin, ‘Kampong Chhnang radio owner charged for incitement’, VOA, 15 May 2020, <https://www.voacambodia.com/a/kampong-chhnang-radio-owner-charged-for-incitement/5421115.html>.

⁸² Hun Sirivadh, ‘Dozens arrested over Covid-19 fake news this year, police say’, VOD, 16 April 2020, <https://vodenglish.news/dozens-arrested-over-covid-19-fake-news-this-year-police-say/>.

⁸³ Hul Reaksmey ‘Family at Risk After Arrest of Cambodian Woman for ‘Sexy’ Online Sales’ (VOA Khmer, 10 March 2020) <https://www.voacambodia.com/a/family-at-risk-after-arrest-of-cambodian-woman-for-sexy-online-sales/5322573.html>.

Peaceful Assembly also provides grounds for prohibiting demonstrations if they are held on certain holidays, thus authorizing blanket bans. As for Article 2, it limits the freedom of assembly if a demonstration affects good customs, public order and national security. This vague provision risks broad interpretation and undue limitations of this right. The Law further requires a minimum five-day notice period at Article 7, which prevents assemblies from being held in a rapid response to current events. Despite this prior notification regime, in practice, assembly organizers are often required to obtain prior authorization from the authorities for holding assemblies, contradicting international standards,⁸⁴ with government actors preventing or disrupting assemblies for which permission is not granted. The enactment of the *Trade Union Law* (“*TUL*”) in 2016 and its amendment in January 2020 has further restricted the freedom of peaceful assembly.⁸⁵ The *TUL* unjustifiably restricts the right of workers to strike. Article 65(f) determines that it is unlawful for a union or its representatives “*to agitate for purely political purposes or for their personal ambitions*”, a vague provision that risks broad interpretation and could be used to declare legitimate union activities unlawful. The *TUL* also imposes onerous requirements prior to undertaking a strike.⁸⁶

12.2. Misapplication of the law

Various groups across all sectors including trade unions, labor unions, political activists, environmental activists and communities experience significant restrictions and violations of their right to assemble peacefully by the RGC and third-party actors in Cambodia. Between April 2019 and March 2020, a total of 54 restrictions of the freedom of assembly were recorded, 22 of which also amounted to violations of the right, indicating a systematic misapplication of domestic laws. Frequent obstructions to the legitimate exercise of freedom of assembly include arbitrary restrictions and interference by authorities in peaceful assemblies. Time, location and number of attendee restrictions are frequently imposed, thereby subduing the assemblies’ impact. Notably, Freedom Park, an area designated for demonstrations, was relocated from central Phnom Penh to the city’s outskirts in early 2017. The RGC also arbitrarily prohibits peaceful assemblies. There were five incidents of absolute prohibitions of assemblies reported between March 2019 and April 2020.⁸⁷ In these five incidents, assembly organizers were not provided with timely and fulsome reasons justifying the prohibition. In addition, blanket bans enforced by the RGC are often imposed with no legal basis, such as the blanket ban on Labour Day marches on 1 May 2019, in which the RGC deemed any marches would be illegal and threatened action against any union members who marched.

12.3. State use of force and harassment

Enforcement officers have frequently resorted to excessive force to dispel and break-up protests, thereby threatening the protestors’ right to life. For instance, on 24 January 2019, police and military personnel opened fire on land-rights protestors in Preah Sihanouk’s Bet Trang Commune, critically

⁸⁴ UN Human Rights Council, ‘Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai’, UN Doc A/HRC/20/27 (21 May 2012), para. 28, https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27_en.pdf.

⁸⁵ The Trade Union Law (TUL) (May 2016), http://sithi.org/admin/upload/law/trade_union_law_kh.pdf [official text in Khmer] and http://sithi.org/admin/upload/law/trade_union_law_eng.pdf [unofficial translation in English].

⁸⁶ The TUL (as well as the relevant implementing Prakas) requires unions’ statutes to include a provision that a decision to undertake a strike: (a) must be made by a vote of union members, and (b) that an absolute majority (50% +1) of union members must vote in favor of the strike (Article 13).

⁸⁷ CCHR Media Monitoring and Incident Reporting April 2019 - March 2020

injuring Pov Saroth.⁸⁸ Between April 2019 and March 2020, there were eight instances where authorities exercised use of force at peaceful assemblies.⁸⁹ In many of these instances the use of force was excessive in violation of the international standards of legality, precaution, necessity, proportionality and accountability. In addition, assembly organizers and participants are routinely harassed for their involvement in an assembly, with a tactic of the RGC being to detain such individuals and conditioning their release upon them signing contracts agreeing not to exercise their freedom of assembly.

12.4. Deterrence from exercising the freedom

The RGC has taken actions to actively deter individuals from exercising their freedom of assembly including direct threats. Heavy police and military deployment occurred in November 2019 to deter gatherings in support of the political opposition.⁹⁰ Throughout October 2019, police all over the country were provided with additional training regarding the suppression of mass demonstrations and were instructed to use all means necessary to destroy any sign of rebel movement.⁹¹ The suppression of public gatherings and assemblies was at the core aim of this deployment with around 5000 security personnel present in Phnom Penh alone for two important Cambodian public holidays - Independence Day and the Water Festival. The RGC also announced the removal of six public holidays, including International Children's Day, Paris Peace Agreements Day and International Human Rights Day. The authorities claim that it will boost Cambodia's economic competitiveness and foreign investment but civil society groups expressed concern that it may discourage and prevent people from assembling and celebrating democracy and human rights in future years.⁹² Overall, these measures have contributed towards a climate of fear. In a survey taken November 2019 – January 2020, only 9% of CSO and 4% of trade union leaders surveyed reported feeling "very free" to assemble.⁹³ Similarly, in March 2020, only 12% of public poll respondents reported feeling "very free" to gather peacefully and a minimal 6% of respondents reported feeling "very free" to strike peacefully.

12.5. Recommendations

The Human Rights Committee may wish to consider:

- Encouraging amendments to the *Law on Peaceful Assembly* and the *TUL* so they are compliant with Cambodia's obligations under the ICCPR;
- Recommending to the RGC to restore the right to freedom of assembly; stop targeting people exercising their right to assembly and ensure the freedom is fully respected in Cambodia in accordance with Article 21 of the ICCPR, noting that all restrictions or prohibitions on

⁸⁸ Sun Narin, 'One Seriously Injured After Cambodian Security Forces Open Fire on Protesters', *VOA*, 29 January 2019, <https://www.voacambodia.com/a/one-seriously-injured-after-cambodian-security-forces-open-fire-on-protesters/4763701.html>.

⁸⁹ CCHR Media Monitoring and Incident Report April 2019 – March 2020

⁹⁰ Erin Handley, 'Cambodian Troops Deployed as Exiled Opposition Leaders Plan Thai Border Crossing', *ABC News*, 8 November 2019, <https://www.abc.net.au/news/2019-11-07/cambodian-troops-border-exiled-opposition-leaders-plan-return/11672424>.

⁹¹ Mech Dara, 'Police in Drills for Return of Rainsy', *The Phnom Penh Post*, 31 October 2019, <https://www.phnompenhpost.com/national-politics/police-drills-return-rainsy>.

⁹² Mong Palatino, 'Cambodia Reduces the Number of Public Holidays to Attract Jobs, but Activists are Concerned it Could Undermine Democracy', *Global Voices*, 11 August 2019, <https://globalvoices.org/2019/08/11/cambodia-reduces-number-of-public-holidays-to-attract-jobs-but-activists-express-concern-it-could-undermine-democracy/>.

⁹³ CCHR Media Monitoring and Incident Reporting April 2019 - March 2020

assemblies must be prescribed by law, in the pursuit of a legitimate aim, and necessary, proportionate and provided with timely and fulsome reasoning;

- Reminding the RGC that the use of force at assemblies must only occur in exceptional circumstances, recommending their strict compliance with principles of legality, precaution, necessity, proportionality and accountability, and recommending the provision of comprehensive and periodic training of security forces charged with policing assemblies;
- Recommending to the RGC to extend an invite to the UN Special Rapporteur on the rights of freedom of peaceful assembly and association.

13. Article 22: Freedom of Association

13.1. Legislative barriers

Despite constitutional guarantees, several laws enacted in recent years contain provisions that violate international standards and excessively restrict freedom of association protected under Article 22 of the ICCPR. This includes the *Law on Associations and Non-Governmental Organizations* (“LANGO”), which imposes mandatory registration for all associations, provides for burdensome, onerous and vague registration requirements, allows for broad government oversight to deny registration and imposes onerous activity and financial reporting requirements. This has also included the *TUL* passed in 2016, which imposes mandatory and burdensome reporting and registration requirements on trade unions. While amendments to the *TUL* were promulgated in January 2020,⁹⁴ these were met with criticism by civil society actors who report they did not go far enough to bring the law in line with international human rights law.⁹⁵ In addition to the *LANGO* and the *TUL*, the RGC also introduced amendments to the *Law on Political Parties* in 2017 and several amendments to the *Constitution* in February 2018 that have raised serious concern for freedom of association, as discussed below at s15.2.

13.2. Political association

Political association is heavily restricted in Cambodia and members of political opposition are systemically targeted in violation of freedom of association. In late 2017, the main political opposition, the CNRP, was dissolved by the Supreme Court. The same year, 118 CNRP members were banned from engaging in political activity and the opposition leader Kem Sokha was arrested on charges of treason.⁹⁶ After over a year in pre-trial detention, he was placed under *de facto* house arrest in 2018 and was released in November 2019. He currently faces travel and political bans until a verdict is announced in his ongoing trial.⁹⁷ In addition, in recent years, there has been an increase in restrictions and violations of freedom of association targeting former CNRP members or supporters.⁹⁸ Such actions have included judicial harassment, threats and monitoring by authorities, as well as numerous

⁹⁴ Ry Socha, ‘Senate Passes Amendments to 10 Article Trade Union Law,’ *The Phnom Penh Post*, 9 December 2019, <https://www.phnompenhpost.com/national/senate-passes-amendments-10-articles-trade-union-law>.

⁹⁵ See Open Letter to Prime Minister Hun Sen: ‘Cambodia’s Law on Trade Unions and Cases Against Union Leaders,’ 36 CSOs, 18 December 2019, <https://crd.org/2019/12/18/cambodias-law-on-trade-unions-and-cases-against-union-leaders/>.

⁹⁶ Ben Sokhean, Mech Dara and Ananth Baliga, ‘Death of Democracy’: CNRP dissolved by Supreme Court ruling,’ *The Phnom Penh Post*, 17 November 2017, <https://www.phnompenhpost.com/national-post-depth-politics/death-democracy-cnrp-dissolved-supreme-court-ruling>.

⁹⁷ The Guardian, ‘Cambodia: treason trial of opposition figure Kem Sokha begins,’ *The Guardian*, 15 January 2020, <https://www.theguardian.com/world/2020/jan/15/cambodia-treason-trial-of-opposition-figure-kem-sokha-begins>.

⁹⁸ Civicus, ‘CSOs express concern over judicial harassment of former Cambodia National Rescue Party members’, 3 June 2019, <https://www.civicus.org/index.php/media-resources/news/3882-csos-express-concern-over-judicial-harassment-of-former-cambodia-national-rescue-party-members>.

incidents of physical violence by unidentified third-parties (see above at s.4.2). In 2019, there were a total of 94 arrests and 138 charges of individuals perceived to be affiliated with the CNRP.⁹⁹

13.3. Trade unions

Trade union leaders and members continue to be harassed for exercising their right to freedom of association. For example, in June 2019, seven unionists had their employment terminated at Qi Ming Xin Factory, allegedly due to their attempts to create a local union within the company.¹⁰⁰ As another example, in May 2019, 105 Khmer Workers Heart Union members had their labor contracts terminated at the Min Rong Garment Factory Co. Ltd. for not resigning from their affiliated union.¹⁰¹ 168 trade union leaders or members had their contracts terminated, suspended or refused extension, ostensibly because of their trade union affiliation, between April 2019 and March 2020. While it is noted these actions were often undertaken by private companies, it is the responsibility of the RGC to protect against third party actions impinging upon freedom of association.

13.4. Civil society

Civil society organizations (“CSOs”) operate in extremely curtailed space in Cambodia. Misuse of legislative tools such as the aforementioned *LANGO* have in some cases resulted in the forced closure of organizations. In November 2017, Prime Minister Hun Sen threatened the closure of CCHR due to the organization’s prior affiliation with Kem Sokha, who originally founded CCHR.¹⁰² Physical interference with CSOs’ operations and staff by the RGC is widespread and many organizations report incidents that breach human rights standards and spread fear amongst the community. A 2019 survey showed about one third of CSO and union leaders reported interference in their organization, and 50% reported authorities monitoring their activities, over the last year.

13.5. Recommendations

The Human Rights Committee may wish to consider:

- Urging the RGC to 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;
- Recommending that the RGC amend the *LANGO*, *TUL* and other legislation that unnecessarily restricts freedom of association to bring them into line with the obligations under the ICCPR;
- Calling on the RGC to cease politically motivated prosecutions and harassment of former members of the political opposition and its supporters; the harassment of trade union members; and the harassment and surveillance of CSOs and HRDs;
- Recommending to the RGC to extend an invite to the UN Special Rapporteur on the rights of freedom of peaceful assembly and association.

⁹⁹ CCHR Media Monitoring and Incident Reporting April 2019 - March 2020

¹⁰⁰ Sen David, ‘Company Denies Sacking Workers Over Union Ambitions,’ *Khmer Times*, 10 June 2019, <https://www.khmertimeskh.com/50612628/company-denies-sacking-workers-over-union-ambitions/>.

¹⁰¹ CCHR, ‘Fundamental Freedoms Monitoring Project Incident Report’ (2019), https://cchrcambodia.org/admin/media/report/report/english/Third%20Annual%20Report%20of%20the%20Cambodia%20Fundamental%20Freedoms%20Monitor%202018-2019_ENG.pdf.

¹⁰² Leonie Kijewski, ‘PM says prominent human rights NGO must close,’ *The Phnom Penh Post*, 26 November 2017, <https://www.phnompenhpost.com/national-politics/breaking-pm-says-prominent-human-rights-ngo-must-close>.

14. Article 23: Right to Marry

14.1. [Inequality between men and women who wish to re-marry](#)

There is a legally entrenched inequality between men and women who wish to re-marry after a divorce due to Article 950 of the *Civil Code of Cambodia*. Under this article, women are prohibited from re-marrying until 120 days have gone by since their divorce or annulment, while men are not subject to this waiting period and can re-marry as soon as they wish. The apparent reason for this provision is to protect the first husband's paternity rights, as a woman's husband is by law presumed to be the father of her child.¹⁰³ However, the reasoning behind this provision is flawed and allows for an unnecessary invasion in women's private life and an undue restriction of their civil rights.

14.2. [Denial of same-sex marriage](#)

LGBTIQ individuals continue to be denied the right to marry. While the abrogation of Article 6 of the 1989 *Law on Marriage and Family* means that the right of same-sex couples to marry is no longer explicitly prohibited, Article 45 of the *Constitution* determines marriage as being between a 'husband' and a 'wife' which effectively excludes the possibility of same-sex marriage. This denies same-sex couples other rights and privileges that arise out of marriage, in contravention of the ICCPR and other international human rights instruments which guarantee equal rights to all individuals without regard for personal status or characteristics.¹⁰⁴

14.3. [Recommendations](#)

The Human Rights Committee should consider:

- Recommending to the RGC to amend the *Civil Code of Cambodia* to ensure equality between men and women who wish to re-marry after a divorce and to provide a woman's former husband with other avenues to claim his paternity;
- Recommending the RGC amends its domestic law to allow for same-sex marriage.

15. Article 25: Elections and the Right to Vote

15.1. [Disenfranchisement of a significant portion of Khmer citizens](#)

As mentioned above under s.13.2, in late 2017, the CNRP was dissolved by the Supreme Court, 118 CNRP members were banned from engaging in political activity, and the opposition leader, Kem Sokha, was arrested on charges of treason in what was called 'the death of democracy' in Cambodia.¹⁰⁵ Following the CNRP's dissolution, the seats it had won in the 2017 local elections were reallocated to the ruling Cambodian People's Party ("CPP"), which raised serious concerns about the lack of political representation and disenfranchisement of a significant portion of Khmer citizens who had voted for

¹⁰³ Dorine Van der Keur, 'Legal and Gender Issues of Marriage and Divorce in Cambodia', *Cambodia Law and Policy Journal*, Vol. 3, December 2014, <http://cambodialpj.org/article/legal-and-gender-issues-of-marriage-and-divorce-in-cambodia/>.

¹⁰⁴ Cambodian Center for Human Rights, 'Cambodia's Rainbow Families', November 2017, https://cchrcambodia.org/admin/media/report/report/english/2017-11-22-CCHR-Report-Cambodia-Rainbow-Families_ENG.pdf.

¹⁰⁵ Ben Sokhean, Mech Dara and Ananth Baliga, 'Death of Democracy': CNRP dissolved by Supreme Court ruling', *The Phnom Penh Post*, 17 November 2017, <https://www.phnompenhpost.com/national-post-depth-politics/death-democracy-cnrc-dissolved-supreme-court-ruling>.

the CNRP. In the previous national elections, the CNRP won over 40% of the votes, illustrating how many voters who are now left without representation.¹⁰⁶

15.2. Concerning actions, by the authorities, in the lead-up and during the 2018 national elections

In the lead up to the 2018 national elections, the RGC passed a spate of problematic legislation which weakened political dissent, press freedom and political opposition in a bid to maintain power. This included amendments to the *Constitution* enforcing respect for the *Constitution* and the ‘motherland’, which introduced new restrictions on the right to vote under Article 34, and freedom of association under Article 42, allowing the government to take action against political parties who do not place the ‘national interest’ first.¹⁰⁷ It also included a series of amendments to the *Law on Political Parties*, giving the government power to dissolve political parties and ban political party members from politics without due process (which enabled the subsequent arrest of Kem Sokha and dissolution of the CNRP), as well as for the redistribution of dissolved parliamentary seats.¹⁰⁸ Other legislation introduced include the *LANGO*, as discussed above at s.13.1, which introduced requirements of political neutrality for NGOs during election campaigns; the controversial *lèse majesté* criminal offenses (prohibiting insulting the King); as well as laws severely impacting upon press freedom, such as the *Inter-ministerial Prakas on Social Media and Websites* explained above in s.10.¹⁰⁹

In May 2018, the National Election Committee (“NEC”) issued a ‘Code of Conduct’, under the *Law on the Election of Members of the National Assembly*, for the media ahead of the July 2018 elections. This code prohibited the publication of news “leading to confusion and confidence loss in the election,” “informing people not to register to vote and to vote,” and “expressing personal opinion or prejudice.”¹¹⁰ It also imposed fines on journalists who breach these provisions, including for interviewing voters in the vicinity of polling stations or for publishing news that undermined political stability or decreased public confidence in the election.¹¹¹ The RGC blocked access to 17 independent media websites for 24 hours prior to the election.¹¹² Further, there were reports of intimidation and harassment of voters, complaints of opposition parties being obstructed or hampered during

¹⁰⁶ ABC News, ‘Cambodian opposition rejects election results’, 30 July 2013, <https://www.abc.net.au/news/2013-07-29/au-cambo-opposition-rejects-victory-claims/4850954?pfmredir=sm>

¹⁰⁷ Human Rights Watch, ‘Cambodia July 29 elections not genuine’, 25 July 2018, <https://www.hrw.org/news/2018/07/25/cambodia-july-29-elections-not-genuine-0>.

¹⁰⁸ Prak Chan Thul, ‘Cambodia changes election law ahead of 2018 vote’, July 10 2017, *Reuters* <https://www.reuters.com/article/us-cambodia-politics/cambodia-changes-election-law-ahead-of-2018-vote-idUSKBN19V0F4>.

¹⁰⁹ CCHR ‘A Desk Review of Domestic Legislation and its Compliance with International Law, December 2019 https://cchrcambodia.org/index_old.php?url=project_page/project_page.php&p=report_detail.php&reid=140&id=3.

¹¹⁰ David Boyle, ‘Cambodia’s controversial press guidelines draw concern’, *VOA*, 1 June 2018, <https://www.voanews.com/south-central-asia/cambodias-controversial-press-guidelines-draw-concern>.

¹¹¹ International Federation of Journalists, ‘Cambodia: controlling election reporting guidelines released’, 5 June 2018, <https://www.ifj.org/media-centre/news/detail/category/asia-pacific/article/cambodia-controlling-election-reporting-guidelines-released.html>.

¹¹² Erin Handley, ‘Cambodia blocks 17 media websites before vote’, *Al Jazeera*, 28 July 2018, <http://aljazeera.com/news/2018/07/cambodia-blocks-17-media-websites-vote-180728103300267.html>.

campaigning and threats of legal actions against voters. The impartiality of the NEC was also called into question.¹¹³

Many countries, including Australia, Canada, the US, as well as the European Union, pulled support for the elections, and international observers and NGOs across the globe criticized the genuineness of the elections as neither free, fair or representative of the will of the people.¹¹⁴ No political opposition parties attracted a significant percentage of the popular vote and there was a record number of invalid votes.¹¹⁵ The CPP, facing no major opposition party at the election, won all 125 seats in the National Assembly and 58 out of 62 seats in the Senate, creating a *de facto* one party state.¹¹⁶ In comparison to international electoral standards, these elections were fundamentally flawed and denied Cambodians their right to free and genuine elections as protected under Article 25 of the ICCPR.

15.3. Recommendations

The Human Rights Committee may wish to consider:

- Reminding the RGC that elections must be conducted in line with international democratic election standards; and that they must, for all elections, respect the right to vote and the rights for healthy political opposition and independent media;
- Recommending the RGC to reform the NEC to ensure its independence and impartiality; and to address concerns over the validity of the most recent elections by investigating allegations of election irregularities.

16. Article 26: The Right to Non-Discrimination and Equality before the Law

16.1. Minority groups

Minorities in Cambodia face significant challenges including an inability to obtain Khmer citizenship, to own land or to access education. An overarching concern that affects all minorities is Cambodia's constitutional framework. Article 31 of the *Constitution* grants constitutional rights specifically to "Khmer citizens" but does not qualify the specific criteria for being a Khmer citizen. Therefore, the absence of a set standards for citizenship allows room for the creation of discriminatory legislation that has the potential to exclude certain groups. International law however requires rights be granted to all individuals present on a state's territory – not just its citizens.

One minority group facing *de facto* discrimination is the Khmer Krom who were living in Kampuchea Krom (southern Viet Nam) but then moved to Cambodia. The RGC has, over the past twenty-five years, repeatedly and publicly stated that it considers Khmer Krom to be Cambodian citizens. Yet, in practice, there is no specific legal or administrative procedure by which Khmer Krom citizens can access

¹¹³ Human Rights Watch, 'Cambodia July 29 elections not genuine', 25 July 2018, <https://www.hrw.org/news/2018/07/25/cambodia-july-29-elections-not-genuine-0>.

¹¹⁴ Sok Khemara, 'International community condemns Cambodia's elections as a setback to democracy', VOA, 30 July 2018, <https://www.voacambodia.com/a/international-community-condemns-cambodia-elections-as-setback-to-democracy-4505764.html>.

¹¹⁵ Prak Chan Thul, 'Spoilt Cambodian ballot papers seen as protest over 'sham' election', Reuters, 30 July 2018, <https://uk.reuters.com/article/uk-cambodia-election-spoilt/spoilt-cambodian-ballot-papers-seen-as-protest-over-sham-election-idUKKBN1KK176>.

¹¹⁶ Al Jazeera, 'Hun Sen's CPP wins all parliamentary seat in Cambodia's election', Al Jazeera, 16 August 2018, <https://www.aljazeera.com/news/2018/08/hun-sen-cpp-wins-parliamentary-seats-cambodia-election-180815135109639.html>.

identification documents, preventing them from realizing their rights, leaving them socially disadvantaged and vulnerable to discrimination. There seems to be a sharp contrast between the RGC's repeated declarations that Khmer Krom living in Cambodia are Khmer citizens and the level of awareness by the Khmer Krom of their eligibility for citizenship. A 2016 study found that only 26.5% of Khmer Krom respondents were aware that their status allowed them to acquire Khmer citizenship.¹¹⁷ It is estimated that 20-30% of Khmer Krom in Cambodia lack identity cards.¹¹⁸

Identity cards are essential for access to healthcare, education, land ownership, employment, passports, finance and other benefits such as the ability to vote. Therefore, the effects of not having official citizenship recognition are widespread for minorities and infringe vastly upon a broad spectrum of human rights. Many minority groups including Khmer Krom are involved in land conflicts with the authorities for their lack of legal rights to own land or property. Lack of official documentation such as a birth certificate has concerning impacts upon access to education for minority groups, with 95% of ethnic minority children who were born from foreign parents and have lived long-term in Cambodia, unable to access primary school education.

16.2. Sexual orientation, gender identity and expression and sex characteristics ("SOGIESC")

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. Significant steps by the RGC are required to ensure Cambodia's compliance with its international human rights obligations in respect of LGBTIQ rights. Although the LGBTIQ community is not criminalized under domestic legislation, resulting in a level of relative visibility in Cambodia, individuals still face discrimination and social exclusion for their SOGIESC. LGBTIQ individuals are not guaranteed the full enjoyment of their civil and political rights, including a lack of legislation permitting same-sex marriage (as discussed above in s. 14.2), denial of full and equal adoption rights, and the absence of legal gender recognition of self-defined gender identity (recognition under law of an individual's gender identity if it differs from the sex they were assigned at birth).¹¹⁹ Furthermore, LGBTIQ individuals are subjected to societal discrimination and exclusion in their daily lives due to the absence of legislation prohibiting discrimination and violence on the basis of SOGIESC. The general public perception of LGBTIQ individuals continues to be discriminatory, stemming from entrenched cultural norms, with many individuals experiencing harassment from members of the public and their own family members.¹²⁰ LGBTIQ people in Cambodia also face widespread discrimination in accessing and keeping employment, as well as discrimination and exclusion in the workplace.¹²¹

¹¹⁷ Alliance for Conflict Transformation, Cambodian Centre for Human Rights and Khmer Kampuchea Krom Human Rights and Development Association, 'Citizenship Rights for Khmer Krom in Cambodia', January 2017, page 1, https://cchrcambodia.org/admin/media/report/report/english/2017_01_27_CCHR_Report_on_Legal_Status_of_Khmer_Krom_English.pdf.

¹¹⁸ Minority Rights Organization, 'Khmer Krom Background', 2014, http://mirocambodia.org/?page_id=11.

¹¹⁹ 'LGBT Rights', OHCHR Cambodia, 30 July 2015, <https://cambodia.ohchr.org/en/issues/lgbt-rights-0>.

¹²⁰ ILGA, 'Factsheet UPR 2018—Cambodia 3rd Cycle Universal Periodic Review' (2018), pg 2, <https://ilga.org/downloads/SOGIESC_Advocacy_paper_CAMBODIA_UPR32.pdf>.

¹²¹ CCHR, 'The Right to Non-Discrimination on the Basis of Sexual Orientation, Gender Identity and Expression and Sex Characteristics in Employment in Cambodia', 8 December 2019, https://cchrcambodia.org/index_old.php?url=project_page/project_page.php&p=report_detail.php&reid=139&id=3.

16.3. Recommendations

The Human Rights Committee may wish to consider:

- Encouraging the RGC to amend problematic legislation and introduce new legislation to protect the rights of minorities; and to explicitly advise the RGC of the need to ensure that no person is prevented from enjoying their human rights due to nationality, ethnicity or race;
- Recommending that the RGC clearly restate that Khmer Krom are Khmer citizens, and therefore enjoy the rights and protections accorded to citizens under the law;
- Recommending that the RGC issue an instrument clarifying the legal framework governing the acquisition of citizenship and clearly listing the steps and procedures to be undertaken to access identity documentation;
- Advising the RGC to work actively towards the elimination of discrimination against the LGBTIQ community by leading the way with legislative and policy reform;
- Recommending to the RGC to extend an invite to the UN Independent Expert on Sexual Orientation and Gender Identity;
- Recommending to the RGC to extend an invite to the UN Special Rapporteur on the rights of indigenous peoples.

Annex 1: Status of implementation of Cambodia’s second Human Rights Committee review recommendations

No.	HR Committee’s recommendation	Category of rights	Status of implementation
1	<p>On the domestic applicability of the Covenant:</p> <ul style="list-style-type: none"> • Take appropriate measures to raise awareness of the Covenant among judges, prosecutors, lawyers and the public at large to ensure that its provisions are taken into account before national courts • To accede to the Optional Protocol to the ICCPR on individual communications 	Applicability of the Covenant (art. 2)	<p>Partially implemented</p> <p>The RGC has stated they have provided training on international human rights law, including on the ICCPR, to law enforcement officials, civil servants, judges and lawyers.¹²²</p> <p>Cambodia has not yet acceded to the Optional Protocol to the ICCPR. For further information, see section 1.3 of the list of issues.</p>
2	<p>On a national human rights institution:</p> <ul style="list-style-type: none"> • To establish an independent national human rights institution, in accordance with the Paris Principles 	Applicability of the Covenant (art. 2)	<p>Not implemented</p> <p>Cambodia does not have a national human rights institution in accordance with the Paris Principles. For further information, see section 1.2 of the list of issues.</p>
3	<p>On gender equality:</p> <ul style="list-style-type: none"> • To reinforce its measures to ensure equality between women and men in all spheres, including by more effective implementation of the relevant legislation and policies. In that regard, the State Party should continue to implement special interim measures to increase women’s participation in political and public life. • To intensify its efforts to eliminate gender stereotyping with a view to changing the perception of women’s roles in society. • To take concrete measures to reduce the gender wage gap and address all causes for that gap. 	Applicability of the Covenant (art. 2), gender equality (art. 3) and discrimination (art. 26)	<p>Partially implemented</p> <p>The RGC has made progress on the legislative and policy level towards achieving gender equality. This has included, for example, national action plans on Gender Equality and on Violence Against Women. However, there are still significant hurdles to achieving gender equality in Cambodia. After the 2018 National Election, the numbers of women in all levels of government has decreased. Moreover, many measures are not effectively implemented, for example, the last national gender action plan, Neary Rattanak IV, expired in 2018, and Neary Rattanak V (2019-2023) has not been launched yet. There has not been sufficient efforts to eliminate gender stereotyping, and invisible social norms constraining women. The <i>Chbab Srey</i>, a traditional code of conduct for women is still taught in</p>

¹²² UN Human Rights Committee, ‘Third periodic report submitted by Cambodia under Article 40 of the Covenant’, 5 August 2019, CCPR/C/KHM/3, p 9. See also: UN Human Rights Council, ‘National Report submitted in accordance with paragraph 5 of the annex to the Human Rights council resolution 16/12, Cambodia’, 15 November 2018, UN Doc A/HRC/WG.6/32/KHM/1, p 5 & 9, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/341/00/PDF/G1834100.pdf?OpenElement>

			primary schools, encouraging social norms that directly discriminate women and girls. The gender wage gap is still present: women earn about 87% of what men make. ¹²³ For further information, see section 2 of the list of issues.
4	<p>On racial discrimination:</p> <ul style="list-style-type: none"> To strengthen its efforts to combat racist attacks against ethnic Vietnamese persons. To develop a national action plan against racial discrimination 	Applicability of the Covenant (art. 2), discrimination (art. 26) and minority rights (art. 27)	<p>Not implemented</p> <p>The RGC has not developed a national action plan against racial discrimination. Moreover, racial discrimination against ethnic Vietnamese persons is still widespread, and more efforts are needed to combat violence (including some mob killings) and hate speech (including by political leaders) against people of Vietnamese origin.¹²⁴</p>
5	<p>On discrimination based on sexual orientation or gender identity:</p> <ul style="list-style-type: none"> To review its legislation to ensure that discrimination on grounds of sexual orientation and gender identity are prohibited. To conduct public awareness-raising activities to combat the social stigmatization of LGBT persons. 	Applicability of the Covenant (art. 2) and discrimination (art. 26)	<p>Not implemented</p> <p>Domestic legislation remains discriminatory against LGBTIQ individuals. Legislation, in addition to the Constitution, does not permit same-sex marriage and denies full and equal adoption rights for LGBTIQ individuals. Furthermore, there is an absence of legal gender recognition of self-defined gender identity severely impairing the quality of life for many transgender Cambodians. Despite committing to the enactment of legislation explicitly prohibiting discrimination on the grounds of SOGIESC in its third UPR review, no progress has yet been made, with the RGC insisting that a change in social perceptions must precede any legislative developments. One positive development came in 2019 when the RGC announced it would begin teaching LGBTIQ+ issues in schools starting in 2020 to eliminate</p>

¹²³ Cambodia Development Resource Institute, 'Investigating the gender wage gap in Cambodia', January 2019, <https://cdri.org.kh/wp-content/uploads/GMS-Net-PB04.pdf>

¹²⁴ UN Committee on the Elimination of Racial Discrimination, 'Concluding observations on the combined 14th-17th reports of Cambodia', 30 January 2020, UN Doc CERD/C/CHM/CO/14-7, p.

4 https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CERD%2fC%2fKHM%2fCO%2f14-17&Lang=en

			social stigmas and educate against social discrimination, however more concrete steps must be taken to protect this vulnerable group. For further information, see section 16.2 of the list of issues.
6	<p>On gender-based violence:</p> <ul style="list-style-type: none"> To ensure that cases of domestic and sexual violence are thoroughly investigated, perpetrators are prosecuted and victims are adequately compensated. To provide mandatory training on the prosecution of cases of gender-based violence for law enforcement and judicial officers and facilitate victims' access to justice. 	Gender equality (art. 3) and right to humane treatment (art. 7)	<p>Not implemented</p> <p>In recent years, the RGC has made commendable progress in GBV policy. This has included developing the 2017 Media Code of Conduct for Reporting on Violence Against Women; 2016 Referral Guidelines for Women and Girl Survivors of Gender-Based Violence; and the Second National Action Plan to Prevent Violence Against Women. However, the two recommendations made by the Committee have not been implemented by the RGC.</p> <p>There is no mandatory training has been put in place for law enforcement and judicial officers. Moreover, the justice system is widely criticized as ineffective for their handling of GBV cases. There is a lack of services for survivors of GBV; few resources for women facing sexual harassment in the workplace; no government-run shelters; very few legal mechanisms available to women facing violence. For further information, see section 2.2 of the list of issues.</p>
7	<p>On impunity for serious human rights violations:</p> <ul style="list-style-type: none"> To investigate all cases of past human rights violations, in particular violations of article 6 of the Covenant, prosecute the perpetrators and, where appropriate, punish them and provide compensation to the families of the victims. 	Right to life (art. 6)	<p>Not implemented</p> <p>A culture of impunity is still prevalent in Cambodia. Human rights violations either not investigated at all or investigated without transparency, independence and impartiality. Examples of ongoing impunity include the murders of political analyst Kem Ley, environmental activist Chut Wutty and prominent union leader Chea Vichea. For further information, please see section 1.1 of the list of issues.</p>
8	<p>On the excessive use of force:</p> <ul style="list-style-type: none"> To investigate all allegations relating to the excessive use of force, especially the use of lethal force, by police and military personnel and ensure that the perpetrators are prosecuted and the victims adequately compensated. 	Right to life (art. 6), right to humane treatment (art. 7) and right to peaceful	<p>Not implemented</p> <p>There has not been significant progress in this area. Most cases of excessive use of force go uninvestigated and unpunished. It is worth noting that the RGC has stated they have provided training on international human rights law, including on the ICCPR, to law enforcement officials, civil servants, judges and lawyers¹²⁵, however</p>

¹²⁵ UN Human Rights Committee, 'Third periodic report submitted by Cambodia under Article 40 of the Covenant', 5 August 2019, CCPR/C/KHM/3, p 9. See also: UN Human Rights Council, 'National Report submitted in accordance with paragraph 5 of the annex to the Human Rights council resolution 16/12, Cambodia', 15 November 2018, UN Doc A/HRC/WG.6/32/KHM/1, p 5 & 9, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/341/00/PDF/G1834100.pdf?OpenElement>

	<ul style="list-style-type: none"> To increase its efforts to systematically provide training to all security forces, including municipal security guards, on the use of force, especially in the context of demonstrations, taking due account of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. 	assembly (art. 21)	the results of this have not been reflected in the continued instances of excessive forces.
9	<p>On the prohibition of torture and ill-treatment:</p> <ul style="list-style-type: none"> To establish an independent complaints mechanism with the authority to investigate all reported allegations of and complaints about acts of torture and ill-treatment. To ensure that alleged perpetrators of these crimes are prosecuted and that the victims are adequately compensated. To take the steps necessary to ensure that confessions obtained under torture or ill-treatment are inadmissible in court in all cases, in line with its domestic legislation and Article 14 of the Covenant. To speedily establish or designate a national mechanism for the prevention of torture, as provided for in the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. 	Right to humane treatment (art. 7), right to humane conditions of detention (art. 10) and fair trial rights (art. 14)	<p>Not implemented</p> <p>Cambodia established the National Committee Against Torture in 2017 as Cambodia's National Preventative Mechanism, but this has been criticized heavily for lacking independence as it is composed of former government officials.¹²⁶ The RGC announced in May 2020 they would be reviewing and amending a draft anti-torture law, however this law has been in progress since 2009.¹²⁷ Reports of torture are still occurring and are not thoroughly investigated. These often include reports of torture to obtain a confession, which are not deemed inadmissible by the court. For further information, see section 5.1 of the list of issues.</p>
10	<p>On conditions of detention:</p> <ul style="list-style-type: none"> To adopt effective measures to reduce overcrowding in detention centers and ensure conditions of detention that respect the dignity of prisoners. To ensure independent and prompt investigation, and the resultant prosecution, of State officials responsible for corruption in the penitentiary. To ensure that defendants are detained pending trial only when strictly required and implement alternatives to imprisonment. 	Right to liberty and security (art. 9) and right to humane conditions of detention (art. 10)	<p>Not implemented</p> <p>There has not been significant progress in this area. Severe overcrowding is still widely reported in Cambodia's prisons, as is corruption, and there is an excessive use of pre-trial detention, even for juveniles. The lack of communication of final court judgement to the individuals concerned is also a persisting problem. For further information, see sections 6, 7.1 and 7.2 of the list of issues.</p>

¹²⁶ Mech Dara and Daphne Chen, 'Government forms new anti-torture org in bid for UN compliance', 29 November 2017, *Phnom Penh Post* <https://www.phnompenhpost.com/national/government-forms-new-anti-torture-org-bid-un-compliance>

¹²⁷ Niem Chheng, 'Draft law on anti-torture reviewed, resurrected', 19 May 2020 *Phnom Penh Post*, <https://www.phnompenhpost.com/national/draft-law-anti-torture-reviewed-resurrected>

	<ul style="list-style-type: none"> To urgently ensure the communication of final court judgements to prison authorities and the persons concerned. 		
11	<p>On children in conflict with the law:</p> <ul style="list-style-type: none"> To take measures to establish a comprehensive juvenile justice system in order to ensure that juveniles are treated in a manner commensurate with their age. To ensure the strict separation of juveniles and adults in places of detention, in compliance with international standards. 	Right to humane conditions of detention (art. 10), fair trial rights (art. 14) and rights of children (art. 24)	<p>Not implemented</p> <p>Cambodia does not have a comprehensive juvenile justice system. There is no separation between juveniles and adult prisoners in some places of detention due to overcrowding, and juveniles are often subject to pre-trial detention. Moreover, there are a lack of measures taken to protect the privacy of juveniles during trials. For further information, see section 7.2 of the list of issues.</p>
12	<p>On arbitrary arrest and detention:</p> <ul style="list-style-type: none"> To take all necessary measures to put an end to the arbitrary arrest and detention of homeless people, beggars, people who use drugs, children in street situations and sex workers. To investigate all instances of torture and ill-treatment and prosecute and punish the perpetrators. 	Right to humane treatment (art. 7), right to liberty and security (art. 9) and right to humane conditions of detention (art. 10)	<p>Not implemented</p> <p>Arbitrary arrest and detention of homeless people, beggars, those who use drugs and sex workers, are still common in Cambodia. The Phnom Penh Social Affairs Transit Centre (Prey Speu) continues to operate as a place of arbitrary detention for drug users, homeless persons and people suffering from a mental health illness, despite continuing reports of persons being held unlawfully against their will and calls for its closure. Concerns have also been raised regarding the operation of the newly opened mental health facility, the Kandal Stueng Health Center, and whether it is staffed by appropriate mental health professionals with the ability to make safe and medically required determinations as to detention of patients.¹²⁸ Finally, there are reports of ‘street sweeps’ to remove and detain vulnerable persons including street children, sex workers, and homeless people for the ‘beautification’ of Phnom Penh.¹²⁹ As mentioned above, reports of torture in detention still occur and are not thoroughly investigated. Between April 2019 and March 2020 there were two reported deaths in detention suspected of being a</p>

¹²⁸ Leonie Kijewski, ‘Shackled and locked up, Cambodia’s mentally ill languish in limbo’, *The Washington Post*, 16 February 2020,

https://www.washingtonpost.com/world/asia_pacific/shackled-and-locked-up-cambodias-mentally-ill-languish-in-limbo/2020/02/14/a8c8bfbe-2df6-11ea-bffe-020c88b3f120_story.html

¹²⁹ Kong Meta and Erin Handley, ‘Homeless ‘don’t look good’ *Phnom Penh Post*, 5 May 2016, <https://www.phnompenhpost.com/national/homeless-dont-look-good> See also: Niem Chheng,

Smith: Overhaul the Prey Speu centre or shut it down’ *Phnom Penh Post*, 11 September 2019 <https://www.phnompenhpost.com/national/smith-overhaul-prey-speu-centre-or-shut-it-down>

and Simon Springer, ‘The violence of homelessness: Exile and arbitrary detention in Cambodia’s war on the poor’, *The Asia Pacific Viewpoint*, 1 April 2020,

<https://onlinelibrary.wiley.com/doi/full/10.1111/apv.12273>

			result of torture from custodial staff. For further information, see section 7.1 of the list of issues.
13	<p>On access to counsel:</p> <ul style="list-style-type: none"> To guarantee that all aspects of its law and practice on pretrial detention are harmonized with the requirements of articles 9 and 14 of the Covenant, as expressed in general comment No. 32 on the right to equality before the courts and tribunals and to a fair trial, and general comment No. 35 on the right to liberty and security of person, including by permitting detained persons charged with a criminal offence immediate access to a lawyer from the outset of their deprivation of liberty. Access to counsel should be granted at all stages of the criminal procedure. 	Right to liberty and security (art. 9) and fair trial rights (art. 14)	<p>Not implemented</p> <p>Fair trial rights and guarantees are frequently overlooked in Cambodia’s court system. This includes access to legal representation. Article 98 of the Code of Criminal Procedure denies the right of the suspect to have access to a lawyer during the first 24 hours in custody. Article 301 of the Code of Criminal Procedure does not recognize the right to legal representation for all types of offenses. According to CCHR monitoring of Court of Appeal trials, the percentage of defendants who were not represented by a lawyer was 23.5% between 2016-2018 and 25% for 2019. For further information on fair trial rights, see section 9 of the list of issues.</p>
14	<p>On trafficking in human beings:</p> <ul style="list-style-type: none"> To intensify and better coordinate its efforts to combat trafficking in persons. To consider establishing a central, authoritative agency responsible for combating human trafficking, by systematically and vigorously investigating and prosecuting perpetrators. To guarantee adequate protection, reparation and compensation to victims, including rehabilitation. 	Forced or compulsory labor (art. 8)	<p>Partially implemented</p> <p>The RGC has made many commendable efforts to intensify and better coordinate its efforts to combat trafficking in persons. This has included the adoption of National Action Plan (2019-2023) to address new forms of human trafficking; Workshops for hotel staff and government officials on preventing child sexual exploitation in the hospitality industry; the Memorandum of Understanding outlining cross-border anti-trafficking investigation signed with Thailand and Vietnam (although no investigation took place under their auspices in 2018); and the deliverance of training on the implementation of anti-trafficking laws to police, prosecutors, judges and other government officials.</p> <p>However, further progress is needed. The government has not established a central agency as recommended, and there are a range of issues that facilitate trafficking in Cambodia that need to be addressed, including: courts reportedly convicting suspects on lesser charges and concluding sex trafficking cases with monetary settlements in lieu of prison sentences; a lack of standard operating procedure for calculating restitution or compensation; corruption at all levels of government; and insufficient victim identification efforts.¹³⁰</p>

¹³⁰ U.S Department of State, ‘2019 Trafficking in Persons Report: Cambodia’, June 2019, <https://www.state.gov/reports/2019-trafficking-in-persons-report-2/cambodia/>

15	<p>On the Extraordinary Chambers in the Courts of Cambodia:</p> <ul style="list-style-type: none"> To take steps to protect the full independence of the ECCC. To cooperate with the ECCC in the fulfilment of its functions 	Fair trial rights (art. 14)	<p>Implemented</p> <p>While in the past the independence of the ECCC has been of concern, in recent years, there have been few reports of interference with the ECCC in the fulfilment of its functions.</p>
16	<p>On the independence of the judiciary:</p> <ul style="list-style-type: none"> To take immediate steps to ensure and protect the full independence and impartiality of the judiciary and guarantee that it is free to operate without pressure and interference from the executive. To undertake a review of the three laws on the judiciary with a view to reducing the competences of the Ministry of Justice and strengthening judicial independence. 	Fair trial rights (art. 14)	<p>Not implemented</p> <p>Despite accepting six recommendations in its third cycle UPR committing to enact reform to ensure judicial independence is realized, no concrete actions have been taken to implement them.¹³¹</p> <p>. For further information, see section 9.3 of the list of issues.</p>
17	<p>On the freedom of expression and association: to ensure that everyone can freely exercise his or her right to freedom of expression and association, in accordance with articles 19 and 22 of the Covenant and the Committee’s general comment No. 34 on freedoms of opinion and expression. In doing so, the State Party should:</p> <ol style="list-style-type: none"> Take immediate action to investigate complaints of killings and provide effective protection to journalists, human rights defenders and other civil society actors who are subjected to intimidation and attacks owing to their professional activities. Refrain from prosecuting journalists, human rights defenders and other civil society actors as a means of deterring or discouraging them from freely expressing their opinions. Consider decriminalizing defamation and bring any other relevant provisions of the Criminal Code into line with article 19 of the Covenant. Review its current and pending legislation, including the draft laws on cybercrimes and on associations and NGOs, to avoid the use of vague terminology and overly broad restrictions, 	Right to life (art. 6), right to humane treatment (art. 7), freedom of expression (art. 19) and freedom of association (art. 22)	<p>Not implemented</p> <p>Fundamental freedoms are regularly curtailed in Cambodia, particularly freedom of expression and freedom of association. The judicial and physical harassment and intimidation of journalists, human rights defenders, political opposition; environmental activists, trade union members and CSOs is widespread. This has been worsened in periods of heightened tensions, such as the 2018 National Elections and during the COVID-19 pandemic. Defamation is still criminalized and regularly used against dissenting voices, as well as other provisions of the Criminal Code such as public insult, in contradiction of the Committee’s recommendation. Civil society has widely called for amendments to these provisions. New laws further restricting freedom of expression and association, such as the LANGO and 2018 Constitutional amendments and amendments to the Law on Political Parties, have been passed since this review. There are still many legislative restrictions on both freedom of expression and assembly, and the legislative framework and laws have not been reviewed in line with the recommendations, including the draft law on cybercrime. For further information on freedom of expression, see section 11 of the list of issues. For further information on freedom of assembly, see section 12 of the list of issues.</p>

¹³¹ Cambodia accepted recommendations 118, 122, 123, 124, 125 and 127 relating to judicial independence from the Universal Periodic Review- UN Human Rights Council, ‘Report of the Working Group on the Universal Periodic Review: Cambodia’, 2019, UN Doc A/HRC/41/17.

	to ensure that any restrictions on the exercise of freedom of expression and association comply with the strict requirements of articles 19 (3) and 22 of the Covenant.		
18	<p>On the right to freedom of peaceful assembly:</p> <ul style="list-style-type: none"> To ensure that the Law on Peaceful Demonstration is implemented in conformity with the Covenant. To ensure that the exercise of the right to peaceful assembly is not subject to restrictions other than the ones permissible under the Covenant. 	Freedom of assembly (art. 21)	<p>Not implemented</p> <p>The right to freedom of assembly is still subject to impermissible restrictions in Cambodia. This has included: the systemic misapplication of the <i>Law on Peaceful Assembly</i>; authorities often requiring prior authorization before holding assemblies, in violation of international standards; the frequent prevention or interruption of peaceful protests, without timely and fulsome reasons; protestors arrested and only released once they have signed a contract wherein they agree not to exercise their right to freedom of peaceful assembly; and the disproportionate use of force against protestors. Moreover, the <i>Trade Union Law</i> includes unjustified restrictions to workers' right to strike. For further information on the right to freedom of peaceful assembly, see section 13 of the list of issues.</p>
19	<p>On the right to marriage and equality of spouses:</p> <ul style="list-style-type: none"> To repeal provisions that discriminate on the basis of sex, age and income with regard to marriage. 	Gender equality (art. 3), right to marriage (art. 23) and discrimination (art. 26)	<p>Not implemented</p> <p>The legal framework regarding marriage and divorce still discriminates between men and women. In particular, Article 950 of the Criminal Code which prohibits women from re-marrying until 120 days have gone by since divorce / annulment. For further information, see section 14 on page 20 of the list of issues.</p>
20	<p>On corporal punishment:</p> <ul style="list-style-type: none"> To take practical steps, including through legislative measures, where appropriate, to put an end to corporal punishment in all settings. 	Right to humane treatment (art. 7) and rights of	<p>Partially implemented</p> <p>Commendably, the RGC has committed to ending corporal punishment as a priority. The RGC has developed the National Action Plan to Prevent and Respond to Violence Against Children (2017-2021), which includes plans for law reform.¹³² However, this has not yet been accomplished. For example, Article 8 of the <i>Law on</i></p>

¹³² Global Initiative to End Corporal Punishment, 'Country Report for Cambodia', March 2020, <https://endcorporalpunishment.org/reports-on-every-state-and-territory/cambodia/>

	<ul style="list-style-type: none"> To encourage non-violent forms of discipline as an alternative to corporal punishment. To conduct public information campaigns to raise awareness about its harmful effects. 	children (art. 24)	<i>the Prevention of Domestic Violence and the Protection of Victims 2005</i> states that traditional discipline of children should not be considered violence or domestic violence. The prohibition is still to be achieved in the home, alternative care settings and day care, and any legislative amendments need to make it clear that any right to discipline a child does not include a right to inflict corporal or other humiliating punishment.
21	On participation in public affairs: <ul style="list-style-type: none"> To ensure transparency in the legislative process and consider making public all draft legislation to facilitate public debate and dialogue by citizens with their representatives, taking due account of the Committee’s general comment No. 25 on the right to participate in public affairs, voting rights and the right of equal access to public service. 	Right to take part in the conduct of public affairs (art. 25)	Partially implemented The RGC has made efforts to make draft legislation public. However in recent years, multiple laws have been adopted either without consultation with stakeholders (examples include the Constitutional amendments passed in 2018 in the lead up to the national election, the May 2020 <i>Law on the Management of the Nation in the State of Emergency</i> and the three fundamental laws on the judiciary passed in 2014) or after consultations that lacked inclusiveness, genuineness and transparency (examples include the amendments to the <i>Trade Union Law</i>). Public scrutiny of draft laws is all the more essential since the 2018 elections as there is no opposition represented in the National Assembly.
22	On the right to vote: <ul style="list-style-type: none"> To review its legislation denying all convicted prisoners the right to vote, in the light of paragraph 14 of the Committee’s general comment No. 25 on article 25 of the Covenant. To ensure that its legislation does not discriminate against persons with psychosocial disabilities by denying them the right to vote on bases that are disproportionate or that have no reasonable or objective relation to their ability to vote, taking account of article 25. 	Applicability of the Covenant (art. 2), right to humane conditions of detention (art. 10), right to take part in the conduct of public affairs (art. 25) and discrimination (art. 26)	Not implemented There are no legal limits on the rights of persons with disabilities to vote or participate in civic affairs. It is noted that there has been a lack of concerted efforts by the RGC to facilitate people with psychosocial disabilities’ civic engagement. Convicted prisoners are still unable to vote in Cambodia as per Article 50 of the 1997 Law on the Election of Members of the National Assembly.

23	<p>On statelessness:</p> <ul style="list-style-type: none"> • To take all necessary measures to ensure the full enjoyment of Covenant rights by all residents, including stateless persons. • To facilitate access to identification documentation. • To guarantee the right of stateless children who were born in the territory of Cambodia to stateless parents to acquire a nationality. 		<p>Not implemented</p> <p>Stateless persons are still discriminated against in Cambodia, which prevents their full enjoyment of ICCPR rights. There is not effective implementation of laws and policies to provide minorities such as the Khmer Krom the opportunity to gain nationality. Moreover, there is no set standards for citizenship: the obscure legal framework is inconsistently applied, allowing for discriminatory practice. For more information about statelessness in relation to the Khmer Krom, see section 16.1 of the list of issues.</p>
24	<p>On the rights of persons belonging to minorities:</p> <ul style="list-style-type: none"> • To establish an effective consultation mechanism and ensure meaningful consultation with indigenous peoples in decision-making in all areas having an impact on their rights. 		<p>Not implemented</p> <p>The RGC has not established a consultation mechanism to ensure meaningful consultation with indigenous minorities in decision-making. Particularly problematic is the granting of economic land concessions, which often only involve discussions between companies and the RGC, even for those involving the lands, territories and resources of indigenous people.</p>
25	<p>Dissemination of information relating to the Covenant:</p> <ul style="list-style-type: none"> • To widely disseminate the Covenant, the text of its second periodic report, the written replies to the list of issues drawn up by the Committee and the present concluding observations among the judicial, legislative and administrative authorities, civil society and NGOs operating in the country, as well as the general public. • To provide, within one year, relevant information on its implementation of the recommendations made by the Committee. • To provide in its next periodic report specific, up-to-date information on the implementation of all the Committee's recommendations and on the Covenant as a whole. 		<p>Partially implemented</p> <p>The RGC submitted its report on the enforcement of the ICCPR to the Human Rights Committee in April 2019.¹³³ There is no evidence this was disseminated among civil society and the public, nor evidence of consultation with civil society for the April 2019 report.</p>

¹³³ UN Human Rights Committee, 'Third periodic report submitted by Cambodia under Article 40 of the Covenant', 5 August 2019, CCPR/C/KHM/3.

	<ul style="list-style-type: none">• To broadly consult, when preparing its next periodic report, civil society and NGOs operating in the country.		
--	---	--	--