

CAMBODIA: NGO FOLLOW-UP REPORT	CERD/C/KHM/14-17 (November 2018)
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This follow-up report responds to the Royal Government of Cambodia’s (“RGC”) response submitted on 26 September 2018 to the CERD Committee’s Recommendations dated 1 April 2010. This report will grade the RGC’s response to selected recommendations (please see grading scheme below), outline whether any measures have been taken in accordance with the recommendation and its effects, whether any measures have been taken that contradict the recommendation, the current status of the problem to which the recommendation relates and finally, make our own recommendations.

Suggested grades by the civil society organization

- A:** The response of the government to the recommended measure is satisfactory.
 - B:** The response of the government to the recommended measure is partially satisfactory.
 - C:** The government has not taken any actions to implement the recommendation.
 - D:** The government has taken actions that are contrary to the recommendation.
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I. Indigenous People

A. Collective Land Titles

Paragraph 15 of the RGC’s response to Recommendation 16 of the 2010 CERD Report - Indigenous peoples’ rights to possess, develop, control and use their communal lands

To ensure and protect legitimate interests of indigenous people, the RGC claim to have imposed the following measures and directions:

- “To stop providing more economic land concessions but speed up the registration process at least 10 indigenous communities a year since 2013;
- To expand the awareness and respect of multi-cultures of indigenous people, participate in setting up communities as required, and provide knowledge to maintain good tradition and culture, and utilization of land and natural resources in order to ensure sustainable socio-economic development;

<ul style="list-style-type: none"> To enhance the standard of living and livelihood by strengthening education on agriculture, infrastructure construction paralleling to the priority needs, health system development, education on general knowledge and skills associated with good tradition and culture, and the use of local languages of indigenous people in the curriculum, in the radio and television news programs, especially news related to economic, social and cultural development; and To organize the measures to protect the right to use land and natural resources of indigenous people in accordance with forestry management standard in order to ensure economic benefits and community development with the consultation and attention on the opinion of indigenous people.”¹ 	
Suggested grade by the civil society organization	C
1. Any measures taken in accordance with the recommendation, and its effects	
<p>The government has not taken any specific or positive measures to speed up the attribution of collective land title process.</p> <p>In December 2017, the Deputy Prime Minister and Minister of Interior Sar Kheng highlighted the need to allocate land with equity, transparency, efficiency and sustainability, and to speed up the registration of land titles.² At the same time, the United Nations Office of the High Commissioner for Human Rights (“OHCHR”) in Cambodia prepared a draft discussion paper on potential reform of the communal land titling process.³ However, no concrete steps have been taken.</p>	
2. Any measures taken that contradict the purposes of the recommendation	
<p>Indigenous communities continue to be forcibly evicted from their land without respect for their free, prior and informed consent, their indigenous rights, and without proper compensation. They are deprived of an effective remedy for the human rights violations they suffered.⁴</p>	
3. Current status of the problem (especially changes after the adoption of concluding observations)	
<p>Collective Land Titles</p> <p>Between June 2017 and May 2019, only 6 collective land titles have been granted to indigenous communities. This brings the total number of collective land titles to 24, out of a possible 458.⁵ Many</p>	

¹ ‘Combined fourteenth to seventeenth periodic reports submitted by Cambodia under article 9 of the Covention, due in 2012’ UN Doc CERD/C/KHM/14-17 (15 November 2018, para. 15).

² ‘Samdech Krohom Sarheng provided five key recommendations at the Ministry of Land Management’s Annual Meeting’ *Fresh News Asia* (December 2017), <http://freshnewsasia.com/index.php/en/localnews/74450-2017-12-28-05-43-55.html> (only available in Khmer).

³ OHCHR, ‘Report of the United Nations High Commissioner for Human Rights on the Rights of Indigenous People’ (6 July 2018) UN Doc A/HRC/39/37, para. 27, <https://undocs.org/A/HRC/39/37>.

⁴ CCHR, ‘Briefing Note on Business and Human Rights: Preventing, mitigating and remedying land-related rights violations in the Kingdom of Cambodia: seven areas for improvement’ (December 2018), https://cchrcambodia.org/index_old.php?title=Briefing-Note-on-Business-and-Human-Rights-Preventing-Mitigating-and-Remedying-Land-Related-Rights-Violations-in-the-Kingdom-of-Cambodia-Seven-Areas-for-Improvement&url=media/media.php&p=analysis_detail.php&anid=83&id=5&lang=eng.

⁵ CCHR, ‘Access to Collective Land titles for indigenous communities in Cambodia’ (August 2019) <https://www.facebook.com/cchrcambodia/photos/a.10161980267830431/10161981181785431/?type=3&theater>. The data is based on a Ministry of Land Management, Urban Planning and Construction (“MLMUPC”) July 2017 report on land registration and interviews conducted by CCHR with an MLMUPC official in July 2018. See also ‘Outcome Report of the MLMUPC,’ May 2019 (not available online).

communities have applied for collective land titles but have been waiting for several years for the process to conclude.⁶ In particular, communities who are involved in land disputes are unable to obtain collective land title. For instance, the Bunong community in Bu Sra village, Mondulkiri province, have registered as an indigenous group, and as a legal personality - the two pre-requisites necessary to apply for a collective land title – however they are unable to complete the application as the land has been leased to Socfin-KCD (a rubber company), triggering an ongoing land dispute since 2008.⁷

In December 2017, the Special Rapporteur on the Rights of Indigenous Peoples and the Special Rapporteur on the Situation of Human Rights in Cambodia issued a joint communication detailing the complexity of acquiring collective land title, “a process in which indigenous peoples and supporting organizations bear the bulk of the financial costs – are putting indigenous peoples in Cambodia at serious risk of losing their traditional lands and resources, in particular sacred forests and gravesites, and their distinct identities as indigenous peoples.”⁸ The communication requested a response from the RGC, who have still failed to respond.

Women and Land Disputes

According to the 2019 gender assessment by the Ministry of Women’s Affairs, indigenous women and girls are deeply affected by the lack of basic services such as education, transportation and appropriate health facilities including sexual and reproductive health.⁹ The gender assessment also notes that land alienation due to market economics and forest concessions have contributed to impoverished livelihoods and social distress in some indigenous communities.

The question of land conflict, and particularly land evictions, disproportionately affects women, especially those living in rural areas.¹⁰ Many women abandoned their regular activities in the community in order to start campaigning for greater land tenure security. Such decisions may be fueled by the cultural pressure exerted on mothers to provide food and shelter for their family, yet result can in increased instances of domestic violence.¹¹

A survey of 612 women involved in land disputes, which took place between May to June 2016, showed that 94.5% experienced threats, 73.1% experienced harassment or intimidation, 33.6% experienced violence, and 2.1% experienced arrests when involved in a land dispute with the authorities. At the same

⁶ CCHR, ‘Access to collective land titles for indigenous communities in Cambodia’ (February 2016), https://cchrcambodia.org/index_old.php?url=project_page/project_page.php&p=report_detail.php&reid=111&id=3; Cambodia Indigenous Peoples Alliance, Cambodia Indigenous Youth Association and Asia Indigenous Peoples Pact, ‘Situation of Indigenous Peoples in Cambodia - Submission for the 3rd Cycle of Universal Periodic Review of Cambodia 32nd Session of the Human Rights Council’ (January – February 2019), https://www.upr-info.org/sites/default/files/document/cambodia/session_32_-_january_2019/js1_upr32_khm_e_main.pdf.

⁷ CCHR, ‘Briefing Note on Business and Human Rights: Preventing, Mitigating and Remediating Land-Related Rights Violations in the Kingdom of Cambodia: seven areas for improvement’ (December 2018), p. 14, https://cchrcambodia.org/index_old.php?title=Briefing-Note-on-Business-and-Human-Rights-Preventing-Mitigating-and-Remediating-Land-Related-Rights-Violations-in-the-Kingdom-of-Cambodia-Seven-Areas-for-Improvement&url=media/media.php&p=analysis_detail.php&anid=83&id=5&lang=eng.

⁸ ‘Mandates of the Special Rapporteur on the rights of indigenous peoples and the Special Rapporteur on the situation of human rights in Cambodia’ Ref OL KHN 6/2017 (1 December 2017) <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=23484>.

⁹ Cambodia Ministry of Women’s Affairs, ‘Qualitative Research with Five Disadvantaged Groups of Women for the Cambodia Gender Assessment 2019’ (January 2019), p. 7.

¹⁰ CEDAW Committee, ‘Concluding observations on the combined fourth and fifth periodic reports of Cambodia’ (29 October 2013) Doc No CEDAW/C/KHM/CO/4-5*, para. 43 (b), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/KHM/CO/4-5&Lang=en.

¹¹ See LICADHO, ‘Good wives: women land campaigners and the impact of human rights activism’ (November 2014), p. 12, <https://www.licadho-cambodia.org/reports/files/200LICADHOREportGoodWivesFemaleActivism2014-English.pdf>; Alice Beban & Pou Sovachana, *Human Security and Land Rights in Cambodia* (Cambodian Institute for Cooperation and Peace 2014), pp. 37-38 & 57, <http://www.cicp.org.kh/userfiles/file/Publications/HSLR-report-Final-3-29-2015.pdf>.

time, amongst those involved in a land dispute with land concessions actors, 59.5% experienced threats, 49% experienced harassment, 24% experienced violence, and 1.5% experienced arrest.¹²

Indigenous Women

According to data collected by the Cambodia Indigenous Women Working Group, rape and murder of indigenous women and children has increased in recent years. Cases often go uninvestigated. In Ratanakiri province between 2017 and 2019 40 cases of rape and murder were recorded. In 2019 alone 6 cases of rape were reported, in 4 of these cases the victims died.¹³

4. Recommendations

- i. Take concrete measures to simplify and speed up the collective land title registration process by providing more financial and human resources.
- ii. Amend the existing policy on the use and registration of indigenous community land by removing any sentence or article whose meaning determines that indigenous community land is State property.
- iii. Amend existing policy that places a 7 hectare limit on the size of burial grounds and sacred forests that can be registered under collective land titles.
- iv. Ensure that the UN Guiding Principles on Business and Human Rights are translated into practice, requiring states to respect human rights, protect them and provide a remedy in case of violations.

II. Constitutional Framework

Paragraphs 20 and 21 of the RGC’s response addressing Recommendation 11 of the 2010 CERD Report – that legislation be completed to ensure a clear definition of racial discrimination, in conformity with article 1 of the Convention, and the right of everyone not to be discriminate against in the enjoyment of all rights set forth in article 5 of the Convention, and that these provisions are understood and disseminated to the public.

“Pursuant to Article 31 of the Constitution of the Kingdom of Cambodia and Article 1 of the Convention, the Criminal Code of the Kingdom of Cambodia defined “racial discrimination” as the refusal to supply goods or services or hire employees, termination of employment, or removal from office; and the denial of the rights by public officials based on the grounds that the persons are the member or non-member of any ethnic groups or races and that discriminatory act shall be punishable by Criminal Law as stipulated from Article 265 to Article 270 in the Criminal Code.

Rights of each individual to entitle for all rights as enshrined in Article 5 of the Convention are guaranteed by laws without discrimination as stated from Article 31 to Article 50 of the Constitution of the Kingdom of Cambodia.”¹⁴

¹² CCHR, ‘Cambodia’s Women in Land Conflict’ (September 2016), p. 13, https://cchrcambodia.org/index_old.php?url=media/media.php&p=report_detail.php&reid=116&id=5; see also NGO-CEDAW, ‘The Impact of Eviction: Report on Interviews of Women and Children Harmed by Land Evictions’ (2012), <http://ngocedaw.org/wp-content/uploads/2012/07/Appendix-9-The-Impact-of-Eviction-Report.pdf>.

¹³ “Joint-Statement of Cambodia Indigenous Women Working Group (C.I.W.W.G) on the rape and murder over indigenous women and young women, and faced factors of land and natural resources women defenders” (29 October 2019) not available online.

¹⁴ ‘Combined fourteenth to seventeenth periodic reports submitted by Cambodia under article 9 of the Covention, due in 2012’ UN Doc CERD/C/KHM/14-17 (15 November 2018), paras. 21 & 22.

Suggested grade by the civil society organization	C
1. Any measures taken in accordance with the recommendation, and its effects	
<p>While non-discrimination is guaranteed by legislation, the RGC have not taken any further specific measures to implement the laws in practice and address Recommendation 11. However, during the Third UPR cycle in 2019, it accepted a recommendation requesting it to “step up efforts to fight discrimination against ethnic and racial minorities, and develop a national plan of action against racial discrimination.”¹⁵</p>	
2. Any measures taken that contradict the purposes of the recommendation	
<p>In February 2018, the Constitution was amended to include, inter alia, provisions requiring political parties and Cambodian people to “primarily uphold the national interest”¹⁶ and not to conduct “any activities” which “directly or indirectly” affect “the interests” of the Kingdom of Cambodia and of Khmer citizens (Articles 42 (2) referring to political parties and 49 (2) referring to individuals). Further, the February 2018 constitutional amendments include a new provision stating that “the Kingdom of Cambodia absolutely opposes any interference from abroad conducted through any forms into its own internal affairs” (Art. 53 (3)). Together, these provisions have the potential to be misused to punish those who advocate for the rights of minorities, for instance regarding the protection of certain cultural practices which may differ from the mainstream, or when individuals from a different nationality advocate for their rights.¹⁷</p>	
3. Current status of the problem (especially changes after the adoption of concluding observations)	
<p>Article 31 of the Constitution, which the RGC refers to in its report, only grants rights to “Khmer citizens.”¹⁸ However, international human rights law requires that the right non-discrimination should apply to <i>all</i> people within a state’s jurisdiction. Further, the Constitution provides that Khmer citizens will not be deprived of their nationality.¹⁹ However, the criteria for the way in which one qualifies as a Khmer citizen is not set out in the Constitution.²⁰ Therefore, the state has wide discretion with regard to creating laws that grant nationality, leaving the potential for the creation of discriminatory legislation. In the context of</p>	

¹⁵ Cambodia’s Responses to Recommendations, ‘UPR Info’ (September 2019), https://www.upr-info.org/sites/default/files/document/cambodia/session_32_-_january_2019/2rps_cambodia.pdf.

¹⁶ Articles 42 (2) New and 49 (2) New, forming part of the package of the February 2018 Constitutional amendments, require political parties and every Khmer citizen respectively to “primarily uphold the national interest” and require that they “shall not conduct any activities” which “directly or indirectly” affect “the interests” of the Kingdom of Cambodia and of Khmer citizens.

¹⁷ CCHR, ADHOC and Solidarity Center, ‘Cambodian Fundamental Freedoms Monitor, Second Annual Report’ (April 2017-March 2018), https://cchrcambodia.org/index_old.php?url=media/media.php&p=report_detail.php&reid=128&id=5; Civicus, World Alliance for Citizen Participation, CCH, ADHOC, IFEX and Solidarity Center, ‘Joint Submissions to the UN UPR, 32nd session, Fundamental Freedoms’ (12 July 2018), https://www.upr-info.org/sites/default/files/document/cambodia/session_32_-_january_2019/js4_upr32_khm_e_main.pdf; OHCHR, ‘UN Experts Say Constitutional Changes in Cambodia Impinge on Democracy’ (20 February 2018), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22674&LangID=E>.

¹⁸ Kingdom of Cambodia, ‘Constitution 1993 amended 2008’, https://www.constituteproject.org/constitution/Cambodia_2008.pdf?lang=en.

¹⁹ Kingdom of Cambodia, ‘Constitution 1993 amended 2008’, https://www.constituteproject.org/constitution/Cambodia_2008.pdf?lang=en, (hereafter referred to as the “Cambodian Constitution”), Art. 33. *Note:* while some jurisdictions distinguish between the concepts of “nationality” and “citizenship,” in Cambodian law the two terms appear to be used interchangeably. Article 2 of the Nationality Law provides: “A person of Khmer nationality/citizenship is a Khmer citizen.”

²⁰ Cambodian Constitution, Art. 33.

Cambodia, this concern is already realized in relation to the ethnic Vietnamese minority (as discussed further below) and the Khmer Krom.
4. Recommendations
<ul style="list-style-type: none"> i. Amend Article 31 of the Constitution to extend its application to all those present on Cambodian territory, irrespective of their nationality; ii. Adopt specific legislation protecting the rights of minorities on Cambodian territory, in light with international standards and only after consultation with all relevant stakeholders.

III. Forced Evictions and obstacles to advocacy for minority rights

Paragraphs 26 and 27 of the RGC’s response addressing Recommendation 17 of the 2010 CERD Report – that the state provide dull protection to vulnerable groups against physical attacks and intimidation as they seek to exercise their rights as they relate to communal lands.	
<p>“ The Kingdom of Cambodia does not have any principle to implement the enforced eviction to any citizens even they are indigenous people; what the RGC has previously done is housing relocation for development through peaceful resolution.</p> <p>So far, the competent authorities never pressured, alleged and arrested any indigenous villagers based on their protestations against the economic land concessions. The allegation and arrest of the indigenous people in the past was because they had committed criminal offenses. In this case, not only indigenous people but also everyone who committed crime shall be alleged and arrested according to the existing laws.”²¹</p>	
Suggested grade by the civil society organization	D
1. Any measures taken in accordance with the recommendation, and its effects	
No.	
2. Any measures taken that contradict the purposes of the recommendation	
<i>Forced Evictions</i>	

²¹ ‘Combined fourteenth to seventeenth periodic reports submitted by Cambodia under article 9 of the Covention, due in 2012’ UN Doc CERD/C/KHM/14-17 (15 November 2018), paras. 26 & 27.

In October 2018, more than 200 ethnic Vietnamese families were involuntarily resettled to an area with no running water or toilets, and far from the river, in Chnok Tru village.²²

In June 2019, hundreds of ethnic Vietnamese families were transferred from their floating houses on the Tonle Sap lake to Kampong Chhnang province, while thousand more are scheduled to be relocated.²³ As a result, they are deprived of their primary means of surviving, fishing.

Harassment, intimidations and violence against human rights defenders

NGOs and human rights defenders advocating on behalf of minorities face constant restrictions on their fundamental freedoms, including their ability to gather or peacefully protest. In March 2018, violent clashes occurred between about 300 protesters following the arrest and detention of fellow community members, and the authorities on National Road 76, near Pir Thnu commune, Snuol District Kratie province, in relation to a land dispute with Memot rubber company, ongoing since 2008. Live ammunitions were fired on the protesters.²⁴ In late January 2019, 100-300 armed forces fired live ammunitions in a crowd of around 300 villagers protesting in the context of a land dispute in Koki village, Bit Traing commune, Prey Nob District, Sihanouk Province. At least one person was critically injured; one arrested man was kicked repeatedly on his back while handcuffed and held faced down on the ground; and 4 persons were arrested and released after they agreed to end protests.²⁵

Furthermore, Khmer-Krom human rights activists and individuals report being consistently subject to monitoring and intimidation by local authorities when conducting field research on Khmer-Krom issues. In particular, authorities interfere with activities at the offices of the Khmer-Krom associations that work with the Khmer-Krom people, and in the temples of Khmer-Krom Buddhist monks, as well as on social media and other online platforms. Such interference commonly takes the form of surveillance, photographing, recording and questioning of activists, which hampers freedom of expression by engendering self-censorship among activists due to legitimate fears for their own safety and that of their families.

Similarly, activities organized to promote the culture or history of minorities, such as the 4 June 1949 anniversary for Khmer-Krom (the date their homeland was transferred by the French colonial rulers to Vietnam, without the consent of the Khmer-Krom people), or world indigenous people's day, required prior authorization and were heavily monitored/restricted. Instead of encouraging the people to commemorate events, the Cambodian government uses various tactics to delay or deny approval of the events. If the Cambodian government decides to allow the event, they apply restrictions to limit the number of participants and the event is only allowed to be organized indoors in a location that the government approves of. Such restrictions illegitimately reduce the impact of this event, which is so important to the identity of the minorities.

In June 2017, Khmer-Krom people in Cambodia sought to organize a peaceful procession to the National Assembly and Ministry of Foreign Affairs of Cambodia in order to submit a petition calling for respect for the rights of Khmer Krom people. The Phnom Penh City Hall banned the planned event and threatened to arrest people if they proceeded to march.²⁶

²² Rina Chandran, 'No room on water, no home on land for Cambodia's ethnic Vietnamese' *Reuters* (Asia, 27 June 2019), <https://www.reuters.com/article/us-cambodia-landrights-refugees/no-room-on-water-no-home-on-land-for-cambodias-ethnic-vietnamese-idUSKCN1TS03L>.

²³ *Ibid*; see also Minority Rights Organization, 'Update: Challenges of Ethnic Vietnamese in Kampong Chhnang and Kandal' (December 2018), <https://drive.google.com/file/d/0BxqUHdi76KQ-WTRVVUM5MzNBZG44WTZYR01xTExBZFRuLVdN/view>.

²⁴ Kong Meta and Ananth Baliga, 'Question remain after clash in Kratie' *The Phnom Penh Post* (12 March 2018) <https://www.phnompenhpost.com/national/questions-remain-after-clash-kratie>.

²⁵ 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>; 'Authorities Shoot Land Protector in Latest Use of Lethal Force' *LICADHO* (26 January 2019), <http://www.licadho-cambodia.org/articles/20190126/159/index.html>.

²⁶ Mom Kunthea, 'Kampuchea Krom protest banned' *Khmer Times* (22 June 2017), <https://www.khmertimeskh.com/news/39562/kampuchea-krom-protest-banned>;

<p>3. Current status of the problem (especially changes after the adoption of concluding observations)</p>
<p>In 2007, estimates showed that the indigenous communities in Cambodia lost 30% of their traditional land.²⁷ Losing their special social, cultural and economic connection to their traditional land, they are particularly vulnerable. Ethnic Vietnamese who live on rivers lose access to their livelihood, fishing, pushing them deeper into poverty. Further, dispute resolution is a very lengthy process, in fact, many land disputes have been ongoing for more than 10 years. For example, the land dispute involving Socfin-KCD and indigenous villagers in Bu Sra commune, Monduliri Province, has been ongoing since October 2008, without the communities having received an effective remedy.²⁸ Last but not least, RGC’s statements about the need to speed up land dispute resolutions have led to the victims being coerced/intimidated into accepting a remedy which is far from being considered effective.²⁹</p>
<p>4. Recommendations</p>
<p>i. Ensure that meaningful consultations with communities affected by land dispute take place prior to any contract being given, that they are kept apprised of the developments, and ensure that the principle of Free Prior and Informed Consent is respected;</p> <p>ii. Ensure a timely resolution of land disputes and ensure that remedies respect international standards.</p> <p>iii. Create and maintain, in law and in practice, a safe and enabling environment in which human rights defenders, including those promoting the rights and freedoms of Khmer Krom and other minorities, can operate free from hindrance and insecurity.</p>

IV. Access to justice for minorities is severely limited

<p>Paragraph 43 of the RGC’s response addressing Recommendation 24 of the 2010 CERD Report - Access to Justice.</p>	
<p>“The RGC will consider the declaration of recognition of the Committee’s Competence in recognizing and considering of an individual complaint as defined in Article 14 of the Convention. However, in the Kingdom of Cambodia, any person who claims that his/her rights as set out in this Convention having been violated can file a complaint to report any crimes to the three levels of courts for seeking resolutions and compensation for damages.”³⁰</p>	
<p>Suggested grade by the civil society organization</p>	<p>D</p>
<p>1. Any measures taken in accordance with the recommendation, and its effects</p>	

²⁷ World Bank Group, ‘Cambodia, Sustaining Strong Growth for the Benefit of All, A Systematic Country Diagnostic’ (May 2017), p. 99, <https://openknowledge.worldbank.org/bitstream/handle/10986/27149/Cambodia-SCD-May-9-SEPCO-05242017.pdf?sequence=5&isAllowed=y>.

²⁸ CCHR, ‘Briefing Note on Business and Human Rights: Preventing, mitigating and remedying land-related rights violations in the Kingdom of Cambodia: seven areas for improvement’ (December 2018), https://cchrcambodia.org/index_old.php?title=Briefing-Note-on-Business-and-Human-Rights-Preventing-Mitigating-and-Remedying-Land-Related-Rights-Violations-in-the-Kingdom-of-Cambodia-Seven-Areas-for-Improvement&url=media/media.php&p=analysis_detail.php&anid=83&id=5&lang=eng.

²⁹ Ibid.

³⁰ ‘Combined fourteenth to seventeenth periodic reports submitted by Cambodia under article 9 of the Covention, due in 2012’ UN Doc CERD/C/KHM/14-17 (15 November 2018), para. 43.

Throughout 2018, the public authorities made a number of announcements which, if and when implemented, could lead to noticeable improvements of the situation of those seeking justice in the Kingdom. These include:

- the creation of a training institute for lawyers, judges and prosecutors, in collaboration with a Chinese university;³¹
- yearly training for judges and prosecutors on technical skills, professional ethics and international human rights law;³²
- the development of a nationwide legal aid policy, to provide legal representation to marginalized groups in rural areas of Cambodia;³³
- an increase in the Bar Association's yearly funding to 300,000 USD, which would allow it to provide lawyers to poor defendants in around 3,000 cases;³⁴
- the creation of "lawyer rooms" to be included in all courtrooms throughout the country, where those without the financial means can consult with a lawyer free of charge;³⁵
- the establishment of three regional appeal courts in Battambang, Tbong Khmum and Preah Sihanouk provinces, to be finished in late 2019,³⁶ the plan to build four more,³⁷ and plans to fully train and deploy Court of Appeal judges to regional courts of appeal;³⁸
- the adoption of a separate budget of 500 million Riels (app. 123,511 USD) for "legal services for women";³⁹

³¹ Pav Suy, 'University plans training for top legal officers' *Khmer Times* (25 May 2018), <https://www.khmertimeskh.com/50493617/university-plans-training-for-top-legal-officers/>.

³² RGC, 'National Report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, Cambodia' (15 Nov 2018) UN Doc. A/HR/WG.6/32/KHM/1, para. 19, https://www.upr-info.org/sites/default/files/document/cambodia/session_32_-_january_2019/e.pdf.

³³ Voun Dara, 'Legal policy on marginalized groups finished by gov't, EU' *The Phnom Penh Post* (3 September 2018), <https://www.phnompenhpost.com/national/legal-policy-marginalised-groups-finished-govt-eu>; UNHCR, 'End of mission statement, United Nations Special Rapporteur on the situation of human rights in Cambodia' (8 November 2018), p. 4, para. 2, https://cambodia.ohchr.org/sites/default/files/presstatementsource/181108_ENG_END_OF_MISSION_STATEMENT.pdf; UNHCR, 'Report of the Special Rapporteur on the situation of human rights in Cambodia' (15 August 2018) UN Doc A/HRC/39/73, para. 79, <http://cambodia.ohchr.org/sites/default/files/Annual-reports/Annual Report 2018 of SR - A HRC 39 73 EN.pdf>.

³⁴ Kim Sarom, 'No more lawyer shortage' *The Phnom Penh Post* (18 October 2018), <https://www.phnompenhpost.com/national/no-more-lawyer-shortage>.

³⁵ RGC, 'National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, Cambodia' (15 Nov 2018) UN Doc. A/HR/WG.6/32/KHM/1, para. 18B, https://www.upr-info.org/sites/default/files/document/cambodia/session_32_-_january_2019/e.pdf.

³⁶ 'Three new appeals courts are scheduled to be completed in 2019' *Construction Property* (6 Jul 2018), <https://www.construction-property.com/khread-news-1240/> (Khmer only); see also UNHCR, 'End of mission statement, United Nations Special Rapporteur on the situation of human rights in Cambodia' (8 November 2018), p. 4, para. 2, https://cambodia.ohchr.org/sites/default/files/presstatementsource/181108_ENG_END_OF_MISSION_STATEMENT.pdf.

³⁷ 'Three new appeals courts are scheduled to be completed in 2019' *Construction Property* (6 Jul 2018), <https://www.construction-property.com/khread-news-1240/> (Khmer only).

³⁸ UNHCR, 'Report of the Special Rapporteur on the situation of human rights in Cambodia' (15 August 2018) UN Doc A/HRC/39/73, para. 81, <http://cambodia.ohchr.org/sites/default/files/Annual-reports/Annual Report 2018 of SR - A HRC 39 73 EN.pdf>.

³⁹ RGC, 'National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, Cambodia' (15 November 2018) UN Doc. A/HR/WG.6/32/KHM, para. 17, https://www.upr-info.org/sites/default/files/document/cambodia/session_32_-_january_2019/e.pdf; OHCHR, 'Report of the Special Rapporteur on the situation of human rights in Cambodia: comments by the State' (11 September 2018) UN Doc A/HRC/39/73/Add.2, p. 25, para. 4, <http://cambodia.ohchr.org/sites/default/files/Annual-reports/Addendum%20to%20the%20Annual%20Report%20of%20SR%202018.pdf>; OHCHR, 'National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21' (15 November 2018), para. 17.

- the announcement of a government-backed team of 50 lawyers to provide free-of-charge services for women workers involved in legal disputes.⁴⁰

2. Any measures taken that contradict the purposes of the recommendation

Cambodia's judiciary lacks independence. The judicial system is being regularly used as a tool to target political opponents, land-activists and critical social media users alike.⁴¹ Examples include, the November 2017 dissolution of the main opposition party on the basis of its leader's alleged treason prior to the actual treason taking place and the public announcement of a ruling on Kem Sokha's bail request by political figures, prior to the actual court's ruling.⁴²

3. Current status of the problem (especially changes after the adoption of concluding observations)

The absence of a nationwide legal aid policy, and the insufficient budget allocated to state-sponsored legal aid prevents ordinary Cambodians from accessing justice and depriving many from being able to mount an effective defense.⁴³ Indigenous peoples living in rural areas are unable to access courts because there are too few courts, they are located only in urban areas, and it is not permitted to testify or file documents remotely. The cost of traveling to the district capital to reach a court makes it completely unfeasible for most indigenous women. Moreover, the judicial system does not utilize any indigenous languages.

Further, impunity remains a systemic issue preventing access to justice. Violations against human rights defenders and vulnerable populations are seldomly brought before the Courts, depriving them of an effective remedy.⁴⁴ For example, the violent crimes, including the murder of indigenous women (as referred

⁴⁰ Leonie Kijewski, 'Cambodia's Hun Sen promises legal aid for "vulnerable women"', *Voice of America* (2 March 2019), <https://www.voacambodia.com/a/cambodia-legal-aid-women-garment-industry/4809828.html>; 'Cambodian Premier Urges Workers to Seek Legal Aids from "Samdech Hun Sen Legal Team"' *Fresh News Asia* (20 February 2019), <http://en.freshnewsasia.com/index.php/en/localnews/13056-2019-02-20-05-58-57.html>.

⁴¹ CCHR, Destination Justice, The Cambodian Human Rights and Development Association, Advocacy and Policy Institute, Transparency International Cambodia, and International Freedom of Expression Exchange, 'Joint Submission to the Human Rights Council of the UN, Third Universal Periodic Review of Cambodia, Access to Justice' (12 July 2018), https://www.upr-info.org/sites/default/files/document/cambodia/session_32_-_january_2019/js7_upr32_khm_e_main.pdf; Civicus, World Alliance for Citizen Participation, CCH, ADHOC, IFEX and Solidarity Center, 'Joint Submissions to the UN UPR, 32nd session, Fundamental Freedoms' (12 July 2018), https://www.upr-info.org/sites/default/files/document/cambodia/session_32_-_january_2019/js4_upr32_khm_e_main.pdf.

⁴² CCHR, Destination Justice, The Cambodian Human Rights and Development Association, Advocacy and Policy Institute, Transparency International Cambodia, and International Freedom of Expression Exchange, 'Joint Submission to the Human Rights Council of the UN, Third Universal Periodic Review of Cambodia, Access to Justice' (12 July 2018) para 7, https://www.upr-info.org/sites/default/files/document/cambodia/session_32_-_january_2019/js7_upr32_khm_e_main.pdf.

⁴³ Joint Submission to the Human Rights Council of the UN, Third Universal Periodic Review of Cambodia, Access to Justice, API, IFEX, CCHR, ADHOC, Transparency International Cambodia, Destination Justice, Jul 2018, https://www.upr-info.org/sites/default/files/document/cambodia/session_32_-_january_2019/js7_upr32_khm_e_main.pdf; see also World Justice Project, 'Rule of Law Index 2017-2018', https://worldjusticeproject.org/sites/default/files/documents/WJP_ROLI_2017-18_Online-Edition_0.pdf.

⁴⁴ Ibid.

to above) have gone unrecorded, uninvestigated and unprosecuted by local authorities in Ratanakiri⁴⁵ and Mondulakiri⁴⁶ provinces.

4. Recommendations

- i. Facilitate access to justice for people from minority groups;
- ii. Drawing from the Extraordinary Chambers in the Courts of Cambodia, adopt legislation protecting the rights of victims of gender-based violence in legal proceedings, focusing on respect of privacy, legal and psychological support, in compliance with SDGs 5.2 and 5. C;
- iii. Take all measures required to effectively combat impunity, including through conducting independent, thorough and effective investigations capable of leading to the identification and punishment of those responsible, in addition to the payment of compensation where appropriate.

V. Access to ID cards for Khmer Krom

Paragraphs 33, 36 and 37 of the RGC’s response addressing Recommendations 18 and 19 - Measures taken to ensure citizenship documents can be obtained by Khmer Krom in a timely manner and under equal procedures as all Cambodian citizens.

“Not only for Khmer Kampuchea Krom but for any person who fulfills the aforementioned conditions will be entitled to receive Khmer nationality. Otherwise, obtaining Cambodian nationality must complete the conditions of marriage as specified in Article 5 or through the naturalization as defined in Article 7 of the Law on Nationality.

[...]

Although legal norms have identified specific conditions, the implementation is still challenging:

- All citizens including Khmer Kampuchea Krom have not fully understood about legal conditions and obligations to acquire citizenship as well as Cambodian identity card;
- Some local authorities have not understood about the details of procedures for granting Khmer nationality as well as the Cambodian identity cards which make the implementation not smooth; and but some they seem well understood on relevant procedures and norms relate to Khmer Krom and still consider, discrimination or colored Khmer Krom as Vietnamese migrant or opposition party members.
- The above cases have been confusing that there is discrimination in issuing Cambodian identity cards to Khmer Kampuchea Krom. In fact, not only Khmer Kampuchea Krom, so far, some

⁴⁵ The Cambodian Center for Independent Media (CCIM) published an investigative report on unprosecuted violence in the indigenous communities in Ratanakiri on 27 November 2018. Report in Khmer language:

<https://vodhotnews.com/2018/11/27/indigenous-people-worry-about-their-childrens-safety-after-killing-and-killing/>

⁴⁶ The Cambodian NGO Committee on the Elimination of Discrimination Against Women shadow report for the 74th CEDAW session, https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/KHM/INT_CEDAW_CSS_KHM_37361_E.docx

<p>Cambodians have not yet received Cambodian identity cards because they must complete legal requirements.</p> <p>The RGC has urged to issue the Cambodian identity cards to citizens for fulfilling their legal obligations. However, they must apply in accordance with the conditions set by the law."⁴⁷</p>	
<p>Suggested grade by the civil society organization</p>	<p>B</p>
<p>1. Any measures taken in accordance with the recommendation, and its effects</p>	
<p>The RGC accepted two recommendations during the Third UPR review of Cambodia, namely:</p> <ul style="list-style-type: none"> • 110.135 - Strengthen efforts to guarantee birth registration for all persons born in Cambodia, including for minorities and populations difficult to reach, such as border communities (Mexico);⁴⁸ • 110.136 - Adopt all measures necessary to ensure that all those born in Cambodia may acquire Cambodian nationality and that they have access to identity papers (Spain).⁴⁹ <p>In September 2019, Khmer Krom representatives were also able to meet with the Ministry of Interior, the Siem Reap Governor as well as with the police commissioner to discuss the challenges faced by Khmer Krom when trying to obtain ID cards.⁵⁰</p>	
<p>2. Any measures taken that contradict the purposes of the recommendation</p>	
<p>The Siem Reap and Takeo local and provincial authorities have cooperated with Khmer Krom community members in the process of issuing Khmer citizenship. The process has however been stalled whilst the authorities await confirmation from the Ministry of Interior.</p>	
<p>3. Current status of the problem (especially changes after the adoption of concluding observations)</p>	
<p>In practice, there is no specific legal or administrative procedure by which Khmer Krom can realize their rights. As a result, there is a gap between the high-level statements of the RGC and implementation at local level, with the result that Khmer Krom are often not recognized as Khmer citizens in practice.</p> <p>The strict requirements - set out in the Nationality Law and related regulations - for individuals to be granted Cambodian identity cards mean that, in reality, many Khmer Krom are unable to access identity documents. Khmer Krom individuals, who are frequently born outside Cambodia and therefore lack a permanent address in Cambodia, have difficulty satisfying the strict legal criteria in order to obtain an identity card.</p> <p>The lack of access to ID cards precludes Khmer Krom from access to education, healthcare, land ownership, and voting.⁵¹ 60.6% of Khmer Krom cited discrimination as one of the main difficulties or challenges they</p>	

⁴⁷ 'Combined fourteenth to seventeenth periodic reports submitted by Cambodia under article 9 of the Convention, due in 2012' UN Doc CERD/C/KHM/14-17 (15 November 2018), paras. 33, 36 and 37.

⁴⁸ OHCHR, 'Report of the Working Group on the universal Periodic Review: Cambodia' (5 April 2019) UN Doc A/HRC/41/17, page 19, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/098/90/PDF/G1909890.pdf?OpenElement>.

⁴⁹ Ibid.

⁵⁰ Information received from Khmer Kampuchea Krom for Human Rights and Development Association.

⁵¹ Minority Rights Organisation, Khmer Kampuchea Krom for Human Rights and Development Association, Institute on Statelessness and Inclusion, Statelessness Network Asia Pacific and Minority Rights Group International, 'Joint Submission to the Human Rights Council of the Universal Periodic Review' (2018), https://www.upr-info.org/sites/default/files/document/cambodia/session_32_-

face in Cambodia.⁵² They are also more vulnerable to human rights abuses and exploitation, including forced labor and human trafficking.

Some local authorities delay the process of Khmer Krom obtaining citizenship, and even deny renewal to those who are in possession of expired ID cards.⁵³ It is not uncommon for agencies to require Khmer Krom to pay money in order to obtain legal documents, or for Khmer Krom to be forced to change their family name and place of birth in order to acquire an ID.⁵⁴

4. Recommendations

- i. Issue a legal instrument clarifying that the Law on Nationality applies to Khmer Krom and confirming that an individual of Khmer Krom origin shall not be required to provide more evidence than other citizens to obtain identification documents.

VI. Risks of statelessness for ethnic Vietnamese and discrimination against Cham People

The Royal Government of Cambodia (“RGC”) report fails to address the situation of two important minorities in Cambodia: Cham,⁵⁵ the largest minority in Cambodia (2%),⁵⁶ and ethnic Vietnamese.⁵⁷ In abstaining from doing so, the RGC failed to implement Recommendation 12 (providing disaggregated data on ethnic minorities, including indigenous minorities, and on their socio-economic status.)⁵⁸

This is particularly concerning in light of the fact that in late 2017, the RGC engaged in a campaign to revoke identification documents of more than 70,000 persons, most of whom were of Vietnamese origin; this included taking back national Cambodian ID cards, birth certificates, passports and family books, which the

[_january_2019/js13_upr32_khm_e_main.pdf](#); Khmer Kampuchea Krom for Human Rights and Development Association, Minority Rights Organization, Alliance for Conflict Transformation, Cambodian Center for Human Rights, Khmer Kampuchea Krom Community, Union of the Khmer Kampuchea Krom Buddhist Monk Students, Friendship of Khmer Kampuchea Krom Association, Khmer Kampuchea Krom Cultural Center, Khmer Fund for the Poor, ‘Joint Submission to the Human Rights Council of the Universal Periodic Review, Khmer Krom Rights in Cambodia’ (2018), https://www.upr-info.org/sites/default/files/document/cambodia/session_32_-_january_2019/js14_upr32_khm_e_main.pdf.

⁵² Minority Rights Organisation, Khmer Kampuchea Krom for Human Rights and Development Association, Institute on Statelessness and Inclusion, Statelessness Network Asia Pacific and Minority Rights Group International, ‘Joint Submission to the Human Rights Council of the Universal Periodic Review’ (2018), https://www.upr-info.org/sites/default/files/document/cambodia/session_32_-_january_2019/js13_upr32_khm_e_main.pdf; Khmer Kampuchea Krom for Human Rights and Development Association, Minority Rights Organization, Alliance for Conflict Transformation, Cambodian Center for Human Rights, Khmer Kampuchea Krom Community, Union of the Khmer Kampuchea Krom Buddhist Monk Students, Friendship of Khmer Kampuchea Krom Association, Khmer Kampuchea Krom Cultural Center, Khmer Fund for the Poor, ‘Joint Submission to the Human Rights Council of the Universal Periodic Review, Khmer Krom Rights in Cambodia’ (2018), https://www.upr-info.org/sites/default/files/document/cambodia/session_32_-_january_2019/js14_upr32_khm_e_main.pdf.

⁵³ Minority Rights Organization, ‘Annual Report 2017’ (5 October 2018), <https://drive.google.com/file/d/0BxqUHdi76KQ-aUJlaU5KWlp0ZlUwc3MtZTVmWUVITHILSjFv/view>.

⁵⁴ Alliance for Conflict Transformation, the Cambodian Center for Human Rights, and Khmer Kampuchea Krom for Human Rights and Development Association, ‘Citizenship Rights for Khmer Krom in Cambodia’ (January 2017), p. 27, https://cchrcambodia.org/admin/media/report/report/english/2017_01_27_CCHR_Report_on_Legal_Status_of_Khmer_Krom_English.pdf.

⁵⁵ For more on this group see <https://minorityrights.org/minorities/cham/>.

⁵⁶ National Institute of Statistics and Ministry of Planning, ‘Cambodia Socio-Economic Survey 2017’ (November 2018), p. 9, <http://www.nis.gov.kh/nis/CESES/Final%20Report%20CESES%202017.pdf>.

⁵⁷ See <https://minorityrights.org/minorities/ethnic-vietnamese/>.

⁵⁸ Recommendation 12 reads: “The Committee requests that State party include in its next periodic report disaggregated data on ethnic minorities, including indigenous minorities, and on their socio-economic status.”

authorities alleged were fraudulently obtained.⁵⁹ In February 2018, the RGC announced that people who can prove they arrived in Cambodia before 2012 would be issued 2 years residency documents.⁶⁰

Since birth within Cambodia does not grant a person citizenship unless the parents can document their legal status, many women and girls who are ethnically Vietnamese, but whose families lost documentation during the war or who have lived undocumented in Cambodia for generations have no right to citizenship nor to any public benefits. They are left without any citizenship as a result, pushing them further down the cycle of poverty.⁶¹

According to the 2019 Cambodia Gender assessment,⁶² the Cham people living in Cambodia are all Muslim and speak the Cham language. There are two main groups, one more secular, and the larger group which follows Sharia law and maintains conservative cultural values.

Many Cham women in particular have limited access to education, and employment opportunities. Not only do the Cham devalue women's education, but they have the same difficulty as other rural minorities in not having safe access to schools, which are far from girls' home villages. The UNDP-funded process of developing the national action plan on gender (Nearay Rattanak V) selected indigenous and Cham women as 2 of 5 main target groups to be included in heightened activities for gender inclusion.

The gender assessment also notes that entire Muslim Cham neighborhoods were evicted from Boeung Kak Lake a few years ago, with "families offered either minimal cash compensation or provided homes in an allocated zone far outside the city with little access to services or opportunities to sustain their livelihoods."⁶³

In 2016, the RGC shut down Radio Sap Cham, the only Cham language radio program in Cambodia, a show which had aired since 2004.

⁵⁹ Minority Rights Organization, 'Update: Challenges of Ethnic Vietnamese in Kampong Chhnang and Kandal' (December 2018), <https://drive.google.com/file/d/0BxqUHdi76KQ-WTRVVUM5MzNBZG44WTZYR01xTExBZFRuLVdN/view>; see also Kong Meta and Andrew Nachemson, 'I have no feeling for Vietnam. I only live in Cambodia' *The Phnom Penh Post*, (Kampong Chhnang Province, 28 November 2017), <https://www.phnompenhpost.com/national-post-depth/ethnic-vietnamese-some-living-cambodia-generations-see-documents-revoked>.

⁶⁰ Mech Dara and Daphne Chen, 'Government pledges documentation for ethnic Vietnamese' *The Phnom Penh Post* (28 February 2018), <https://www.phnompenhpost.com/national/government-pledges-documentation-ethnic-vietnamese>; see also Minority Rights Organization, 'Update: Challenges of Ethnic Vietnamese in Kampong Chhnang and Kandal' (December 2018), <https://drive.google.com/file/d/0BxqUHdi76KQ-WTRVVUM5MzNBZG44WTZYR01xTExBZFRuLVdN/view>.

⁶¹ NGO-CEDAW, 'CEDAW Monitoring Report 2017' (November 2018), <http://ngocedaw.org/wp-content/uploads/2018/11/2017-CEDAW-Monitoring-Report-by-NGO-CEDAW-EN.pdf>.

⁶² Cambodia Ministry of Women's Affairs, 'Qualitative Research with Five Disadvantaged Groups of Women for the Cambodia Gender Assessment 2019' (January 2019), p. 63.

⁶³ Cambodia Ministry of Women's Affairs, 'Qualitative Research with Five Disadvantaged Groups of Women for the Cambodia Gender Assessment 2019' (January 2019), p. 63.