



**The Cambodian Center for Human Rights Submission to the UN
Human Rights Committee in advance of its third review of the
Kingdom of Cambodia**

January 2022

Cambodian Center for Human Rights

The [Cambodian Center for Human Rights](#) (“CCHR”), founded in November 2002, is a leading non-aligned, 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”). CCHR empowers civil society to claim its rights and drive change; and through detailed research and analysis, it develops innovative policy, and advocates for its implementation.

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Contents

1. Constitutional and legal framework within which the Covenant is implemented (art. 2)	3
1.1 Optional Protocol to the International Covenant on Civil and Political Rights	3
1.2 National Human Rights Institution.....	3
2. States of emergency (art. 4)	4
3. The right to life (arts. 6 and 24); the fight against impunity, and past human rights violations (arts. 2, 6, 7 and 14)	5
3.1 Deaths in police custody	5
3.2 Lack of protection for human rights defenders, former opposition members, activists, journalists, and unionists.....	6
3.3 Impunity	7
4. Non-discrimination (arts. 2 and 25)	8
4.1 Inequality between men and women who wish to re-marry	8
4.2 Denial of same-sex marriage	8
4.3 Sexual orientation, gender identity and expression, and sex characteristics (“SOGIESC”)	9
4.4 Persons with disabilities.....	10
5. Violence against women (art. 2, 3, 6, 7 and 26)	11
6. Prohibition of torture and other cruel, inhuman, or degrading treatment or punishment, and treatment of persons deprived of their liberty (arts. 6, 7, 9, and 10)	14
6.1 Torture in state custody.....	14
6.2 Prison overcrowding	15
6.3 Deplorable conditions inside prisons.....	15
6.4. Lack of protections for detainees against COVID-19	16
7. Deprivation of liberty (arts. 9, 10, and 14)	17
7.1 Excessive use of pre-trial detention.....	17
7.2 Shortcomings of the judicial system	18
7.3. Increased but insufficient legal aid	19
7.4 Drug addiction treatment and deprivation of liberty	21
8. Judicial Independence (art. 14)	21
9. Freedom of expression (art. 19)	23
10. Freedom of assembly (art. 21)	23
11. Freedom of association (art. 22)	23
11.1 Legislative barriers	23
11.2 Political association.....	24
11.3 Civil society.....	26
12. Right to vote and take part in public life (arts. 2, 10, and 25)	27
12.1 Disenfranchisement of a significant portion of Khmer citizens.....	27
12.2 Concerning actions by the authorities leading up to the 2018 national elections	27
12.2 Concerning actions by the authorities leading up to the 2022 commune elections.....	28
14. Indigenous peoples (arts. 2 and 25-27)	30
14.1 Minority groups	32

1. Constitutional and legal framework within which the Covenant is implemented (art. 2)

1.1 Optional Protocol to the International Covenant on Civil and Political Rights

The Royal Government of Cambodia (“RGC”) has not ratified the First Optional Protocol to the International Covenant on Civil and Political Rights (“ICCPR”), establishing an individual complaints mechanism for violations of the ICCPR. Given the lack of other individual complaints mechanisms to an impartial and independent institution in Cambodia, the prevalent culture of impunity in the country and the difficulties in obtaining a remedy through domestic court systems, such a complaints mechanism is needed.

The Committee may consider recommending that Cambodia ratify the First Optional Protocol of the ICCPR, which would allow individuals or groups to file individual complaints to the UN Human Rights Committee regarding violations of ICCPR rights.

1.2 National Human Rights Institution (“NHRI”)

Through their second cycle Human Rights Committee review¹ and in their 2019 third cycle Universal Periodic Review,² the RGC has committed to establishing an NHRI to remedy human rights abuses. In 2021, the RGC moved forward with its establishment with a first draft of the “*Law on the Organization and Functioning of the National Human Rights Commission of Cambodia*” finalized by the Cambodian Human Rights Committee on 31 May 2021, and the launch of the public consultation process in July 2021, involving civil society stakeholder.³ However, over 60 civil society organizations, trade unions, associations and communities outlined their skepticism as to the independence and effectivity of the NHRI that the RGC intends to establish in light of the ever-worsening human rights situation in Cambodia, and urged the RGC to prioritize addressing the human rights situation over establishing a NHRI, a critical prerequisite to its effectivity, credibility and independence.⁴

The Committee may consider urging the RGC to address the deteriorating human rights situation before establishing a NHRI to ensure that such an institution is effective, credible and independent.

¹UN Human Rights Committee, 'Third periodic report submitted by Cambodia under Article 40 of the Covenant' (5 August 2019), CCPR/C/KHM/3, p. 8.

² UN Human Rights Council, 'Report of the Working Group on the Universal Periodic Review: Cambodia' (2019), UN Doc A/HRC/41/17.

³ CHRC, 'Press release: launch of consultation process of the Draft Law on the Organisation and Functioning of the National Human Rights Commission of Cambodia' (8 July 2021), <https://opendevelopmentcambodia.net/wp-content/blogs.dir/2/files/mf/1625798330E1.jpg>.

⁴ Joint Statement 'Redress Cambodia's human rights situation before establishing an NHRI' (24 August 2021), https://www.cchrcambodia.org/media/files/press_release/852_joeon_en.pdf.

2. State of emergency (art. 4)

On 29 April 2020, the heavily criticized *Law on the Management of the Nation in State of Emergency* (“*State of Emergency Law*”) was promulgated,⁵ granting the RGC extensive and seemingly unfettered powers to restrict human rights if a state of emergency is declared.⁶ The *State of Emergency Law* was impulsively drafted without adequate consultation with civil society or the United Nations Office of the High Commissioner for Human Rights (“OHCHR”) to ensure the protection of human rights.

Several provisions do not comply with the standards outlined in Article 4 of the ICCPR, as the means sought to achieve the RGC’s purported aim of responding to the COVID-19 pandemic are neither strictly necessary nor objectively proportionate and would likely have significant impacts on human rights.⁷

The powers granted to the RGC under Article 5 of the new Law are particularly alarming. The Law prescribes vague, sweeping, and unfettered powers to the Government to implement measures during a state of emergency, including restricting or prohibiting movement, free speech, and business activities, closing public and private spaces, surveilling communications and monitoring and controlling social media. These measures have the potential to severely constrain a range of fundamental freedoms including freedoms of association, assembly, information, expression, and movement, as well as the right to work and the right to ownership of property.

Article 5(12) is a catch-all clause granting undefined and unimpeded powers to the RGC 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 human rights defenders (“HRDs”), civil society, and the media is exacerbated by the imprecise criminal offenses created by the Law, which mandates severe penalties for not complying with emergency measures for both individuals and organizations.

The Committee may consider recommending that the RGC substantially amend the swiftly passed State of Emergency Law through an inclusive and legitimate consultation with relevant stakeholders to ensure its compliance with Cambodia’s human rights obligations.

⁵ 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/>.

⁶ CCHR, ‘Joint Statement: CSOs call for the Royal Government of Cambodia to Amend the State of Emergency Law to Protect Human Rights’ (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&pid=756&id=5&lang=eng.

⁷*Ibid.*

3. The right to life (arts. 6 and 24); the fight against impunity, and past human rights violations (arts. 2, 6, 7 and 14)

3.1 Deaths in police custody

On 18 April 2019, 37-year-old Cambodian National Rescue Party (“CNRP”) activist Tith Rorn died in a police station in Kampong Cham province. The police have claimed his death was a result of a fall in the jail restroom. However, 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.⁸

Similar concerns were expressed following the death of 34-year-old land rights protester, Tuy Sros. Sros and four other villagers from Banteay Meanchey province’s O’Chrov district were detained by provincial military police from 28 to 31 of December 2019 after joining a protest regarding a land dispute. While in detention, on 31 December 2019, 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 tortured him over the course of his detention.⁹ A subsequent investigation into the death of Sros identified two military officers involved in his torture, who have been charged with intentional violence with aggravating circumstances. However, there has not been a public update on their trials.¹⁰

In May 2020, 55-year-old Bun Yeang died while in state custody in Ratanakiri’s provincial prison. While prison officials announced that her death was the result of a fall in the prison’s bathroom caused by a stroke, Yeang’s family members suspect that she was tortured shortly before her death as a result of their refusal to give more money to the broker they hired to get her out of prison.¹¹

On 3 April 2021, 21-year-old Pich Teareth died while in police custody in Battambang province after being arrested on the same day. Authorities claimed the death was caused by a heart attack due to a drug overdose. However, Pich’s sister said that she had never heard of her brother doing drugs before, and that his bloody ears, head-to-toe bruising on his body, and electric scars on his ankles suggested torture.¹²

⁸ Richard Finney, ‘CNRP, Cambodian Rights Group Calls for Investigation into Death in Custody’ (*Radio Free Asia*, 6 May 2019) <https://www.rfa.org/english/news/cambodia/investigation-05062019155435.html>.

⁹ 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 Lipsey, ‘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>.

¹⁰ 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/>.

¹¹ Nhim Sohorn, ‘After woman dies in state custody, family seeks answers, money back’ (*VOD*, 27 May 2020) <https://vodenglish.news/after-woman-dies-in-state-custody-family-seeks-answers-money-back/>.

¹² Joshua Lipsey, ‘Two Suspicious Deaths in Cambodia’s Battambang Province Prompt Call for Probes’ (*RFA*, 5 April 2021) <https://www.rfa.org/english/news/cambodia/suspicious-04052021185431.html>.

On 3 May 2021, 21-year-old detainee Pin Kimseng was pronounced dead after prison officials sent him to a Battambang hospital for medical treatment. His death certificate indicates pneumonia as the cause of death, which is contested by Kimseng's mother who said her son's body showed signs of physical assault when it was returned to her: his head was swollen, his neck was limp, as if it had been broken, and blood had come out of his ears. A video taken of Kimseng's body also showed visible bruising on his neck.¹³

3.2 Lack of protection for HRDs, opposition members, activists, journalists, and unionists

Lack of protection against violent third-party actors has led to life-threatening situations for former opposition members, activists, journalists, unionists and HRDs in Cambodia. Several former CNRP members and activists, and their relatives, have been the targets of violent attacks by unknown assailants,¹⁴ as further outlined in Section 11. One of those attacks led to the death of CNRP activist Sin Khon, who was brutally slashed to death by a group of unknown assailants with machetes and knives in Phnom Penh on 19 November 2021.¹⁵

In 2021, physical attacks also extended to youth activists, with Touch Srey Nich, a Khmer Thavarak activist, attacked by five unknown assailants on a motorbike who crashed into her to force her to fall off her motorbike and then beat her, resulting in injuries to her head, arms, and legs.¹⁶

Other individuals not affiliated with the CNRP or heavily targeted civil society organizations have also been physically attacked. In February 2020, trade unionist Soeun Pros, Vice President of the Coalition of Cambodian Apparel Workers Democratic Union, was hit on the head outside the factory that he worked

¹³ Richard Finney, 'Cambodian Youth Said to Have Died of Pneumonia Was killed in Custody, Mother Says' (RFA, 6 May 2021) <https://www.rfa.org/english/news/cambodia/killed-05062021173820.html>.

¹⁴ 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 Reaksmeay, '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/>.

¹⁵ CCHR, ADHOC, SC and ICNL, 'Cambodia Fundamental Freedoms Monitor: Fourth Annual Report' (July 2020) <https://cchrcambodia.org/ffmp/report4>; CCHR, ADHOC, Solidarity Center, and ICNL, 'Cambodia Fundamental Freedoms Monitor: Fifth Annual Report' (April 2021) <https://cchrcambodia.org/admin/media/report/report/english/CCHR-FFMP-Report-Year-5-Apr-Dec-2020-Eng.pdf>; Chivita, 'Two unknown people on a motorcycle raided a social activist in San district, injuring his head with 6 stiches' (RFA, 17 January 2021) <https://www.rfa.org/khmer/news/politics/an-another-cnrp-activist-injured-from-an-attacked-two-unknown-men-01172021105140.html>; Samian, 'Another opposition activist repeatedly beaten by unknown individuals in Khan 7 Makara' (RFA, 23 January 2021), <https://www.rfa.org/khmer/news/politics/another-dissent-was-assaulted-after-monitoring-trial-against-cnrp-leaders-in-phnom-penh-01232021234203.html>; Khe Sonan, 'Opposition activist in Kandal province was knocked unconscious by a stranger on a motorbike' (RFA, 12 February 2021), <https://www.rfa.org/khmer/news/social-economy/a-cnrp-activist-fainted-from-intentional-motorcycle-crash-02142021054633.html>; 'Activist bludgeoned by unknown assailants in latest attack on Cambodia's opposition', (RFA, 16 February 2021), <https://www.rfa.org/english/news/cambodia/attack-02162021163449.html>; Tran Techseng, 'Four men assault opposition activist at Phnom Penh market' (VOD, 13 May 2021), <https://vodenglish.news/four-men-assault-opposition-activist-at-phnom-penh-market/>; Ananth Baliga, 'Updated. CNRP activist slain overnight in Phnom Penh, witness recalls slashing' (VOD, 21 Nov. 2021), <https://vodenglish.news/cnrp-activist-slain-overnight-in-phnom-penh-witness-recalls-slashing/>.

¹⁶ Rithi, 'A young Khmer Thavarak activist was hit by a stranger and hit by a motorbike, causing serious injuries' (RFA, 27 September 2021) <https://www.rfa.org/khmer/news/law/a-khmer-thavarak-member-assaulted-during-riding-motor-09272021071715.html>

in.¹⁷ In August 2020, Ouk Chhayavy, president of the Cambodian Independent Teachers Association, and her husband, were both injured after two unknown assailants knocked them off their motorbike after they were returning from visiting Rong Chhun in prison.¹⁸ Violent crimes are also perpetrated against environmental activists,¹⁹ journalists,²⁰ and land rights activists.²¹

3.3 Impunity

Unfortunately, steps have not been taken to guarantee remedies for grave human rights violations and to address impunity in contravention of the RGC's obligations under the 1991 Paris Peace Agreements. On the contrary, impunity remains a serious concern in Cambodia, as crimes committed against dissenting or critical voices are often either not investigated at all or investigated without transparency, independence, and impartiality.²² When perpetrators are convicted, too often, they receive a suspended sentence or are released early.

Since 1994, 13 journalists have been murdered for undertaking their work.²³ At the time of their deaths, 12 of the victims were engaged in activities that posed a direct threat to powerful individuals within the Cambodian elite. Five worked for media outlets critical of the ruling party, while seven were investigating and reporting on allegations of corruption by high-level individuals in the RGC and military. To date, no adequate, independent, and transparent investigations have been conducted by the RGC, leaving these crimes unpunished.²⁴

The 2016 murder of Kem Ley, a prominent political analyst and government critic, is perhaps the most illustrative example of impunity in Cambodia. Kem Ley was shot dead in broad daylight on 10 July 2016, a few days after he commented on the radio about a controversial Global Witness report alleging corruption at the highest levels in Cambodia.²⁵ Kem Ley's shooter, Oeuth Ang—who initially gave his name as “Chuob Samlab” meaning “meet to kill”²⁶—was convicted of premeditated murder on 23 March 2017 and sentenced to life imprisonment. However, the process that led to his conviction has been heavily

17 Khut Sokun, ‘Union Demands Authorities Arrest Union Officer’s Attackers’ (VOD, 11 February 2020) <https://vodenglish.news/union-demands-authorities-arrest-union-officers-attackers/>.

18 Eugene Whong, ‘Cambodian Teachers Activist Attacked in Alleged Fake Traffic Accident’ (RFA, 10 August 2020) <https://www.rfa.org/english/news/cambodia/ouk-chhayavy-08102020213943.html>.

19 Leng Maly, ‘Environmental activist injured and demand for justice’ (RFA, 28 July 2020) <https://www.rfa.org/khmer/news/environment/a-stabbed-environmentalist-demand-justice-07282020003629.html>.

20 Khuon Narim, ‘Journalists attacked after reporting forestry crime’ (CamboJA, 30 September 2020) <https://cambojanews.com/journalists-attacked-after-reporting-forestry-crime/>.

21 Mech Dara and Michael Dickison, ‘Soldiers Shoot Farmer in Attempt to Reclaim State Land’ (VOD, 3 June 2021) <https://vodenglish.news/soldiers-shoot-farmer-in-attempt-to-reclaim-state-land/>.

22 CCHR, ‘Press release: International Day to End Impunity for Crimes against Journalists’ (1 November 2020) https://cchrcambodia.org/media/files/press_release/784_idteifcaie_en.pdf; CCHR, ‘End Impunity campaign’ (2017) https://www.cchrcambodia.org/index_old.php?url=our_work/our_work.php&p=campaigns/impunity-2017/index.php&lang=eng.

23 CCHR, ‘Journalists Killed in Cambodia’ (SithiHub) <https://www.sithi.org/journalist-killed>.

24 Sithi, ‘Journalists Killed in Cambodia’ <https://www.sithi.org/journalist-killed>

25 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.

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

criticized.²⁷ Although more than five years have passed, there has been no independent, impartial and effective investigation to establish whether anyone else was involved in the killing, and investigators failed to look into the accused's background and possible ties to the military.²⁸ The ruling convicting Oeuth Ang was upheld by the Supreme Court in May 2019.²⁹ Other high-profile cases of impunity include the murders of environmental activist Chut Wutty in 2012 and prominent union leader Chea Vichea in 2004.³⁰

The Committee may consider recommending the RGC to investigate and prosecute crimes perpetrated against former CNRP affiliates, human rights activists, and journalists and encouraging the RGC to establish an independent investigation mechanism where family member of those wrongfully killed or inmates who died in prison under suspicious circumstances may file complaints to seek impartial investigations and damages for any wrongdoing that may have occurred.

4. Non-discrimination (arts. 2 and 25)

4.1 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*.³¹ This provision prohibits women from re-marrying until 120 days have elapsed 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.³² However, this reasoning is flawed and allows for an unnecessary invasion in women's private life and an undue restriction of their civil rights.

The Committee may consider recommending that the RGC revoke Article 950 of the Civil Code to put an end to discrimination against women who wish to re-marry, granting them equitable rights.

4.2 Denial of same-sex marriage

Same-sex couples (or opposite sex couples in which one individual is transgender),³³ continue to be denied the right to marry in Cambodia. While the abrogation of Article 6 of the 1989 *Law on Marriage and Family*³⁴ means that the right of same-sex couples to marry is no longer explicitly prohibited, Article 45 of

²⁷ *Ibid.*

²⁸ 45 human rights organizations, 'Cambodia: No justice at 5-year anniversary of Kem Ley's death' (9 July 2021) <https://www.article19.org/resources/cambodia-no-justice-at-5-year-anniversary-of-kem-leys-death/>.

²⁹ 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/>.

³⁰ 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.

³¹ The *Civil Code of Cambodia* is available at: https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=93489&p_country=KHM&p_count=183.

³² Dorine Van der Keur, 'Legal and Gender Issues of Marriage and Divorce in Cambodia' (*Cambodia Law and Policy Journal*, Vol. 3, December 2014), <http://cambodialpi.org/article/legal-and-gender-issues-of-marriage-and-divorce-in-cambodia/>.

³³ Due to a lack of legal gender recognition, see Section 4.3.

³⁴ The *Cambodian Law on Marriage and Family* can be found at: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/86095/96933/F1861658608/KHM86095.pdf>.

the *Constitution of Cambodia* (the “Constitution”) determines marriage as being between a “husband” and a “wife” which effectively excludes the possibility of same-sex marriage. This also denies same-sex couples other rights and privileges that arise out of marriage, such as the right to adopt and joint ownership of property, in contravention of the ICCPR and other international human rights instruments that guarantee equal rights to all individuals without regard for personal status or characteristics.³⁵ However, there have been a few cases where same-sex couples (or opposite sex couples where one identifies as transgender) were permitted by local authorities to marry in traditional Khmer ceremonies. In a small number of cases, couples were also able to obtain family books either listing them as siblings or as husband and wife.³⁶ The uneven application of Article 45 across different local communities has led to inequality amongst the lesbian, gay, bisexual, transgender, intersex, and queer (“LGBTIQ”) community itself regarding same-sex marriage.

The Committee may consider encouraging the RGC to amend Article 45 of the Cambodian Constitution to enable legal marriage equality for same-sex couples and impose legislation permitting same-sex marriage in line with previous comments by authorities showing a willingness to enact a law to grant equality for LGBTIQ people.

4.3 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 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 obligation of non-discrimination against LGBTIQ people. LGBTIQ individuals are not guaranteed the full enjoyment of their civil and political rights, including a lack of legislation permitting same-sex marriage, 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).³⁷ 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’s 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.³⁸ LGBTIQ people in Cambodia also face widespread discrimination in accessing and keeping employment, as well as discrimination and exclusion in the workplace.³⁹

The Committee may consider recommending the RGC to enact laws and policies granting equality to LGBTIQ people, including equal marriage rights and adoption rights, legal gender recognition for

³⁵ CCHR, ‘Cambodia’s Rainbow Families’ (November 2017) https://cchrcambodia.org/admin/media/report/report/english/2017-11-22-CCHR-Report-Cambodia-Rainbow-Families_ENG.pdf.

³⁶ *Ibid.*

³⁷ OHCHR Cambodia, ‘LGBT Rights’ (30 July 2015) <https://cambodia.ohchr.org/en/issues/lgbt-rights-0>.

³⁸ ILGA, ‘Factsheet UPR 2018 - Cambodia 3rd Cycle Universal Periodic Review’ (2018) p. 2 https://ilga.org/downloads/SOGIESC_Advocacy_paper_CAMBODIA_UPR32.pdf.

³⁹ 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.

transgender individuals (ensuring surgical interventions are never a prerequisite), and non-discrimination to deter and punish discrimination on the basis of SOGIESC.

4.4 Persons with disabilities

Several legal provisions aim to protect the rights of disabled persons in Cambodia, including Article 74 of the Constitution and the 2012 *Law on the Protection and the Promotion of the Rights of Persons with Disabilities*. However, the effectiveness of these instruments has fallen short. In an encouraging development, a new *Disability Law* is currently being drafted in cooperation with the Australian Human Rights Commission in order to align with Cambodia's obligations under the UN Convention on the Rights of Persons with Disabilities.⁴⁰ The new *Disability Law* will be a complete revision of the existing *Law on the Protection and the Promotion of the Rights of Persons with Disabilities*, ensuring that the estimated 300,000 Cambodians with some form of disability have an improved quality of life, and to increase their opportunities for participation in nation-building.⁴¹

The National Disability Strategic Plan 2019-2023 aims to discourage all forms of discrimination against disabled persons in Cambodia and provide them and their family with State monetary support.⁴² However, a report conducted by Australian researchers in 2016 revealed that only 4% of disabled Cambodians receive financial assistance despite a 2011 sub-decree that entitled citizens living with severe functional impairments to a monthly pension.⁴³ Further, discrimination against persons with disabilities permeates throughout Cambodian society, especially in school, employment, and health care.⁴⁴ In a 2019 report, the Cambodia Disabled People's Organization recorded that Phnom Penh had only 15 disability-friendly public restrooms.⁴⁵ Additionally, health care and services for mental health are either non-existent or severely lack resources and proper medical care. In 2019, the Kandal Steung health center opened as the only facility in Cambodia that provides housing, treatment, and rehabilitation for people with a mental illness. However, recent reports found the center lacks sufficient resources and the freedom of patients is severely restricted.⁴⁶

⁴⁰ 'Cambodia and Australia conduct discussions on the new disability-inclusive law' (*Khmer Times*, 29 June 2021) <https://www.khmertimeskh.com/50883361/cambodia-and-australia-conduct-discussions-on-the-new-disability-inclusive-law/>.

⁴¹ Sen David, 'Implementing new Disability Law for better rights' (*Khmer Times*, 28 June 2021) <https://www.khmertimeskh.com/50882356/implementing-new-disability-law-for-better-rights/>.

⁴² UNDP, 'New Plan but the same commitment to improved quality of life for persons with disabilities' (11 December 2018) <https://www.kh.undp.org/content/cambodia/en/home/presscenter/pressreleases/2018/new-plan-but-the-same-commitment-to-improved-quality-of-life-for.html>.

⁴³ Michael Palmer *et al*, 'The Cost of Disability in a Low Income Country' (14 October 2016) <https://www.un.org/development/desa/disabilities/wp-content/uploads/sites/15/2016/02/The-Cost-of-Disability-in-a-Low-Income-Country.pdf>.

⁴⁴ See for example, UN Human Rights Council, 'Report of the Special Rapporteur on the situation of human rights in Cambodia' (15 August 2018) UN Doc A/HRC/39/73; and UN Human Rights Council, 'Report of the Special Rapporteur on the situation of human rights in Cambodia' (27 August 2019), UN Doc A/HRC/42/60.

⁴⁵ Pech Sotheary, 'Ngo pushes for more disabled-friendly restrooms' (*Khmer Times*, 13 February 2019) <https://www.khmertimeskh.com/50577622/ngo-pushes-for-more-disabled-friendly-restrooms>.

⁴⁶ Leonie Kijewski, 'Chains of love: the shocking reality of Cambodia's mental health care' (*Independent*, 24 February 2020) https://www.independent.co.uk/news/long_reads/health-and-wellbeing/cambodia-mentally-ill-chained-locked-khmer-rouge-a9351416.html; Leonie Kijewski, 'Shackled and locked up, Cambodia's mentally ill languish in limbo' (The Washington Post, 15 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.

Despite these shortcomings, some progress for disability rights in Cambodia was realized in 2020. In December 2020, the RGC issued an Inter-Ministerial Prakas that allows certain disabled people the right to legally obtain a driver's license and allows for severely disabled persons to drive modified vehicles after undergoing mental and physical training.⁴⁷ Additionally, the Ministry of Social Affairs, Veterans and Youth Rehabilitation announced plans to train social affairs officials through March 2021 on how to identify disabled persons through the Disability Identification App with the intention to improve access to services and the lives of disabled people and poor families in Cambodia.⁴⁸

The Committee may consider encouraging the drafting of the new Disability Law and may wish to remind the RGC of the importance of ensuring that the drafting process is transparent and directly involves people with disabilities directly to guarantee its effectivity and inclusivity.

5. Violence against women (art. 2, 3, 6, 7 and 26)

Measures aimed at tackling gender-based violence (“GBV”) have been introduced by the RGC over recent years. In June 2020, the new five-year gender strategic plan - the Neary Rattanak 5 - was signed by the Ministry of Women's Affairs (“MoWA”).⁴⁹ In January 2021, the National Action Plan to Prevent Violence Against Women for 2019 – 2023 was launched.⁵⁰ Despite these policies, GBV remains a pervasive problem in Cambodia, impacting the lives of millions of women and girls across the country, and is inextricably linked to the inability of women to realize their human rights. Statistics show that at least one in five women in Cambodia have experienced physical or sexual violence by an intimate partner.⁵¹ This number is expected to have significantly increased since the outbreak of the COVID-19 pandemic⁵² due to mitigation measures put in place to curb the virus' spread.⁵³ This rate is higher for transgender women, women from lower socio-economic backgrounds, indigenous women, women human rights defenders and sex workers.⁵⁴

⁴⁷ Nov, Sivutha, ‘Ministries issue prakas allowing disabled to test for driver's licences’ (*Phnom Penh Post*, 10 December 2020) <https://www.phnompenhpost.com/national/ministries-issue-prakas-allowing-disabled-test-drivers-licences>; and Sen David, ‘Directive issued for disabled drivers licences’ (*Khmer Times*, 11 December 2020) <https://www.khmertimeskh.com/50791953/directive-issued-for-disabled-drivers-licences/>.

⁴⁸ Voun Dara, ‘Disabled data app to track needy’ (*Phnom Penh Post*, 22 October 2020) <https://www.phnompenhpost.com/national/disabled-data-app-track-needy>.

⁴⁹ Ministry of Women's Affairs, ‘Neary Rattanak V: Five-year strategic plan for strengthening gender mainstreaming and women's empowerment 2019 – 2023’ (June 2020) <https://www.mowa.gov.kh/wp-content/uploads/2021/02/Neary-Rattanak-V-final-Eng.pdf>.

⁵⁰ Long Kimmarita, ‘National against plan against gender violence launched’ (*Phnom Penh Post*, 19 January 2020) <https://www.phnompenhpost.com/national/national-action-plan-against-gender-violence-launched>.

⁵¹ RGC, 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>.

⁵² 15 civil society organizations, ‘Prioritize the needs of those at increased risk of gender-based violence in responding to the COVID-19 situation’ (2 April 2020) https://cchrcambodia.org/media/files/press_release/752_ccjppe2a2_en.pdf.

⁵³ 24 civil society organizations, ‘Increase vigilance to prevent gender-based violence in quarantine and areas under lockdown’ (16 April 2021) https://cchrcambodia.org/media/files/press_release/813_jogiq1fecmno1a_en.pdf.

⁵⁴ CCHR, ‘Factsheet: Violence Against Women in Cambodia’ (December 2018) <https://cchrcambodia.org/admin/media/factsheet/factsheet/english/CCHR%20Factsheet%20Violence%20Against%20Women%20ENG>.

There is a degree of social tolerance for violence against women in Cambodia, resulting from entrenched social and cultural norms and negative gender stereotypes mainly stemming from the *Chbab Srey* and the *Chbah Phroh*, century-old Cambodian traditional codes of conduct for women and men respectively, that continue to influence societal behaviors.⁵⁵ Perceptions that some forms of domestic violence are acceptable or a ‘family problem’ to be kept private, remain common. Further, family integrity, the need to protect ‘women’s dignity’ and sexual modesty, and men’s sexual entitlement, are often prioritized over women’s and girls’ rights.⁵⁶ Recent incidents exemplify this.

In August 2020, the Ministry of Interior (“MoI”) investigated reports of sexual assault and harassment made by four female police officers against Kampong Thom police commissioner Ouk Kosal. On 8 September 2020, the Ministry found that the police chief was guilty of sexual misconduct and announced he would be demoted but that no criminal charges would go forward “out of consideration for the women’s dignity”. The deputy national police chief Pen Vibol was quoted as saying “the fact they became victims is embarrassing enough.”⁵⁷

Another striking example is that of Duong Chhay. Footage of the prominent Cambodian tycoon inflicting violence against his ex-wife went viral on social media in March 2021.⁵⁸ Despite the public attention that this case received, little has been done by the authorities to punish Duong Chhay’s actions. Shortly after an investigation was opened, the Phnom Penh Court’s prosecutors ordered the police to delay the questioning of Duong Chhay for an undisclosed period of time, following his decision to join the monkhood.⁵⁹ Problematically, the explanations provided by Duong Chhay to justify his behavior—including that his ex-wife provoked his violence—even earned him some sympathy,⁶⁰ reflecting Cambodia’s prevalent victim-blaming culture.

In May 2021, several civil society organizations requested that legal action be taken against both Ouk Kosal and Duong Chhay in an open letter to the MoI, MoWA, and the Ministry of Justice (“MoJ”).⁶¹ The

pdf. See also, CCHR, ‘Gender-based violence in Cambodia: Facts & figures’ (December 2020) <https://cchrcambodia.org/admin/media/newsletter/newsletter/english/GBV%20Infographic-ENG.pdf>.

⁵⁵ See for example, Emma Fulu, Xian Warner and Saba Moussavi, ‘Why do some men use violence against women and how can we prevent it’ (March 2013), http://www.partners4prevention.org/sites/default/files/resources/p4p_cambodia_report_final_english_version.pdf.

⁵⁶ CCHR, ‘Factsheet: Violence Against Women in Cambodia’ (December 2018) https://cchrcambodia.org/admin/media/factsheet/factsheet/english/CCHR%20Factsheet_Violence%20Against%20Women_ENG.pdf.

⁵⁷ Matt Blomberg, ‘Cambodia police chief sacked over sexual misconduct in landmark case’ (*Reuters*, 9 September 2020) <https://www.reuters.com/article/us-cambodia-women-rape-idUSKBN2601TY>.

⁵⁸ Nat Sopheap and Ouch Sony, ‘Footage shows tycoon’s domestic violence against entrepreneur ex-wife’ (*VOD*, 16 March 2021) <https://vodenglish.news/footage-shows-tycoons-domestic-violence-against-entrepreneur-ex-wife/>.

⁵⁹ Matt Blomberg and Aun Chengpor, ‘Cambodian tycoon faces police probe after wife-beating videos go viral’ (*Reuters*, 19 March 2021) <https://www.reuters.com/article/cambodia-women-rights-idINL8N2LH0I>.

⁶⁰ Khy Sovuthy, ‘Police say no questioning for tycoon filmed beating wife until he leaves the monkhood’ (*CamboJA News*, 30 March 2021) <https://cambojanews.com/police-say-no-questioning-for-tycoon-filmed-beating-wife-until-he-leaves-the-monkhood/>.

⁶¹ CCHR, ‘Open letter to Samdech Krala Hom Sar Kheng, Deputy Prime Minister, Minister of Interior Her Excellency Dr. Ing Kantha Phavi, Minister of Women’s Affairs His Excellency Keut Rith, Minister of Justice’ (12 May 2021) https://cchrcambodia.org/media/files/press_release/830_jolgcfe13_en.pdf.

Mol issued a statement in response to the letter defending their position and stating that authorities always pay attention to cases, regardless of the accused’s social status. The Ministry further stated that only a small handful of individual cases discredited the authorities’ work.⁶² Yet, in the same month, 20-year-old woman television presenter Mean Pich Rita was arrested after a powerful tycoon filed a complaint against her and alleged that she had stabbed him. She was detained, charged and sent to pre-trial detention. However, while in pre-trial detention, Pich Rita filed a counter claim against the tycoon, accusing him of sexual harassment and attempted rape. Following community outrage over her arrest and detention, she was released from prison shortly thereafter.⁶³ However, her aggressor continues to walk free despite Pich Rita’s accusations of attempted rape.

This victim-blaming mentality sadly permeates the highest levels of government. In February 2020, the Prime Minister stated in a speech that women’s revealing clothing choices in pictures posted on social media provoke sexual violence and trafficking and undermine traditional values and Khmer culture.⁶⁴ He also warned against online product sellers dressing “sexily” in their livestream videos.⁶⁵ Following the Prime Minister’s speech, the MoWA announced plans to form an inter-ministerial working group to “monitor, disseminate, educate, and take action against those who spread and share pornographic pictures or videos on social media.”⁶⁶ In March 2021, Moeung Srey Nuon, was summoned for being dressed ‘sexily’ while selling a breast enlargement cream online and made to publicly apologize and sign a contract to stop her online activities.⁶⁷ That same month, a woman police officer, Sithong Sokha, faced disciplinary action after she posted a picture on her Facebook page of her breastfeeding her baby in her uniform. She was forced to sign a contract to stop breastfeeding in public and in uniform because it affected the honor of the police and the dignity of Khmer women.⁶⁸

Women continue to face significant barriers in accessing assistance and justice for GBV. The above-mentioned entrenched social and cultural norms and negative gender stereotypes result in many victims never reporting violence, or if they do, being pointed towards informal or out-of-court settlements. Moreover, the functioning of the criminal justice system in Cambodia is a major concern generally as

⁶² Nhim Sokhorn and Mech Dara, ‘Interior Ministry Defends Closing Police Chief’s Sexual Assault Case’ (VOD, 25 May 2021) <https://vodenglish.news/interior-ministry-defends-closing-police-chiefs-sexual-assault-case/>.

⁶³ Sorn Sarath, ‘TV presenter jailed for stabbing after accusing tycoon of attempted rape’ (Cambodia, 12 May 2021), <https://cambodianews.com/tv-presenter-jailed-for-stabbing-after-accusing-tycoon-of-attempted-rape/>.

⁶⁴ Seven women’s rights advocates, ‘Women’s Rights are Human Rights: Cambodia Needs to Respect Women’s Rights to Self Determination, Expression and Bodily Integrity: An Open Letter to Samdech Akka Moha Sena Padei Techo Hun Sen, the Prime Minister of Kingdom of Cambodia’ (February 2020), https://cchrcambodia.org/media/files/press_release/748_oltpwa1e_en.pdf.

⁶⁵ Hul Reaksmey, ‘National police arrest woman for dressing “too sexily” online’ (VOA, 21 February 2020) <https://www.voacambodia.com/a/national-police-arrest-a-cambodian-woman-for-dressing-too-sexily-online/5297796.html>.

⁶⁶ Soth Koemsoeun, ‘Ministry supports ‘sexy’ ban’ (Phnom Penh Post, 25 February 2020) <https://www.phnompenhpost.com/national/ministry-supports-sexy-ban>.

⁶⁷ Hold November, ‘Defender Concerned Over Excessive Restrictions on Women’s Clothing’ (VOA, 10 Feb. 2021), <https://khmer.voanews.com/a/police-latest-crackdown-on-women-dressing-sexy-online-concerns-rights-defenders/5772845.html>.

⁶⁸ Khuon Narim, ‘Stung Treng police reprimanded colleague for breastfeeding her child’ (Cambodia, 10 March 2021), <https://bit.ly/32P1w2C>; See also, Rhea Mae Soco and Mao Chanvirak, ‘Female police officer who was reprimanded by her superiors for breastfeeding receives an apology’ (Khmer Times, 11 March 2021), <https://www.khmertimeskh.com/50823733/%E1%9E%93%E1%9E%82%E1%9E%9A%E1%9E%94%E1%9E%9B%E1%9E%9F%E1%9E%9A%E1%9E%8A%E1%9E%9B%E1%9E%8F%E1%9E%9A%E1%9E%9C/>.

discussed below in Section 8. 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 GBV are often not held accountable for their crimes.⁶⁹ Moreover, due to a lack of gender responsiveness within the justice system, judges are often insensitive to women survivors and do not treat GBV cases with adequate consideration.⁷⁰ Survivors often face hostile proceedings, are retraumatized, and/or blamed for their perpetrator's actions. The judicial system's lack of gender sensitivity is compounded by the low number of women in the judiciary, fostering a prejudicial imbalance throughout the court system. In 2020, women only made up 15% of judges, 14% of prosecutors, and 22% of lawyers.⁷¹

The Committee may consider encouraging the RGC to step up its efforts to fight violence against women by eradicating entrenched gender norms and stereotypes and the prevalent victim-blaming culture, by conducting thorough and gender-sensitive investigations into GBV cases and prosecuting perpetrators, and by ensuring adequate protection and access to justice for GBV victims.

6. Prohibition of torture and other cruel, inhuman, or degrading treatment or punishment, and treatment of persons deprived of their liberty (arts. 6, 7, 9, and 10)

6.1 Torture in state custody

As mentioned in Section 3, at least five instances of torture resulting in death have been recorded since April 2019, in breach of Cambodia's obligations under Article 7 of the ICCPR. CCHR's 2020 and 2021 Fair Trial Rights Reports found that 32 defendants stated that violence or torture was used against them to obtain a confession between 1 November 2018 and 31 December 2020, confessions that were later admitted as evidence in most cases, on the basis that the defendants had failed to provide evidence of torture.⁷²

The Committee may consider recommending that Cambodian courts promptly and thoroughly conduct independent investigations into defendants' claims of coercion, duress, or torture to obtain confessions

⁶⁹ CCHR, 'Factsheet: Violence Against Women in Cambodia' (December 2018) https://cchrcambodia.org/admin/media/factsheet/factsheet/english/CCHR%20Factsheet_Violence%20Against%20Women_ENG.pdf.

⁷⁰ Leonie Kijewski, 'It's a man's world in Cambodian courts' (*The National Thailand*, 25 February 2018) <https://www.nationthailand.com/opinion/30339663>. See also, CCHR, 'Gender-based violence trials and women's fair trial rights in Cambodia's courts' (December 2020) <https://cchrcambodia.org/admin/media/factsheet/factsheet/english/GBV%20Trials%20and%20Womens%20Fair%20Trial%20Rights%20Factsheet-ENG.pdf>.

⁷¹ General Secretariat of the National Assembly, 'The Challenges of Women in Leadership: Key Findings from Gender Statistics Analysis' (2020) <http://www.nac.org.kh/Images/Women%20in%20leadership-Eng-Final.pdf>.

⁷² CCHR, 'Fair Trial Rights in Cambodia Annual Report' (October 2020) p. 20 [https://cchrcambodia.org/admin/media/report/report/english/FTR%20Annual%20Report_ENG%20\(2018-2019\).pdf](https://cchrcambodia.org/admin/media/report/report/english/FTR%20Annual%20Report_ENG%20(2018-2019).pdf); CCHR, 'Fair Trial Rights in Cambodia Annual Report: 1 November 2019 – 31 December 2020' (November 2021), p. 29, <https://cchrcambodia.org/admin/media/report/report/english/FTR-Annual-Report-English-2019-2020.pdf>.

of guilt before rendering their ruling. The Committee should also remind the courts that, if such claims are substantiated, they have a duty to ensure that any evidence of confessions obtained by such methods are inadmissible and that relevant re-trials are conducted.

6.2 Prison overcrowding

Prison overcrowding remains a major problem in Cambodia, due in large part to the RGC's anti-drug campaign,⁷³ which has led to prison populations increasing by nearly 78% since December 2016.⁷⁴ According to government data from April 2020, approximately 56.9% of Cambodia's inmates are detained on petty drug charges.⁷⁵ The result of this tough stance on drugs has led to severe overcrowding. Between June 2019 and June 2020, estimates placed the average occupancy across Cambodia's prisons at beyond 300% of capacity.⁷⁶ The burden of this anti-drug campaign has fallen most heavily on women, with 73% of women prisoners held on petty drug charges.⁷⁷

In May 2020, the RGC launched a campaign to clear backlogged legal cases across Cambodia in an effort to reduce prison overcrowding. The campaign ended on 29 June 2021, with the MoJ reporting that they resolved 96% of backlogged cases, totaling 37,900 cases.⁷⁸ While these efforts are commendable, this campaign has reportedly been unsuccessful in reducing the overall prison overcrowding rate because of the ongoing incarceration of new inmates.⁷⁹ On 19 July 2021, the MoJ also issued a new Prakas setting the conditions for conditional releases of prisoners, raising hopes that detainees, especially the most vulnerable, will be able to carry out the remainder of their sentences out of prison.⁸⁰

The Committee may consider recommending the RGC to step up its efforts to reduce prison overcrowding by allowing detainees who meet the Prakas' requirements to benefit from conditional release and by shifting its focus on rehabilitative and restorative justice instead of retributive justice so that the prison population will genuinely decrease.

6.3. Deplorable conditions inside prisons

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,

⁷³ Amnesty International, 'Substance Abuses, the Human Cost of Cambodia's Anti-Drug Campaign' (2020) p. 12 <https://www.amnesty.org/download/documents/asa2322202020english.pdf>.

⁷⁴ *Ibid.*

⁷⁵ See for example, Gerald Flynn, 'Justice: The First Casualty in Cambodia's War on Drugs' (*Cambodianess*, 3 June 2020) <https://cambodianess.com/article/justice-the-first-casualty-in-cambodias-war-on-drugs>.

⁷⁶ UN Human Rights Council, 'Report of the Special Rapporteur on the situation of human rights in Cambodia' UN Doc A/HRC/45/51 (24 August 2020), para. 41, [https://cambodia.ohchr.org/sites/default/files/Annual-reports/A_HRC_45_51_AEV%20\(1\).pdf](https://cambodia.ohchr.org/sites/default/files/Annual-reports/A_HRC_45_51_AEV%20(1).pdf).

⁷⁷ Amnesty International, 'Cambodia: Abusive "war on drugs", rife with torture and corruption, must be overhauled' (13 May 2020) <https://www.amnesty.org/en/latest/news/2020/05/cambodia-abusive-war-drugs-torture-corruption-must-overhauled/>. See also, Erin Handley, 'Cambodia's drug war has seen prisoner numbers skyrocket during coronavirus pandemic' (*ABC AU*, 30 May 2020) <https://www.abc.net.au/news/2020-05-31/cambodia-war-on-drugs-human-rights-abuses-torture-women/12288860>.

⁷⁸ Voun Dara, 'Ministry of Justice wraps up case backlog clean-up effort' (*Phnom Penh Post*, 30 June 2021) <https://www.phnompenhpost.com/national/ministry-justice-wraps-case-backlog-clean-effort>

⁷⁹ Human Rights Watch, Amnesty International, and LICADHO, 'Joint Statement: Cambodia Urgently Protect Prisoners from COVID-19' (9 December 2020) <https://www.hrw.org/news/2020/12/08/joint-statement-cambodia-urgently-protect-prisoners-covid-19>.

⁸⁰ Lay Samean, 'Inmate early release rules set' (*Phnom Penh Post*, 19 July 2021), <https://phnompenhpost.com/national/inmate-early-release-rules-set>.

recreational time outside cells and medical care, are reportedly denied to those who cannot afford it.⁸¹ The denial of these basic rights means that conditions of detention in most Cambodian prisons often amount to cruel, inhuman or degrading treatment, which sometimes results in the premature death of inmates.⁸² Vulnerable detainees, such as individuals with a mental health illness, pregnant women and mothers incarcerated with their young babies, face even greater hardship, as many prisons do not offer specialized care to accommodate their particular needs.⁸³

The Committee may consider recommending that the RGC take concrete measures to ensure respect for the basic rights of detainees by improving their detention conditions and ensuring they have access to basic necessities such as food and clean water. The Committee should additionally recommend the RGC to ensure that the particular needs of vulnerable detainees are answered and that they have access to well-trained medical staff for necessary and critical medical care and treatment.

6.4 Lack of protections for detainees against COVID-19

At the beginning of 2021, in response to a letter from UN international experts inquiring on COVID-19 actions taken in prisons following the first community outbreak, the MoI declared having put in place various measures to protect detainees and prevent COVID-19 infections in prisons, such as training detainees on symptom monitoring and protective gestures and training prison officers on swab tests and emergency response procedures. Despite these measures, numerous COVID-19 outbreaks in Cambodia's prisons were recorded in 2021. On 8 May 2021, the MoI's Department of Prisons reported that 34 detainees in Preah Sihanouk's provincial prison had tested positive for COVID-19.⁸⁴ Since then, hundreds of additional prisoners in the overcrowded facility have tested positive, though the government did not disclose the total number.⁸⁵ It has also been reported that the number of positive cases in Phnom Penh's prison are in the hundreds, and that as of 21 May 2021, CC1—Cambodia's largest and most overcrowded prison—had at least 18 inmates who tested positive.⁸⁶ Reportedly, at least 30 inmates and ten guards have tested positive for COVID-19 in Banteay Meanchey prison, leading to one death.⁸⁷ In total there have been four reported deaths of prisoners across Cambodia from COVID-19;⁸⁸ however there is a distinct lack of clarity around official figures of both positive cases and deaths. Some reports measured that approximately 10 to 20 percent of inmates at infected prisons contracted COVID-19, amounting to thousands of prisoners, with prison officials allegedly concealing the extent of the outbreak from the

⁸¹ LICADHO, 'Life in Prison: A Mother's Story' (2 December 2019) <https://www.licadho-cambodia.org/video.php?perm=86>.

⁸² Rithi, 'Land detainee dies in Kandal Provincial Prison' (RFA, 5 September 2021) <https://www.rfa.org/khmer/news/land/one-land-dispute-inmate-in-kandal-provincial-prison-died-of-heart-attack-09052021122749.html>

⁸³ LICADHO, 'Rights at a price: life inside Cambodia's prisons' (January 2015) p. 18-20 https://www.licadho-cambodia.org/reports/files/202LICADHOReport-Rights%20at%20a%20price_ENG.pdf.

⁸⁴ Voun Dara, 'Covid-19 reaches Preah Sihanouk prison' (*Phnom Penh Post*, 9 May 2021) https://www.phnompenhpost.com/national/covid-19-reaches-preah-sihanouk-prison?fbclid=IwAR2xcx0VvfRxxE3rhLYYguKxA5de_otQH_1W8cqbrbaS2A8xPVbByVXw8u8.

⁸⁵ Human Rights Watch and Amnesty International, 'Cambodia: Urgently Address Covid-19 Outbreak in Prisons' (23 May 2021) <https://www.hrw.org/news/2021/05/23/cambodia-urgently-address-covid-19-outbreak-prisons>.

⁸⁶ *Ibid.*

⁸⁷ Roseanne Gerin, 'Prisons, Migrant Workers Key Front in Battle Against COVID-19 in Cambodia, Laos' (RFA, 20 July 2021) <https://www.rfa.org/english/news/cambodia/battle-against-covid-19-07202021183151.html>.

⁸⁸ *Ibid.*

public to avoid riots.⁸⁹ As recently as December 2021, a suspected outbreak of more than 300 inmates and prison guards was reported in the Steung Treng Provincial Prison.⁹⁰

The Committee may consider encouraging the RGC to drastically reduce the prison overcrowding rate to protect inmates from contracting COVID-19 by releasing inmates who are imprisoned on minor or petty offenses, with a particular focus on women who are incarcerated with their young children. In addition, the RGC should also ensure that proper COVID-19 mitigation measures are implemented within prisons and that inmates are provided with personal protective equipment free of charge.

7. Deprivation of liberty (arts. 9, 10, and 14)

7.1 Excessive use of 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.*” Between June 2019 and June 2020, it was estimated that only 27% of the Cambodian inmate population had received final verdicts.⁹¹ In addition to being excessively resorted to, pre-trial detention is often imposed for extended periods of time, giving it a punitive nature. As an illustration, former-CNRP leader Kem Sokha spent 26 months in pre-trial detention, either in prison or under *de facto* house arrest, amounting to an arbitrary deprivation of liberty.⁹²

The number of women detainees who, pending trial, are incarcerated with their babies or young children is another cause for concern. This number is believed to have soared since Cambodia’s “*war on drugs*” started in January 2017.⁹³ In February 2019, the Prime Minister urged the relevant authorities to review the situation of women detainees held in pre-trial detention.⁹⁴ However, one year later, estimates placed the number of women detainees awaiting trial at more than 20,000.⁹⁵

The excessive use of pre-trial detention has resulted in severely overcrowded prisons. In some detention centers, overcrowding has reached such levels that prisoners can no longer be appropriately segregated:

⁸⁹ Mech Dara, ‘10 to 20 Percent of Inmates Got Covid-19 at Infected Prisons’ (VOD, 14 June 2021) <https://vodenglish.news/10-to-20-percent-of-inmates-got-covid-19-at-infected-prisons/>.

⁹⁰ Meng Kruey Ponlok, ‘Stung Treng Provincial Prison denies reports of COVID-19 outbreak in prison’ (VOD, 10 December 2021) <https://www.vodkhmer.news/2021/12/10/stung-treng-provincial-prison-issues-letter-denying-covid19-explosion/>.

⁹¹ UN Human Rights Council, ‘Report of the Special Rapporteur on the situation of human rights in Cambodia’ UN Doc. A/HRC/45/51 (24 August 2020) para. 41, [https://cambodia.ohchr.org/sites/default/files/Annual-reports/A_HRC_45_51_AEV%20\(1\).pdf](https://cambodia.ohchr.org/sites/default/files/Annual-reports/A_HRC_45_51_AEV%20(1).pdf).

⁹² *Al Jazeera*, ‘Cambodia Opposition Figure Kem Sokha Under House Arrest’ (10 September 2018) <https://www.aljazeera.com/news/2018/09/cambodia-opposition-figure-kem-sokha-house-arrest-18091005227527.html>.

⁹³ UN Human Rights Council, ‘Report of the Special Rapporteur on the situation of human rights in Cambodia’ (27 August 2019), UN Doc A/HRC/42/60, Para 45, https://www.ecoi.net/en/file/local/2015840/A_HRC_42_60_E.pdf; ‘Cambodia: Abusive “war on drugs”, rife with torture and corruption, must be overhauled” (Amnesty International, 13 May 2020), <https://www.amnesty.org/en/latest/news/2020/05/cambodia-abusive-war-drugs-torture-corruption-must-overhauled/>.

⁹⁴ LICADHO, ‘Statement: Incarcerated Mothers and Pregnant Women: LICADHO Calls for Urgent Action’ (April 2019) <https://www.licadho-cambodia.org/pressrelease.php?perm=438>.

⁹⁵ Niem Chheng, ‘PM: Speed up trial for over 20,000 women in detention’ (*Phnom Penh Post*, 17 February 2020) <https://www.phnompenhpost.com/national/pm-speed-trial-over-20000-women-detention>.

juveniles and adults are mixed, as are pre-trial and post-conviction detainees,⁹⁶ in clear violation of Article 10(2) of the ICCPR.

The Committee may consider demanding that the RGC cease using pre-trial detention as the norm rather than the exception and only deprive individuals of their liberty as a last resort, in compliance with international human rights standards.

7.2 Shortcomings of the judicial system

Despite legal protections, fair trial rights are frequently not upheld in the Cambodian judicial system. While CCHR's most recent Fair Trial Rights Report, released in November 2021, recorded several positive findings, there remains issues of compliance with certain judicial guarantees, such as the right not to be compelled to confess guilt; the right to a public hearing; the right to understand the nature and cause of the charge; the right to legal representation and to be present at trial; the rights of juveniles; evidentiary rights; the right to a reasoned judgment, and the presumption of innocence.⁹⁷

Regarding the right not to be compelled to confess guilt, CCHR's monitoring team has found that between 1 September 2018 and 31 August 2020, 4.5% of defendants alleged that violence or torture was used on them to coerce them into confessing,⁹⁸ in clear violation of Articles 7 and 14(3)(g) of the ICCPR. Between 1 November 2019 and 31 December 2020, it is 6.7% of the defendants involved in the cases monitored by CCHR who stated that violence or torture was used on them in order to obtain a confession, which represents a concerning increase compared to the cases monitored by CCHR between November 2018 and September 2019.⁹⁹

As for the publicity of hearings, it acts as a safeguard for the interests of individuals and society and, as such, should be ensured by Cambodian courts. Yet, the right to a public hearing was denied to former-CNRP leader Kem Sokha when his trial for treason—seen as politically-motivated and labeled as “*tainted*” by three UN Special Rapporteurs¹⁰⁰—was initially closed to journalists and human rights monitors in January 2020.¹⁰¹ More recently, in December 2021, a human rights monitor working for a well-known local human rights organizations reported having been denied access to hearings of the Preah Sihanouk

⁹⁶ 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://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/249/54/PDF/G1824954.pdf?OpenElement>

⁹⁷ CCHR, ‘Fair Trial Rights in Cambodia: Monitoring at the Court of Appeal – Annual Report: 1 November 2019 - 31 December 2020’ (November 2021), <https://cchrcambodia.org/admin/media/report/report/english/FTR-Annual-Report-English-2019-2020.pdf>.

⁹⁸ CCHR, ‘Fair Trial Rights Newsletter: The right not to be compelled to confess guilt or to testify against oneself’ (November 2020), <https://cchrcambodia.org/admin/media/newsletter/newsletter/english/CCHR%20Fair%20Trial%20Rights%20Newsletter%20on%20the%20right%20not%20to%20be%20compelled%20to%20confess%20guilt%20or%20to%20testify%20against%20oneself%20ENG.pdf>.

⁹⁹ CCHR, ‘Fair Trial Rights in Cambodia: Monitoring at the Court of Appeal – Annual Report: 1 November 2019 - 31 December 2020’ (November 2021), page 29, <https://cchrcambodia.org/admin/media/report/report/english/FTR-Annual-Report-English-2019-2020.pdf>.

¹⁰⁰ ‘Cambodia: UN experts say Kem Sokha trial is “tainted” (OHCHR, 17 January 2020), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25472>.

¹⁰¹ 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>.

Provincial Court on various occasions despite those hearings being public,¹⁰² with the Court requiring her to request prior permission.

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 confession or documentary evidence.¹⁰³ 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. Yet, CCHR's recent monitoring reveals that there is no trend of examining this type of evidence.¹⁰⁴

The presumption of innocence is also regularly undermined by Cambodian courts, 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. For instance, in its 2021 Fair Trial Rights Report, CCHR recorded that 28.2% of the defendants whose cases were monitored by CCHR appeared at their hearing wearing the prison uniform for convicts.¹⁰⁵ This undermines the presumption of innocence as it may negatively influence the judge and the public's perception of the accused.

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 custody¹⁰⁶ and does not recognize the right to legal representation for all types of offenses.¹⁰⁷

The Committee may consider recommending that the RGC take appropriate action to ensure that Cambodian courts respect all the accused's fair trial rights, in full compliance with international fair trial rights standards.

7.3. Increased but insufficient legal aid

The last few years have seen a number of positive developments occur in the field of legal aid. In March 2019, it was announced that the MoJ was working on the creation of a national legal aid policy, which would include legal education, dissemination, legal counselling, petty dispute mediation and the provision of legal assistance to defend cases in the courts.¹⁰⁸ The governmental Cambodian Human Rights

¹⁰² Mech Dara & D. Keeton-Olsen, 'Adhoc monitor says she's blocked from Preah Sihanouk court hearings' (VOD, 27 December 2021), <https://vodenglish.news/adhoc-monitor-says-shes-blocked-from-preah-sihanouk-court-hearings/>.

¹⁰³ CCHR, 'Fair Trial Rights in Cambodia: Monitoring at the Court of Appeal – Annual Report: 1 November 2019 - 31 December 2020' (November 2021) p. 42, <https://cchrcambodia.org/admin/media/report/report/english/FTR-Annual-Report-English-2019-2020.pdf>.

¹⁰⁴ *Ibid*, p. 43.

¹⁰⁵ *Ibid*, p.41.

¹⁰⁶ 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.

¹⁰⁷ Article 301 of the *Code of Criminal Procedure of the Kingdom of Cambodia*.

¹⁰⁸ Pech Sotheary, 'Justice Ministry collaborating on national legal aid policy' (*Khmer Times*, 22 March 2019) <https://www.khmertimeskh.com/589418/justice-ministry-collaborating-on-national-legal-aid-policy/>.

Committee created a legal team in 2019, tasked with offering free legal services to the underprivileged.¹⁰⁹ In addition, in February 2020, the Prime Minister instructed the creation of a legal team dedicated to assisting women.¹¹⁰ In February 2021, the Senate’s Commission on Human Rights, Complaint Reception and Investigation and the Government lawyer’s council signed a Memorandum of Understanding with the aim to increase cooperation between both institutions in helping vulnerable citizens, especially women, by providing them with legal support.¹¹¹ A team of over 130 Government lawyers was created with a presence both in the capital and provinces. While this is commendable, the influence that the Prime Minister may have in selecting which vulnerable women receive assistance, as well as in the adjudication of the cases represented by its lawyers in court, raises concerns.¹¹² In addition, the head of the government lawyers and of the Prime Minister’s volunteer lawyers stated that the volunteer lawyers would assist women victims but not “*women who are criminal*” as this would be seen as “*encouraging female perpetrators to commit crime*,” this position being in contradiction with the accused’s fair trial rights and Cambodian law.¹¹³

In October 2020, the Mol also disclosed its plan to send lawyers at local levels, namely district and provincial administrations, to furnish legal assistance in more remote areas.¹¹⁴ In the same month, a new president of the Bar Association of Cambodia (“BACK”) was elected and committed to strengthening the association and making access to a lawyer more transparent. In February 2021, BACK adopted a new policy calling on its lawyers to provide advice, counselling and legal services on a voluntary basis to the public at their office for free.¹¹⁵ It was also announced that BACK already counted 308 volunteer lawyers defending the indigent across the country and that more volunteer lawyers would be deployed nationwide.¹¹⁶

BACK also announced that it had provided legal representation to over 6,000 poor people across the country in more than 4,000 cases in 2021 and that the Government would increase legal aid fundings from almost \$500,000 in 2021 to over \$630,000 in 2022.¹¹⁷ While the RGC made steps in the right direction, the insufficient legal aid budget, lack of comprehensive legal aid policy and lack of lawyers remain obstacles to ensuring legal aid for indigent defendants in Cambodia.

¹⁰⁹ Taing Vida, ‘CHRC marks notable achievements in providing free legal aid’ (*Khmer Times*, 5 March 2020) <https://www.khmertimeskh.com/698246/chrc-marks-notable-achievements-in-providing-free-legal-aid/>.

¹¹⁰ Long Kimmarita, ‘Government legal aid team to meet’ (*Phnom Penh Post*, 5 March 2019) <https://www.phnompenhpost.com/national/government-legal-aid-team-meet>.

¹¹¹ David, Sen, ‘Lawyers council and Senate sign MoU for vulnerable’ (*Khmer Times*, 16 February 2021) <https://www.khmertimeskh.com/50814406/lawyers-council-and-senate-sign-mou-for-vulnerable/>

¹¹² *Ibid.*

¹¹³ Lay Samean, ‘Hun Sen sponsors pro-bono lawyer group’ (*Phnom Penh Post*, 16 February 2021), <https://www.phnompenhpost.com/national/hun-sen-sponsors-pro-bono-lawyer-group>.

¹¹⁴ Khann Chanvirak, ‘Ministry plans to deploy lawyers at local levels to help resolve issues’ (*Khmer Times*, 14 October 2020) <https://www.khmertimeskh.com/50772904/ministry-plans-to-deploy-lawyers-at-local-levels-to-help-resolve-issues/>.

¹¹⁵ Sen David, ‘New bar association policy to provide pro bono legal aid’ (*Khmer Times*, 29 January 2021), <https://www.khmertimeskh.com/50808340/new-bar-association-policy-to-provide-pro-bono-legal-aid/>.

¹¹⁶ B.Reaksmeay Kongkea, ‘BACK to deploy more volunteer lawyers nationwide’ (*Khmer Times*, 22 February 2021), <https://www.khmertimeskh.com/50816333/bakc-to-deploy-more-volunteer-lawyers-nationwide/>.

¹¹⁷ ‘Bar association defenders more than 4,000 court cases for poor people’ (*Khmer Times*, 17 October 2021), <https://www.khmertimeskh.com/50953342/bar-association-defends-more-than-4000-court-cases-for-poor-people/>.

The Committee may consider demanding that the RGC continue its efforts to improve underprivileged citizens' access to legal aid by notably adopting a comprehensive legal aid policy, increasing the legal aid budget and ensuring that legal assistance remains a priority in the future and that its availability is widely publicized.

7.4 Drug addiction treatment and deprivation of liberty

As of 1 June 2020, more than 6,500 people suffering from drug addiction were locked up in Government-run centers across the Kingdom. While the National Authority for Combating Drugs said that drug rehabilitation centers only receive drug addicts on a voluntary basis and on parents' requests,¹¹⁸ serious concerns remain pertaining to the deprivation of liberty of these individuals, due to the lack of clarity of the legal framework on compulsory drug rehabilitation which opens the door to arbitrary detention.¹¹⁹

Furthermore, the heavily criticized Phnom Penh Social Affairs and Transit Center (Prey Speu) continues to operate, detaining homeless people, beggars, and individuals suffering from mental illness or drug addiction, despite the absence of a clear, transparent and accountable governance structure, regulatory framework and procedures. There are reports that people are held against their will at Prey Speu 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.¹²⁰ Reports suggest that abuse is rife in the center and that conditions are actually worse than in Cambodia's prisons due to the lack of monitoring.¹²¹

The Committee may consider requesting the RGC to take the necessary measures to ensure that no individuals suffering from drug addiction are held against their will and to ensure that conditions in rehabilitation centers meet international standards.

8. Judicial Independence (art. 14)

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—prevents due justice from being done. The three fundamental laws pertaining to the judiciary, namely the *Law on the Organization of the Court*,¹²² the *Law on the Statute of Judges and Prosecutors*,¹²³

¹¹⁸ Niem Chheng, 'UN bodies call for drug center closure' (*Phnom Penh Post*, 1 June 2020) <https://www.phnompenhpost.com/national/un-bodies-call-drug-centre-closure>.

¹¹⁹ UN Human Rights Council, 'Report of the Special Rapporteur on the situation of human rights in Cambodia' UN Doc. A/HRC/45/51 (24 August 2020) para. 40 [https://cambodia.ohchr.org/sites/default/files/Annual-reports/A_HRC_45_51_AEV%20\(1\).pdf](https://cambodia.ohchr.org/sites/default/files/Annual-reports/A_HRC_45_51_AEV%20(1).pdf).

¹²⁰ 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>.

¹²¹ 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>.

¹²² The *Law on the Organization of the Court* is available at: <http://www.arbitrationcouncil.org/uploads/433e3-01.-law-on-the-org-of-the-courts-english.pdf>.

¹²³ The *Law on the Statute of Judges and Prosecutors* is available at: www.arbitrationcouncil.org/uploads/58448-02.-law-on-the-status-judges-english.pdf.

and the *Law on the Organization and Function of the Supreme Council of Magistracy*,¹²⁴ aim to ensure the independence of the judiciary, and to protect the rights and freedoms of Cambodian citizens. These laws, which were drafted without any prior publication or consultation with civil society, the public or other stakeholders, have been criticized for weakening the separation of powers and the independence of the judiciary. They effectively give the executive direct control over the judiciary by increasing the level of influence of the MoJ over judges and prosecutors, through its involvement with judicial budgets, appointments, promotions, tenure, and removal.¹²⁵

The absence of separation of powers between the executive and the judiciary permits a politicization of the justice system and the harassment and silencing of civil society and political opponents. As a recent example, in November 2020, over 110 former members or supporters of the CNRP were summoned on unsubstantiated and politically-motivated charges relating to their support for the planned return of exiled opposition party leader Sam Rainsy to Cambodia in November 2019.¹²⁶ Their trials have since fallen short of international standards, with many of the former opposition activists being tried *in absentia* and in one instance being provided with legal representation that argued for the activists to receive the minimum prison sentence, effectively presuming them guilty of the alleged crimes.¹²⁷ On 1 March 2021, the Phnom Penh Municipal Court sentenced nine former CNRP leaders to between 20 to 25 years in prison with each ordered to pay a 180 million riel fine. All were also banned permanently from participating in politics.¹²⁸

It appears there has been no action taken on behalf of the RGC to allow public access to full transcripts from the courts. The MoJ published 44 verdicts from civil cases in January 2021 to use as court precedents

¹²⁴ The *Law on the Organization and Function of the Supreme Council of Magistracy* is available at: www.arbitrationcouncil.org/uploads/f173c-03.-law-on-scm-english.pdf.

¹²⁵ CCHR, Destination Justice and ADHOC, 'Joint Submission to the Human Rights Council of the United Nations Third Universal Periodic Review of the Kingdom of Cambodia, Access to Justice in Cambodia' (12 July 2018) Section 2 www.ohchr.org/EN/HRBodies/UPR/Pages/UPRKHStakeholdersInfoS32.aspx. See also, CCHR 'Legal Analysis, Three Draft Laws Relating to the Judiciary' (May 2014) [https://cchrcambodia.org/admin/media/analysis/analysis/english/2014_06_17_CCHR_Analysis_of_the_Draft_Laws_on_Judicial_Reforms_\(ENG\).pdf](https://cchrcambodia.org/admin/media/analysis/analysis/english/2014_06_17_CCHR_Analysis_of_the_Draft_Laws_on_Judicial_Reforms_(ENG).pdf); OHCHR Cambodia 'Comments on certain provisions of the draft Law on the status of judges and prosecutors in relation to international human rights standards' (May 2014) <http://cambodia.ohchr.org/~cambodiaohchr/sites/default/files/OHCHR%20comments%20on%20draft%20Law%20on%20status%20of%20J%20and%20P,%20ENG%20May%202014%20final.pdf>; OHCHR Cambodia, 'Comments on certain provisions of the draft Law on the Supreme Council of Magistracy in relation to international human rights standards' (May 2014) <http://cambodia.ohchr.org/~cambodiaohchr/sites/default/files/OHCHR%20comments%20on%20SCM%20Draft%20law,%20ENG%20May%202014%20final.pdf>; and OHCHR Cambodia, 'Comments on certain provisions of the draft Law on the organisation of courts in relation to international human rights standards' (May 2014) <http://cambodia.ohchr.org/~cambodiaohchr/sites/default/files/OHCHR%20comments%20on%20draft%20Law%20on%20org%20of%20courts,%20ENG%20May%202014%20final.pdf>.

¹²⁶ Human Rights Watch, 'Cambodia: Wave of Opposition Arrests' (20 October 2019) <https://www.hrw.org/news/2019/10/20/cambodia-wave-opposition-arrests>.

¹²⁷ Ouch Sony, 'At Closing of CNRP Leaders' Trial, Defense Lawyers at Odds' (VOD, 9 February 2021) <https://vodenglish.news/at-closing-of-cnrp-leaders-trial-defense-lawyers-at-odds/>; and *Radio France Internationale*, 'Former opposition activist to resume trial next week, but lawyers say it will affect clients rights' (18 February 2021) <https://www.rfi.fr/km/>.

¹²⁸ Khuon Narim, 'Rainsy, CNRP deputies get 20+ years in prison over 2019 'coup'' (*CamboJA*, 2 March 2021) <https://cambojanews.com/rainsy-cnrp-deputies-get-20-years-prison-over-2019-coup/>.

for lawyers and the public, with the promise to continue publishing civil and criminal verdicts.¹²⁹ However, it is crucial that more is done to ensure transparency.

The Committee may consider urging the RGC to stop using the subservient judiciary as a tool to silence critics and to revise the three fundamental laws pertaining to the judiciary - in consultation with the public and relevant civil society stakeholders - to ensure a strong separation of power and an independent, impartial and transparent justice system.

9. Freedom of expression (art. 19)

See separate joint submission from CCHR and ARTICLE 19.

10. Freedom of assembly (art. 21)

See separate joint submission from CCHR and ARTICLE 19.

11. Freedom of association (art. 22)

11.1 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,¹³⁰ provides for burdensome, onerous, and vague registration requirements,¹³¹ allows for broad government oversight to deny registration, and imposes onerous activity and financial reporting requirements. Some efforts have been made by the RGC to engage stakeholders in consultations about amendments to the LANGO. However, civil society has expressed concern at the effectivity of this process and it is doubted whether the outcomes will improve the protection of freedom of association. The *Law on Trade Unions* (“TUL”), passed in 2016, also imposes mandatory and burdensome reporting and registration requirements on trade unions. While amendments to the TUL were promulgated in January 2020,¹³² they do not significantly lessen the law’s

¹²⁹ Niem Chheng, ‘Courts’ decisions now published as reference source’ (*Phnom Penh Post*, 4 January 2021) www.phnompenhpost.com/national/courts-decisions-now-published-reference-source.

¹³⁰ The LANGO’s definition of association is exceptionally broad, potentially applying to every informal group in Cambodia, including community-based organizations. See, CCHR, ‘Letter from CCHR to Samdech Kralahom Sar Kheng’ (21 August 2015) https://cchrcambodia.org/index_old.php?title=CCHR-Open-Letter-Seeks-Clarification-Regarding-Application-of-the-LANGO-to-CBOs-and-Informal-Groups&url=media/media.php&p=press_detail.php&prid=569&id=5.

¹³¹ Article 5 of the LANGO prevents certain individuals, such as individuals who do not hold Khmer nationality, as well as persons under 18, from establishing a domestic association or NGO.

¹³² Ry Socha, ‘Senate Passes Amendments to 10 Article Trade Union Law’ (*Phnom Penh Post*, 9 December 2019) <https://www.phnompenhpost.com/national/senate-passes-amendments-10-articles-trade-union-law>.

restriction of the freedom of association.¹³³ In November 2018, the MoI repealed a three-day prior notification requirement for all civil society organization (“CSO”) activities that was originally imposed in 2017. However, the scope of the 2018 repealing-directive appears limited to civil society groups who have registered with the MoI, therefore leaving open the possibility that the activities of unregistered small groups or community-based organizations may still be hindered by the local authorities under this provision.

The Committee may consider recommending that the RGC amend the LANGO, TUL and other legislation that unnecessarily restricts freedom of association—ensuring all stakeholders are engaged in meaningful and transparent consultation—to bring them in line with its obligations under the ICCPR.

11.2 Political association

Political association is heavily restricted in Cambodia and members of the political opposition are systematically targeted in violation of freedom of association. In late 2017, the main political opposition, 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.¹³⁴ After over a year in pre-trial detention, he was placed under *de facto* house arrest in 2018 and released in November 2019. His trial started on 15 January 2020 but was suspended in March 2020 due to COVID-19 pandemic.¹³⁵ His trial resumed on 19 January 2022, more than four years after his arrest.¹³⁶ Since the dissolution of the CNRP, restrictions and violations of freedom of association targeting former CNRP members or supporters have increased.¹³⁷ In particular, the RGC renewed its hostility towards former CNRP members and affiliates in November 2020 when it summoned over 110 opposition activists, many of whom live in exile, to stand a mass trial for plotting to overthrow the government and for incitement to commit serious social chaos under Articles 435, 494, and 495 of the Criminal Code.¹³⁸ Various convictions have resulted from these trials, including that of nine former CNRP members, who were sentenced to between 20 to 25 years in prison and banned permanently from participating in politics in March 2021.¹³⁹ Besides the mass trials, more than 30 former opposition members were either arrested or had arrest warrants issued against

¹³³ Article 20 restricts the ability of unions to carry out their activities, namely through the requirements that leaders are 18 or over and make a declaration of a residential address, both of which are inconsistent with international best practices and non-compliant with the right of workers to elect their representatives in full freedom as per ILO Convention No. 87. Ultimately the TUL establishes an authorization procedure for trade unions, requiring RGC approval for union registration in contravention of international human rights law.

¹³⁴ B. Sokhean, M.Dara & A. Baliga, ‘Death of Democracy’: CNRP dissolved by Supreme Court ruling’ (*Phnom Penh Post*, 17 Nov. 2017) <https://www.phnompenhpost.com/national-post-depth-politics/death-democracy-cnrp-dissolved-supreme-court-ruling>.

¹³⁵ ‘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>.

¹³⁶ Keat Soriththeavy & Saut Sok Prathna, ‘Kem Sokha trial to resume in January’ (*VOD*, Dec. 2021), <https://vodenglish.news/kem-sokha-trial-to-resume-in-january/>.

¹³⁷ 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>.

¹³⁸ Kim Sarom and Niem Chheng, ‘Mass ‘plotting’ trial to resume in January’ (*Phnom Penh Post*, 26 November 2020) <https://www.phnompenhpost.com/national-politics/mass-plotting-trial-resume-january>.

¹³⁹ Khuon Narim, ‘Rainsy, CNRP deputies get 20+ years prison over 2019 coup’ (*Cambodia News*, 2 March 2021), <https://cambodianews.com/rainsy-cnrp-deputies-get-20-years-prison-over-2019-coup/>.

them in 2021, and at least 51 were convicted by Cambodian courts.¹⁴⁰ Among them, four exiled CNRP activists were arrested and charged in November 2021 following their deportation by Thailand authorities, despite their political refugee status and in contravention with the international principle of *non-refoulement*.¹⁴¹ On 7 December 2021, the mass trial of CNRP members resumed at the Phnom Penh Municipal Court, foreshadowing further convictions in 2022.¹⁴²

Incidents of unprovoked physical attacks from unidentified assailants on former CNRP activists remain pervasive.¹⁴³ Between April 2019 and December 2021, at least 24 former CNRP activists or members were physically assaulted by unknown assailants. The most egregious of these attacks is the brutal murder of CNRP activist Sin Khon by a group of unknown assailants in Phnom Penh in November 2021.¹⁴⁴ His murder is seen by many as politically motivated as Khon was among the CNRP members attacked earlier in the year and was well known for criticizing the RGC on social media. The similar circumstances of most of these attacks suggest these individuals were not targeted at random, but rather for their association to the CNRP. Threats and attacks against those affiliated with the CNRP are also frequent. For instance, the wife of a detained former CNRP member reported that authorities showed up at her house several times to coerce her to join the ruling party in exchange for her husbands' release from prison,¹⁴⁵ Similarly, Kak Sovann Chhay, a teenager with autism and the son of a jailed senior CNRP member and a member of the Friday Women, was attacked while out with his mother, the latter believing that she was the main target

¹⁴⁰ Data Collected by CCHR.

¹⁴¹ Comment by Human Rights Office spokesperson Rupert Colville on killing of Cambodian activist and refoulements from Thailand' (3 December 2021), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27906&LangID=E>.

¹⁴² Sopeng Cheang, 'Cambodian mass trial against government opponents reopens' (ABC News, 7 December 2021), <https://abcn.ws/3zzSpyK>.

¹⁴³ Youn Samean, 'Another opposition activist repeatedly beaten by unknown individuals in Khan 7 Makara' (RFA, 23 January 2021) <https://www.rfa.org/khmer/news/politics/another-dissent-was-assaulted-after-monitoring-trial-against-cnrp-leaders-in-phnom-penh-01232021234203.html>; Khe Sonang, 'Opposition activist in Kandal province was knocked unconscious by a stranger on a motorcycle' (RFA, 14 February 2021) <https://www.rfa.org/khmer/news/social-economy/a-cnrp-activist-fainted-from-intentional-motorcycle-crash-02142021054633.html>; and Van Vichar, 'Former CNRP member continues to fear while authorities have not caught the perpetrator' (Cambodia, 25 February 2021) <https://khmer.cambojanews.com/former-cnrp-mebers-are-scared-as-police-have-not-arrested-suspects-for-using-violence/>.

¹⁴⁴ CCHR, ADHOC, SC and ICNL, 'Cambodia Fundamental Freedoms Monitor: Fourth Annual Report' (July 2020) <https://cchrcambodia.org/ffmp/report4>; CCHR, ADHOC, Solidarity Center, and ICNL, 'Cambodia Fundamental Freedoms Monitor: Fifth Annual Report' (April 2021) <https://cchrcambodia.org/admin/media/report/report/english/CCHR-FFMP-Report-Year-5-Apr-Dec-2020-Eng.pdf>; Chivita, 'Two unknown people on a motorcycle raided a social activist in San district, injuring his head with 6 stiches' (RFA, 17 January 2021) <https://www.rfa.org/khmer/news/politics/an-another-cnrp-activist-injured-from-an-attacked-two-unidentified-men-01172021105140.html>; Samian, 'Another opposition activist repeatedly beaten by unknown individuals in Khan 7 Makara' (RFA, 23 January 2021), <https://www.rfa.org/khmer/news/politics/another-dissent-was-assaulted-after-monitoring-trial-against-cnrp-leaders-in-phnom-penh-01232021234203.html>; Khe Sonan, 'Opposition activist in Kandal province was knocked unconscious by a stranger on a motorbike' (RFA, 12 February 2021), <https://www.rfa.org/khmer/news/social-economy/a-cnrp-activist-fainted-from-intentional-motorcycle-crash-02142021054633.html>; 'Activist bludgeoned by unknown assailants in latest attack on Cambodia's opposition', (RFA, 16 February 2021), <https://www.rfa.org/english/news/cambodia/attack-02162021163449.html>; Tran Techseng, 'Four men assault opposition activist at Phnom Penh market' (VOD, 13 May 2021), <https://vodenglish.news/four-men-assault-opposition-activist-at-phnom-penh-market/>; Ananth Baliga, 'Updated. CNRP activist slain overnight in Phnom Penh, witness recalls slashing' (VOD, 21 November 2021), <https://vodenglish.news/cnrp-activist-slain-overnight-in-phnom-penh-witness-recalls-slashing/>.

¹⁴⁵ Tin Zakaria, 'Authorities force wife of opposition activist to surrender to ruling party' (RFA, 11 November 2020) <https://www.rfa.org/khmer/news/politics/wife-of-jailed-CNRP-member-accuse-authorities-monitor-and-threaten-her-to-stop-protesting-11112020062439.html>.

of the attack.¹⁴⁶

The Committee may consider calling on the RGC to cease politically motivated prosecutions and harassment of former members of the political opposition and its supporters and to systematically conduct thorough, independent and impartial investigations into all violent attacks against former CNRP activists and hold those responsible to account.

11.3 Civil society

Civic space is extremely curtailed in Cambodia. Authorities regularly curtail the right to freedom of association for CSOs such as non-governmental organizations, trade unions, and community-based organizations. Misuse of legislative tools such as the aforementioned LANGO have in some cases resulted in the forced closure of organizations. In August 2020, the MoI deleted the Cambodian Wildlife Forest Fisheries Protection and Conservation Organization from its register for failure to comply with the financial reporting requirements of Articles 10 and 25 of the LANGO.¹⁴⁷ Further, a 2021 survey revealed that 24% of CSO and union leaders reported being targeted by the RGC due to their association membership.

Trade union leaders and members continue to be harassed for exercising their right to freedom of association. In May 2021, NagaWorld terminated 1,329 employees, most of whom were union workers and three of whom were union leaders.¹⁴⁸ Many view these terminations as an attempt to eliminate unions within the company. Union members attempted to repeatedly halt the layoffs, including engaging in tripartite negotiations, but ultimately failed.¹⁴⁹ On 18 December 2021, over a thousand NagaWorld workers and union members started striking daily in front of the NagaWorld compounds to demand the company to reinstate over 300 laid-off employees and comply with the labor law and international labor standards. The strike, which was deemed illegal and banned by the Phnom Penh Municipal Court¹⁵⁰ led to the arbitrary arrest of over 30 strikers¹⁵¹ between 31 December 2021 and 4 January 2022, including NagaWorld's Labor Union leader Chhim Sithar.¹⁵² While it is noted the termination of union members is usually undertaken by private companies, it is the responsibility of the RGC to protect against third party

¹⁴⁶ 'Autistic teenaged son of jailed Cambodian opposition member bludgeoned with brick, (RFA, <https://www.rfa.org/english/news/cambodia/brick-04272021181007.html>).

¹⁴⁷ *Fresh News*, 'Ministry of Interior decides to delete the name of the Cambodian Wildlife Fisheries Protection and Conservation' (14 August 2020) <http://freshnewsasia.com/index.php/en/localnews/168226-2020-08-14-05-56-14.html>.

¹⁴⁸ Lay Sopheavotey & Phoung Vantha, 'NagaWorld Laying off Employees during the COVID-19 pandemic in Inhuman, Union leaders and NGOs Say' (*Cambodianess*, 29 May 2021) <https://cambodianess.com/article/nagaworld-laying-off-employees-during-the-covid-19-pandemic-is-inhuman-union-leaders-and-ngos-say>; Khe Sonang, 'Three NagaWorld Casino union leaders summoned to terminate employment contracts' (*Radio Free Asia*, 29 May 2021) <https://www.rfa.org/khmer/news/human-rights/naga-world-union-leader-received-termination-notice-05292021050638.html>

¹⁴⁹ Khuon Narim, 'Three-way NagaWorld negotiations fail to halt mass layoff' (*CamboJA*, 24 June 2021), <https://cambojanews.com/three-way-nagaworld-negotiations-fail-to-halt-mass-layoff/>.

¹⁵⁰ Danielle Keeton-Olsen, 'Updated: Phnom Penh Court bans NagaWorld workers' strike, unionists leave vowing to return' (*VOD*, 18 December 2021), <https://vodenglish.news/phnom-penh-court-bans-nagaworld-workers-strike/>.

¹⁵¹ 'Updated: several arrests outside NagaWorld casino as protests resume' (*VOD*, 3 January 2022), <https://vodenglish.news/another-arrest-outside-nagaworld-casino-as-protests-resume/>.

¹⁵² *VOD*, 'NagaWorld union leader Chhim Sithar arrested arriving to rally' (*VOD*, 4 January 2022), <https://vodenglish.news/nagaworld-union-leader-chhim-sithar-arrested-en-route-to-rally/>.

actions impinging upon freedom of association.

The Committee may 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 and ceasing the harassment of trade union members and CSOs.

12. Right to vote and take part in public life (arts. 2, 10, and 25)

12.1 Disenfranchisement of a significant portion of Khmer citizens

In late 2017, following the dissolution of the CNRP, 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 the CNRP. In the previous national elections, the CNRP had won over 40% of the votes, illustrating how many voters are now left without representation.¹⁵³

12.2 Concerning actions by the authorities leading up to the 2018 national elections

In the lead up to the 2018 national elections, the RGC passed a spate of problematic legislation that 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.¹⁵⁴ 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, as well as for the redistribution of dissolved parliamentary seats.¹⁵⁵ The LANGO was also passed at that time, introducing requirements of political neutrality for NGOs during election campaigns.

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".¹⁵⁶ 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

¹⁵³ ABC News, 'Cambodian opposition rejects election results' (30 July 2013) <https://www.abc.net.au/news/2013-07-29/an-cambodian-opposition-rejects-victory-claims/4850954?pfmredir=sm>.

¹⁵⁴ 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>.

¹⁵⁵ Prak Chan Thul, "Cambodia changes election law ahead of 2018 vote", (Reuters, July 10 2017), <https://www.reuters.com/article/us-cambodia-politics/cambodia-changes-election-law-ahead-of-2018-vote-idUSKBN19V0F4>.

¹⁵⁶ 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>.

confidence in the election.¹⁵⁷ The RGC blocked access to 17 media websites for 24 hours prior to the election.¹⁵⁸ Further, there were reports of intimidation and harassment of voters, complaints of opposition parties being obstructed or hampered during campaigning and threats of legal actions against voters. The impartiality of the NEC was also called into question.¹⁵⁹

Many countries, including Australia, Canada, the United States, as well as the European Union, pulled support for the elections, and international observers and NGOs across the globe criticized the elections as neither free, fair, nor representative of the will of the people.¹⁶⁰ No political opposition parties attracted a significant percentage of the popular vote and there was a record number of invalid votes.¹⁶¹ 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.¹⁶² 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. The reinvigorated harassment against former CNRP activists is likely taking place in preparation for the 2022 commune elections and 2023 national elections, as a means to intimidate other potential opposition parties from challenging the ruling party.

12.2 Concerning actions by the authorities leading up to the 2022 commune elections

Commune elections are set to take place in June 2022 and will set the scene for the national elections of 2023. Some newly formed political parties have reported interference in their campaign activities. In August 2021, the MoI approved the formation of the Community Voice Party to run in both the commune and national elections, whereas in July 2021, the Supreme Court dissolved three political parties based on complaints from the MoI that the parties were inactive and failed to file necessary reports to the Ministry for several years.¹⁶³

Other smaller, established parties have reported interference by authorities in their campaigning activities. In August 2021, the Khmer Patriotic Party reported that local officials in Battambang province prevented them from hanging their party banners and signs in an area where many motorists pass

¹⁵⁷ 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>.

¹⁵⁸ Erin Handley, 'Cambodia blocks 17 media websites before vote' (*Al Jazeera*, 28 July 2018) <https://www.aljazeera.com/news/2018/7/28/cambodia-blocks-17-media-websites-before-vote>.

¹⁵⁹ 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>.

¹⁶⁰ 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>.

¹⁶¹ 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-idUKKBN1K176>.

¹⁶² 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>.

¹⁶³ Ry Sochan, 'New party gets ministry's nod' (*Phnom Penh*, 5 August 2021) <https://www.phnompenhpost.com/national-politics/new-party-gets-ministrys-nod>; Voun Dara, 'Three parties dissolved for inaction' (*Phnom Penh Post*, 24 July 2021) <https://phnompenhpost.com/national-politics/three-parties-dissolved-inaction>

through.¹⁶⁴ Many members of the party are key former CNRP activists.¹⁶⁵ Leaders of the party have claimed that authorities frequently and continuously monitor their activities and take pictures of their party meetings. In September 2021, two senior Khmer Patriot Party officials visited Phnom Penh, and numerous police dressed in both civilian clothes and in uniform stormed their hotel room, confiscated their phones, took pictures of them, and threatened to take them to the national police station. The pair believe this intimidation stemmed from their engagement with the Khmer Patriotic Party.¹⁶⁶

More recently, the Mol filed a lawsuit against the Cambodian National Heart Party ("CNHP"), accusing the party of falsifying party registration documents. In November 2021, the Mol denied CNHP's registration as a newly formed political party on the grounds that they faked dozens of thumbprints of individuals who pledged to be members of the CNHP, a claim which CNHP leaders have strongly denied.¹⁶⁷ The CNHP, which also has affiliations with the former CNRP, is now embroiled in a legal battle with the Mol and could potentially face criminal charges over these claims. In December 2021, the Supreme Court upheld the Mol's decision to deny the CNHP official registration as a political party.¹⁶⁸ These concerning trends reduce the diversity of parties at the polls and preemptively deter voters from fully and freely engaging in political life.

The Committee may consider recommending the RGC that elections must be conducted in line with international democratic election standards, which respects the right to vote and the rights for healthy political opposition and independent media. The Committee should also recommend the RGC reform the NEC to ensure its independence and impartiality and to cease any attempt at hindering the participation of new, legitimate political parties in the 2022 commune elections.

13. Rights of the child (arts. 23, 24, and 26)

In May 2020, the RGC announced that the first juvenile rehabilitation center would open in the Kingdom at the end of 2020,¹⁶⁹ which would put an end to the lack of segregation between juvenile and adult prisoners which contravenes Article 10(3) of the ICCPR. On 28 December 2021, the RGC finally inaugurated its first juvenile rehabilitation center in the province of Kandal, with a capacity for welcoming over a

¹⁶⁴ Rithi, 'Khmer Patriotic Party officials accuse Battambang provincial authorities from preventing party signs' (RFA, 8 August 2021) <https://www.rfa.org/khmer/news/politics/cambodian-nation-love-party-accuse-battam-bang-authorities-for-ban-them-raising-party-banners-08082021082557.html>

¹⁶⁵ Eang Bunrith, 'Senior Khmer Patriotic Party official says authorities will not allow party signs to be erected' (Kohsantepheap Daily, 8 September 2021) <https://kohsantepheapdaily.com.kh/article/1394189.html>

¹⁶⁶ Nath Sopheap and Meas Kimthoun, 'Authorities threaten to arrest two environmentalists and human rights activists for their rented room' (VOD, 7 September 2021) <https://www.vodkmer.news/2021/09/07/authorities-threaten-to-arrest-two-environmental-and-human-rights-defenders/>

¹⁶⁷ Ben Sokhean, 'CNHP stands accused of faking membership, charged filed' (Khmer Times, 15 November 2021) <https://www.khmertimeskh.com/50970690/cnhp-stands-accused-of-faking-membership-charges-filed/>; Ouch Sony, 'Some Repeated, Invalid Thumbprints Found Among 4,781 to Launch 'Heart Party'' (VOD, 24 December 2021) <https://vodenglish.news/some-repeated-invalid-thumbprints-found-among-4781-to-launch-heart-party/>

¹⁶⁸ Ben Sokhean, 'CNHP leadership may face charges' (Khmer Times, 11 January 2022) <https://www.khmertimeskh.com/501004394/cnhp-leadership-may-face-charges/>

¹⁶⁹ Khmer Times, 'First juvenile rehabilitation center to open soon' (8 May 2020) <https://www.khmertimeskh.com/721320/first-juvenile-rehabilitation-centre-to-open-soon/>.

thousand minors. The RGC announced that fifty minors from the Kandal provincial prison would be transferred there as a first step before the center welcomes more juvenile inmates from other prisons and that it also plans to set up a training facility for minors in the rehabilitation center in the future.¹⁷⁰

While the opening of a youth rehabilitation center is commended, juveniles' fair trial rights continue to be infringed upon as pre-trial detention of juveniles appears to be the norm rather than the exception.¹⁷¹ For instance, CCHR's monitoring team found that, between 1 November 2019 and 31 December 2020, juvenile defendants were held in pre-trial detention in all the monitored cases involving juvenile offenders. In addition, in none of the cases in which juvenile defendants were convicted, was anything other than the imposition of a prison sentence considered by the Court of Appeal.¹⁷² Judges did not make use of alternative sentencing options, in contravention of the *Law on Juvenile Justice* which identifies such options, requires any person in a public function concerning a minor to act in the best interests of the minor, and states that arrest or detention of minors should only be used as a measure of last resort.¹⁷³ Such sentencing also went against Article 14(4) of the ICCPR which provides that when it comes to juvenile persons, "*the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.*"

The Committee may consider encouraging the RGC to ensure proper treatment and education of juvenile offenders in its new youth rehabilitation center and urging Cambodian Courts to uphold the fair trial rights of juvenile defendants, use pre-trial detention only as a last resort and propose alternative sentencing options for juvenile offenders.

14. Indigenous peoples (arts. 2 and 25-27)

In Cambodia, there are approximately 458 indigenous communities representing 24 different indigenous ethnicities, with 23 unique languages across 15 provinces.¹⁷⁴ The right to ownership of their traditional lands for indigenous people is recognized in Cambodia's domestic law and international human rights commitments.¹⁷⁵ In particular, the 2001 *Land Law* recognizes the right of indigenous communities to register their land and obtain collective land titles, as does the 2009 *Sub-Decree No. 83 on the Procedures of Registration of Land of Indigenous Communities*. However, in practice the process to obtain communal

¹⁷⁰ Sen David, 'Juvenile offenders to be moved from detention to rehabilitation' (29 December 2021), <https://www.khmertimeskh.com/50996619/juvenile-offenders-to-be-moved-from-detention-to-rehabilitation/>; Darshana Gauchan, 'Cambodia inaugurates New Youth Rehabilitation Center in Kandal' (*EAC News*, 28 December 2021), <https://eacnews.asia/home/details/7111>.

¹⁷¹ CCHR, 'Fair Trial Rights in Cambodia: Monitoring at the Court of Appeal – Annual Report: 1 November 2019- 31 December 2020' (Nov. 2021) p. 50, <https://cchrcambodia.org/admin/media/report/report/english/FTR-Annual-Report-English-2019-2020.pdf>.

¹⁷² *Ibid.*

¹⁷³ Articles 5 and 28 of the *Law on Juvenile Justice*, available at: <https://www.sithi.org/admin/upload/law/Law-on-Juvenile-Justice%202016-English-Final-Version.pdf>.

¹⁷⁴ CCHR, 'Access to Collective Land Titles for Indigenous Communities in Cambodia' (August 2020) https://cchrcambodia.org/admin/media/newsletter/newsletter/english/ser-access-to_47995682p-EN.pdf.

¹⁷⁵ CCHR, 'Report: Access to Collective Land Titles for Indigenous Communities in Cambodia' (11 February 2016) p. 7-9 https://business.sithi.org/show_report_detail_land.php?id=61&lang=en.

land titles is convoluted and lengthy, on average taking more than six years.¹⁷⁶ This is due primarily to the complexity of the legal framework, inadequate implementation of the law, a lack of understanding by authorities and a lack of resources in indigenous communities.¹⁷⁷ There have been no significant actions on behalf of the RGC to simplify the existing communal land titling procedure. However, in response to calls to expedite communal land titling, the Ministry of Land, Management, Urban Planning and Construction announced in 2017 it would accelerate land registration for indigenous people for ten communities per year. Despite this commitment, between December 2017 and August 2021, only 14 collective land titles were granted.¹⁷⁸

In relation to the impacts of COVID-19 on indigenous communities, very few measures have been taken by the RGC to protect indigenous communities from COVID-19. Many indigenous peoples did not have access to the coronavirus-related information transmitted by the Government and mainly distributed through social media and TV.¹⁷⁹ Further, the COVID-19 outbreak led to a delay in the land registration process on behalf of the RGC. This delay leaves indigenous communities with ongoing land tenure insecurity and makes them vulnerable to land grabbing. Indigenous communities, forced to shelter in place to protect against the spread of COVID-19, were prevented from undertaking many of their traditional activities¹⁸⁰ aimed at protecting their land (e.g. patrols, advocacy, and protests). As a result, reports have come out of companies clearing lands, including sacred indigenous sites,¹⁸¹ during the outbreak and of authorities selling land belonging to indigenous communities,¹⁸² leading to thousands of indigenous people facing dire situations of homelessness and poverty.¹⁸³ Freedom of movement restrictions also prevented some indigenous communities from attending land dispute resolutions, thereby preventing them from defending their rights.

The Committee may consider recommending that the RGC expedite and prioritize the issuance of community land titles to indigenous groups, especially in areas which are sacred to these communities, to protect against the destruction of their communal lands and forced evictions.

¹⁷⁶ Food and Agriculture Organization of the United Nations, 'Challenges and Opportunities of Recognizing and Protecting Customary Tenure Systems in Cambodia' (2019) p. 6 <http://www.fao.org/3/CA1034EN/ca1034en.pdf>.

¹⁷⁷ CCHR, 'Report: Access to Collective Land Titles for Indigenous Communities in Cambodia' (11 February 2016) p. 17 https://business.sithi.org/show_report_detail_land.php?id=61&lang=en.

¹⁷⁸ CCHR, 'Access to Collective Land Titles for Indigenous Communities in Cambodia' (August 2021) <https://cchrcambodia.org/admin/media/newsletter/newsletter/english/20210809-WIPD-2021-Info-ENG.pdf>.

¹⁷⁹ International Work Group for Indigenous Affairs, 'The Indigenous World 2021: Cambodia' (18 March 2021) <https://www.iwgia.org/en/cambodia/4206-iw-2021-cambodia.html>.

¹⁸⁰ Rina Chandran, 'Land conflicts flare across Asia during coronavirus lockdowns' (Reuters, 15 May 2020) <https://www.reuters.com/article/us-health-coronavirus-landrights-trfn/land-conflicts-flare-across-asia-during-coronavirus-lockdowns-idUSKBN22ROU9>.

¹⁸¹ Inclusive Development International, 'Vietnamese Agribusiness Giant HAGL Destroys Indigenous Lands' (25 May 2020) <https://www.inclusivedevelopment.net/cambodia/vietnamese-agribusiness-giant-hagl-destroys-indigenous-lands/>.

¹⁸² Khorn Savi, 'Officials accused of permitting land sale' (Phnom Penh Post, 21 May 2020) <https://www.phnompenhpost.com/national/officials-accused-permitting-land-sale>.

¹⁸³ CCHR, 'Factsheet: Forced Evictions In Cambodia During COVID-19' (11 October 2021) [https://cchrcambodia.org/admin/media/factsheet/factsheet/english/20211011-%20Fact%20Sheet%20on%20Forced%20Evictions%20during%20COVID-19%20\(ENG\).pdf](https://cchrcambodia.org/admin/media/factsheet/factsheet/english/20211011-%20Fact%20Sheet%20on%20Forced%20Evictions%20during%20COVID-19%20(ENG).pdf).

14.1 Minority groups

Minorities in Cambodia face significant challenges including the 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. For example, a 2016 study found that only 26.5% of Khmer Krom respondents were aware that their status allowed them to acquire Khmer citizenship.¹⁸⁴ It is estimated that 20-30% of Khmer Krom in Cambodia lack identity cards.¹⁸⁵ Identity cards are essential for access to healthcare, education, land ownership, employment, passports, finance and other benefits. 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. This lack of legal rights detrimentally impacted many ethnic Vietnamese and Muslim Cham communities in 2021 after Phnom Penh authorities forcibly evicted over 1,000 families from their homes on the Tonle Sap River without any compensation.¹⁸⁶ Many of the families have either temporarily settled on different riverbanks, having been barred entry by Vietnam, or temporarily rented rooms in the city if they could afford it.¹⁸⁷ Therefore, the effects of not having official citizenship recognition are widespread for minorities and infringe vastly upon a broad spectrum of human rights.

The Committee may consider recommending that the RGC clearly restate that Khmer Krom are Khmer citizens and therefore enjoy the rights and protections afforded to citizens under the law, including the right to housing. The Committee may also consider encouraging the RGC to 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.

¹⁸⁴ Alliance for Conflict Transformation, CCHR & Khmer Kampuchea Krom Human Rights and Development Association, 'Citizenship Rights for Khmer Krom in Cambodia' (January 2017) p. 1 https://cchrcambodia.org/admin/media/report/report/english/2017_01_27_CCHR_Report_on_Legal_Status_of_Khmer_Krom_English.pdf.

¹⁸⁵ Minority Rights Organization, 'Khmer Krom Background' (2014) http://mirocambodia.org/?page_id=11.

¹⁸⁶ Sorn Sarath, 'Floating home residents get one-week notice to leave river dwellings in Phnom Penh', (*CambojaNews*, 2 June 2021) <https://cambojanews.com/floating-home-residents-get-one-week-notice-to-leave-river-dwellings-in-phnom-penh/>; Vicheika Kann and Malis Tum, "Phnom Penh's Floating Fishing Community faces Eviction", (VOA, 12 June 2021) <https://www.voanews.com/a/east-asia-pacific-phnom-penh-floating-fishing-community-faces-eviction/6206934.html>.

¹⁸⁷ Khy Sovuthy, 'Vietnamese authorities block the Mekong to bar entry for hundreds of ethnic Vietnamese evicted from Phnom Penh floating homes' (*CambojaNews*, 30 June 2021) <https://cambojanews.com/vietnamese-authorities-block-the-mekong-to-bar-entry-for-hundreds-of-ethnic-vietnamese-evicted-from-phnom-penh-floating-homes/>; Danielle Keeton Olsen and Samoeun Nicseybon, 'Floating communities, many Vietnamese, uprooted by Phnom Penh's evictions', (VOD, 11 June 2021) <https://vodenglish.news/floating-communities-many-vietnamese-uprooted-by-phnom-penh-evictions/>.