

Shadow Report for the 74th Session of the Committee on the Elimination of All Forms of
Discrimination Against Women (CEDAW)

6th Periodic Review of the Royal Government of Cambodia

ACCESS TO JUSTICE

Joint NGO submission by:

the Cambodian Center for Human Rights (CCHR), the Cambodian Human Rights and
Development Association (ADHOC), Destination Justice, Klahaan and Women Peace Makers



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ACCESS TO JUSTICE

Cambodia's judicial system is widely criticized as weak, ineffective and lacking independence,¹ which greatly interferes with the fulfilment of women's rights. Patriarchal structures and discriminatory social norms weave a web of barriers to Cambodian women's access to justice. Such barriers are both symptomatic of, and enable, women's inequality.

1. Legal, Institutional and Procedural Barriers to Access to Justice

Though Cambodian women are granted *de jure* equality with men, they are *de facto* denied access to such equality by a legal system that reflects a male-centric worldview.

1.1. Laws designed to protect women from gender-based violence (GBV) are inadequate and flawed

1.1.1. Protections against gender-based violence (GBV) are enshrined in both the Criminal Code of the Kingdom of Cambodia (Criminal Code)² and the Law on the Prevention of Domestic Violence and the Protection of Victims (Domestic Violence Law).³ However, these protections do not sufficiently address the complex and diverse ways in which women experience GBV.

1.1.2. Definitions contained within the Domestic Violence Law, including what constitutes domestic violence and who can be considered a victim,⁴ fail to capture many types of domestic abuse. For instance, there is no reference to consent in the law's delineation of "sexual aggression", which prohibits "violent sex" but not coercive sex.⁵ The Extraordinary Chambers in the Courts of Cambodia (ECCC) has chosen to limit its investigation of GBV during the Khmer Rouge regime to only rape within the context of forced marriage under the argument that the regime itself had a policy in place to prevent rape occurrences.⁶

1.1.3. The Domestic Violence Law briefly refers to economic violence, as recognized by CEDAW as a form of GBV in its General Recommendations.⁷ However, economic violence is only mentioned in relation to mediation and the concept of economic violence is not defined.⁸ Additionally, the

¹ 'Rule of Law Index', World Justice Project, 2019, <https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2019-Single%20Page%20View-Reduced.pdf>, pages 17 and 28 – 29; 'Freedom in the World 2019, Cambodia', Freedom House, 2019, <https://freedomhouse.org/report/freedom-world/2019/cambodia>, para F1, Human Rights Watch, 'World report 2019, events of 2018', 2019, https://www.hrw.org/sites/default/files/world_report_download/hrw_world_report_2019.pdf, p 107.

² Criminal Code of the Kingdom of Cambodia, <https://www.ajne.org/sites/default/files/resource/laws/7195/criminal-code-cambodia-en-kh.pdf>

³ Law on the Prevention of Domestic Violence and Protection of Victims, 2005, https://www.wcwonline.org/pdf/lawcompilation/Cambodia_dv_victims2005.pdf

⁴ *Ibid* Article 2

⁵ *Ibid* Article 7

⁶ 'Sixth periodic report submitted by Cambodia under article 18 of the Convention, due in 2017', CEDAW, 9 July 2018, CEDAW/C/KHM/6, paras 29 & 21, <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsglff%2fiazrVw%2bcyfdY9GxZ7T B4fGyJNlHM4%2boFUnvkb8gSMnO%2bcQb8a03CmcpzN9Esa8ebpcFBZyhUr6iK%2fkSfm2FmUQnkW3xj8UPWUitfWo qJn4T68N1uqnZjLbtFua2OBKh3UEqLB%2fCyQJg86A6bUD6S2nt0li%2bndbh67tt1%2bO99yEEGWYpmnzM8vDxmwt>

⁷ 'General recommendation no. 35 on gender-based violence against women, updating general recommendation no. 19', CEDAW, 26 July 2017, CEDAW/C/GC/35, para 14, <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhslldCrOIUTvLRFDjh6%2fx1pWAE qJn4T68N1uqnZjLbtFua2OBKh3UEqLB%2fCyQJg86A6bUD6S2nt0li%2bndbh67tt1%2bO99yEEGWYpmnzM8vDxmwt>

⁸ Law on the Prevention of Domestic Violence and Protection of Victims, 2005, Article 26, https://www.wcwonline.org/pdf/lawcompilation/Cambodia_dv_victims2005.pdf; 'General recommendation no. 35 on

Domestic Violence Law does not include specific punishment or penalty provisions. A study by rights group LICADHO found that only 20% of domestic violence cases monitored between January 2014 and December 2016 actually led to criminal proceedings.⁹ In addition, of a total of 242 victims that sought legal support from the Cambodian Women’s Crisis Center (CWCC) in 2016, a total of 122 domestic violence cases were filed to the court, 76 went to trial, and only one perpetrator was sentenced in prison.¹⁰

1.1.4. Further, it is noted that even where there are functional laws in place, they are not always effectively used. For example, although under Cambodian law, Protection Orders can be granted to women who remain at risk of violence, the figures provided by the Royal Government of Cambodia (RGC) show that only 19 such orders were granted during the three-year period from 2014 to 2016.¹¹ During the same period, one NGO alone monitored nearly 400 cases of domestic violence.¹² District Based Multi-Sectoral Networks, innovative networks designed to engage all key stakeholders in responding to GBV cases, consisting of local authorities, police, health personnel, teachers, Commune Committees for Women and Children, officials from district offices and community resource persons, intervened in a total of 3,035 cases related to domestic violence in 2016 alone.¹³ This is an indication that the actual number of women who require Protection Orders is far higher than the number of Orders granted, thus questioning the effectiveness of the law.

1.2. Women are underrepresented in the justice system

1.2.1. Women are underrepresented throughout the justice system. For example, from 2012 until 2017, about 14% of judges were women, and the number of female prosecutors increased from just 15 to 23.¹⁴

gender-based violence against women, updating general recommendation no. 19’, CEDAW, 26 July 2017, CEDAW/C/GC/35, para 14,

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhslDcrOIUTvLRFDJh6%2fx1pWAeqJn4T68N1uqnZjLbtFua2OBKh3UEqIB%2fCyQlg86A6bUD6S2nt0li%2bndbh67tt1%2bO99yEEGWYpmnzM8vDxmwt>

⁹ ‘No Punishment, No Protection: Cambodia’s Response to Domestic Violence’, LICADHO, December 2017,

https://www.licadho-cambodia.org/reports/files/225DV_Report_Eng_20171201.pdf

¹⁰ Cambodian Women’s Crisis Center, ‘Annual Report 2016’, 2016, p 23

¹¹ ‘Sixth periodic report submitted by Cambodia under article 18 of the Convention, due in 2017’, CEDAW, 9 July 2018, CEDAW/C/KHM/6, para 66,

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsglff%2fiazrVw%2bcyfdY9GxZ7TB4fGyJNiHM4%2boFUnvkb8gSMnO%2bcQb8a03CmcpzN9Esa8ebpcFBZyhUr6iK%2fkSfm2FmUQnkW3xj8UPWUItfWo>

¹² LICADHO, ‘No punishment, no protection: Cambodia’s response to domestic violence’, December 2017, p 1,

http://www.licadho-cambodia.org/reports/files/225DV_Report_Eng_20171201.pdf

¹³ Cambodian Women’s Crisis Center, ‘Annual Report 2016’, 2016, p 23

¹⁴ ‘Sixth periodic report submitted by Cambodia under article 18 of the Convention, due in 2017’, CEDAW, 9 July 2018, CEDAW/C/KHM/6, para 216,

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsglff%2fiazrVw%2bcyfdY9GxZ7TB4fGyJNiHM4%2boFUnvkb8gSMnO%2bcQb8a03CmcpzN9Esa8ebpcFBZyhUr6iK%2fkSfm2FmUQnkW3xj8UPWUItfWo>;

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

1.2.2. The number of female lawyers is similarly low; in 2017, of the 1019 registered lawyers, only 206 (20%) were women.¹⁵ The RGC reports that this figure represents an increase in female lawyers¹⁶ and whilst this increase is welcomed, it is noted that the figures in the annex to the RGC report reveal that the total number of lawyers has also increased during this period.¹⁷ Therefore, despite this increase in raw numbers, female lawyers only increased from 18% to 20% of the profession in four years, and thus continue to be significantly unrepresented. Female lawyers are most likely to have an impact on legal issues affecting women's interests.¹⁸ Therefore, the lack of female representation can be construed as a barrier to access to justice for women.

1.3. Discriminative attitudes and gender stereotyping are prevalent throughout the justice system

1.3.1. The RGC's Second National Action Plan to Prevent Violence Against Women ("NAPVAW II") and the incorporation of training on relevant laws and gender sensitive approaches into the curriculum of the Royal Academy of National Police, Judicial Professionals and Royal Military Police is a welcome statement of intent.¹⁹ However, no details are provided on how the training is conducted or which specific topics it covers. Prejudicial attitudes towards women proliferate in the justice system, which can negatively affect women who come into contact with the system, such as defendants, victims and witnesses.²⁰ Some women prosecutors and lawyers claim they are not taken seriously by judges, while victims of GBV have reported being blamed, ridiculed and re-traumatized by insensitive courts.²¹

1.3.2. It is recognized that the RGC has continued to distribute the Domestic Violence Law (reaching 2,899 people) and that in 2016 the "Minimum Standards for Basic Counselling for Women and Girl Survivors of GBV" was finalized and incorporated in the new curriculum of the Royal Police Academy.²² However, it is unclear what the impact has been and whether these moves have reduced the stigma associated with reporting GBV and other forms of domestic violence. It

¹⁵ 'Annex to sixth national report on the implementation of the Convention on the Elimination of All Forms of Discrimination Against Women', CEDAW, 12 June 2018, CEDAW/C/KHM/6, table 27,

https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/KHM/INT_CEDAW_ADR_KHM_31420_E.pdf

¹⁶ 'Sixth periodic report submitted by Cambodia under article 18 of the Convention, due in 2017', CEDAW, 9 July 2018, CEDAW/C/KHM/6, para 23,

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsglff%2fiazrVw%2bcyfdY9GxZ7T B4fGyJNlHM4%2boFUUnvkb8gSMnO%2bcQb8a03CmcpzN9Esa8ebpcFBZyhUr6iK%2fkSfm2FmUQnkW3xj8UPWUItfWo>

¹⁷ 'Annex to sixth national report on the implementation of the Convention on the Elimination of All Forms of Discrimination Against Women', CEDAW, 12 June 2018, CEDAW/C/KHM/6, table 27,

https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/KHM/INT_CEDAW_ADR_KHM_31420_E.pdf

¹⁸ Elizabeth Gorman, 'Women in the Legal Profession' [2008] Annual Review of Law and Social Science

<https://www.researchgate.net/publication/228144616_Women_in_the_Legal_Profession>

¹⁹ 'Sixth periodic report submitted by Cambodia under article 18 of the Convention, due in 2017', CEDAW, 9 July 2018, CEDAW/C/KHM/6, paras 33 & 35,

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsglff%2fiazrVw%2bcyfdY9GxZ7T B4fGyJNlHM4%2boFUUnvkb8gSMnO%2bcQb8a03CmcpzN9Esa8ebpcFBZyhUr6iK%2fkSfm2FmUQnkW3xj8UPWUItfWo>

²⁰ Leonie Kijewski and Yon Sineat, 'In Cambodia's courts it's a man's world – with the effects felt by female employees and victims alike', Phnom Penh Post, 23 February 2018, <https://www.phnompenhpost.com/national-post-depth/cambodias-courts-its-mans-world-effects-felt-female-employees-and-victims-alike>

²¹ *Ibid*

²² 'Sixth periodic report submitted by Cambodia under article 18 of the Convention, due in 2017', CEDAW, 9 July 2018, CEDAW/C/KHM/6, paras 60 & 61,

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsglff%2fiazrVw%2bcyfdY9GxZ7T B4fGyJNlHM4%2boFUUnvkb8gSMnO%2bcQb8a03CmcpzN9Esa8ebpcFBZyhUr6iK%2fkSfm2FmUQnkW3xj8UPWUItfWo>

remains a concern that discriminatory attitudes continue to be a barrier to effective access to justice for female victims of GBV.

1.3.3. It is further noted that there is still no explicit law in Cambodia which prevents discrimination on the basis of gender (and other protected characteristics), leaving women vulnerable to harmful and discriminatory practices. Two countries recommended Cambodia to introduce such legislation in the third cycle of the Universal Periodic Review (UPR) of Cambodia.²³ Iceland and Australia both made recommendations to introduce an anti-discrimination law guaranteeing and explicitly prohibiting all kinds of discrimination, including on the basis of sexual orientation, gender identity and expression or sex characteristics. It is commended that the RGC accepted both of these recommendations, laying the foundations for an explicit Cambodian law preventing discrimination on the basis of gender.²⁴

1.3.4. The ECCC has established a number of measures in line with the procedural rules of regular Cambodian courts to protect the interests of women victims, for example, closed-door hearings in order to protect the identity of the individuals testifying.²⁵ However, it should be noted that these measures have never been used at the ECCC. Further, the ECCC has a Victim Support Section (VSS) and woman victims of GBV under the Khmer Rouge have benefitted from accompaniment in court by a psychological professional. Such psychological support does not exist in regular Cambodian courts.²⁶

1.4. Corruption and rampant impunity abjectly inhibit women's access to justice

1.4.1. In 2019, Cambodia ranked 125 out of 126 countries in the World Justice Project's Rule of Law Index, which measures nations' adherence to the rule of law.²⁷ With regard to the civil and criminal justice system Cambodia ranked 126 and 124 respectively out of 126.²⁸ Cambodia also scored 0 out of 4 in terms of independence of its judiciary in a 2019 evaluation by Freedom House.²⁹

²³ 'Report of the Working Group on the Universal Periodic Review Cambodia', HRC, 5 April 2019, A/HRC/41/17, paras 110.45, 110.54, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/098/90/PDF/G1909890.pdf?OpenElement>

²⁴ 'Addendum Report of the Working Group on the Universal Periodic Review Cambodia - Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review', HRC, 18 April 2019, A/HRC/41/1/Add.1, 2, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/110/92/PDF/G1911092.pdf?OpenElement>

²⁵ Article 33 New, ECCC Law, https://www.eccc.gov.kh/sites/default/files/legal-documents/KR_Law_as_amended_27_Oct_2004_Eng.pdf

²⁶ TPO Cambodia, Women in Transitional Justice, Project Activities: psychologically support civil parties at the ECCC (before, during and after proceedings), <https://tpocambodia.org/women-in-transitional-justice/>; CCHR, 'Fair Trial Rights Newsletter: Fair Trial Rights for Women in Cambodia', August 2018, <https://cchrcambodia.org/admin/media/newsletter/newsletter/english/CCHR%20Fair%20Trial%20Rights%20Newsletter%20on%20Women%20in%20Cambodia%20-English.pdf>

²⁷ 'Rule of Law Index', World Justice Project, 2019, <https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2019-Single%20Page%20View-Reduced.pdf>, p 17

²⁸ 'Rule of Law Index', World Justice Project, 2019, <https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2019-Single%20Page%20View-Reduced.pdf>, pages 28 – 29

²⁹ 'Freedom in the World 2019, Cambodia', Freedom House, 2019, <https://freedomhouse.org/report/freedom-world/2019/cambodia>, para F1

- 1.4.2. The RGC's intentions to attach high priority to the fight against corruption, including strengthening the capacity of the Anti-Corruption Unit, are appreciated.³⁰ However, Cambodia still ranked 125 out of 126 with regard to factor 2 of the Rule of Law Index 2019, which measures the absence of corruption within the government.³¹ In 2013, the CEDAW Committee urged Cambodia to continue to investigate and prosecute allegations of corruption,³² yet the RGC has provided no information regarding any investigations or prosecutions of corruption.³³
- 1.4.3. During the Working Group session on the UPR in January 2019, several countries made general recommendations with regard to strengthening the independence and impartiality of the judiciary and the fight against corruption.³⁴ One recommendation specifically addressed the need to conduct thorough investigations of domestic and sexual violence cases ensuring that perpetrators are prosecuted and victims are adequately compensated.³⁵
- 1.4.4. Despite efforts by the RGC, impunity remains rampant, which prevents women from obtaining justice.³⁶ Perpetrators of violent crimes frequently escape justice, an issue that is magnified in the context of crimes against women.³⁷ One such case occurred in January 2017, when sex worker Pen Kunthea was chased through Phnom Penh's Riverside district by Daun Penh security guards. When Kunthea fell into the river, the guards allegedly watched her drown and stopped bystanders from assisting her.³⁸ Despite repeated calls for an independent investigation into the circumstances surrounding her death, no meaningful action has been taken.³⁹ The RGC has also omitted to provide any details of the disciplinary procedures and mechanisms which are available to redress corrupt practices by officials, despite the CEDAW Committee highlighting that tackling corruption is a key component of eliminating discrimination.⁴⁰
- 1.4.5. In 2017, of 134 rape cases handled by human rights NGO ADHOC, 60% of the perpetrators were arrested at some point by authorities. However, in only 2.2% (three of 134 cases) were

³⁰ 'Sixth periodic report submitted by Cambodia under article 18 of the Convention, due in 2017', CEDAW, 9 July 2018, CEDAW/C/KHM/6, para 28,

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsglff%2fiazrVw%2bcyfdY9GxZ7T B4fGyJNiHM4%2boFUNvkb8gSMnO%2bcQb8a03CmcpzN9Esa8ebpcFBZyhUr6iK%2fkSfm2FmUQnkW3xj8UPWUItfWo>

³¹ 'Rule of Law Index', World Justice Project, 2019, <https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2019-Single%20Page%20View-Reduced.pdf>, pages 23

³² 'Concluding observations on the combined fourth and fifth periodic reports of Cambodia' CEDAW, 29 October 2013, CEDAW/C/KHM/CO/4-5*, para 13(c)

³³ 'Sixth periodic report submitted by Cambodia under article 18 of the Convention, due in 2017', CEDAW, 9 July 2018, CEDAW/C/KHM/6, para 28

³⁴ 'Report of the Working Group on the Universal Periodic Review Cambodia', HRC, 5 April 2019, A/HRC/41/17, paras 110.119, 110.121, 110.25, 110.129 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/098/90/PDF/G1909890.pdf?OpenElement>

³⁵ 'Report of the Working Group on the Universal Periodic Review Cambodia', HRC, 5 April 2019, A/HRC/41/17, para 110.184, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/098/90/PDF/G1909890.pdf?OpenElement>

³⁶ LICADHO, 'No Punishment, No Protection: Cambodia's Response to Domestic Violence', December 2017, http://www.licadho-cambodia.org/reports/files/225DV_Report_Eng_20171201.pdf

³⁷ *Ibid.*

³⁸ Sen David and Martin de Bourmont, 'Sex worker's death haunts women of Wat Phnom', Phnom Penh Post, 9 February 2017, <https://www.phnompenhpost.com/national/sex-workers-death-haunts-women-wat-phnom>

³⁹ Leonie Kijewski, 'Sex worker's death still unpunished', Phnom Penh Post, 4 January 2018, <https://www.phnompenhpost.com/national/sex-workers-death-still-unpunished>

⁴⁰ 'General recommendation No. 33 on women's access to justice', CEDAW, 3 August 2015, CEDAW/C/GC/33, para 15(e), <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhslidCrOIUTvLRFDih6%2fx1pWCd 9kc8NuhsZOT1QuzhrDy1rIpOgSyxJmK%2fSo2p3MpTI9diLSL02wtX8JPse1mlicqCgIo0em30unijY%2fnkmn3g>

perpetrators sentenced by the courts. Similarly, in 2018, of 93 rape cases, 71% of perpetrators were arrested (66 cases out of 93). Yet, only 5.37% cases ended in the perpetrator being convicted by a court (five cases out of 93).⁴¹

1.4.6. While justice is inaccessible for some, the courts conversely often work quickly to prosecute women human rights defenders (WHRDs), who are routinely subjected to judicial harassment, including imprisonment, often with devastating effects.⁴² In particular, WHRDs who are advocating for the protection of their community's land are subject to widespread judicial harassment.⁴³ Several case studies illustrate that WHRDs are being summoned, interrogated, arrested and detained specifically in order to prevent them from advocating for their rights.⁴⁴

2. Economic, Social and Practical Barriers to Access to Justice

Given the economic, social and political obstacles faced by women, simply getting within reach of justice services can be an insurmountable challenge, leading to their exclusion from the judicial system altogether.

2.1. Inadequate legal aid provisions disproportionately affect women

2.1.1. Legal aid is available in Cambodia to those who are unable to afford legal representation and the RGC is commended for increasing the legal aid budget from 300 million riel [USD 75,000] in 2014 to 600 million riel [USD 150,000] in 2017,⁴⁵ and further increasing the budget to 1.2 billion riel [USD 300,000] in 2019.⁴⁶ However, the legal aid budget in Cambodia has, to date, remained woefully inadequate.

2.1.2. In 2017, legal aid was provided in only 2000 out of 5000 mandatory cases which requested support.⁴⁷ Mandatory cases include felonies and cases involving minors only, meaning these numbers do not include cases involving misdemeanors. Furthermore, state-sponsored legal aid lawyers are, in practice, only able to claim compensation for costs incurred,⁴⁸ and are not

⁴¹ Figures obtained from The Cambodian Human Rights and Development Association (ADHOC) Annual Report 2017 and 2018. In 2017, the Women's and Children's rights section of ADHOC handled 339 new cases. Among them, 51 concerned domestic violence and 134 concerned rape. In 2018, ADHOC received and handled 222 new cases, among them, 77 concerned domestic violence and 93 concerned rape.

⁴² See section 4 below, 'Incarcerated Women'.

⁴³ CCHR, 'Cambodia's Women in Land Conflict', September 2016,

https://cchrcambodia.org/index_old.php?url=media/media.php&p=report_detail.php&reid=116&id=5

⁴⁴ CCHR, 'Women on the Frontline The Situation of Woman Human Rights Defenders in Cambodia in 2015', December 2015,

https://cchrcambodia.org/admin/media/analysis/english/2015_12_28_CCHR_BR_Women_on_Frontline_Situation_of_WHRDs_in_Cam_in_2015_ENG.pdf

⁴⁵ 'Sixth periodic report submitted by Cambodia under article 18 of the Convention, due in 2017', CEDAW, 9 July 2018, CEDAW/C/KHM/6, para 26,

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsglff%2fiazrVw%2bcyfdY9GxZ7T B4fGyJNlHM4%2boFUUnvkb8gSMnO%2bcQb8a03CmcpzN9Esa8ebpcFBZyhUr6iK%2fkSfm2FmUQnkW3xi8UPWUItfWo>

⁴⁶ Voun Dara, 'Workshop educates on legal aid', 22 March 2019, <https://www.phnompenhpost.com/national/workshop-educates-legal-aid>

⁴⁷ Kai Hauerstein, *Assessment Report: Assessing the provision of legal aid and proposing policy recommendations*, Final Draft, June 2018, p 47

⁴⁸ Kai Hauerstein, 'Assessment Report: Assessing the provision of legal aid and proposing policy recommendations', Final Draft, June 2018, p 48.

supported during investigative and appeal stages, or if proceedings are delayed.⁴⁹

2.1.3. It is noted that a further 200 million riels [USD 50,000] is provided to support the Judicial Police Officers (“JPO”) scheme⁵⁰ and that in 2016, 94 officials were designated as JPOs responsible for protecting and assisting GBV survivors.⁵¹ Whilst the appointment of JPOs to signpost appropriate access to justice for female victims is positive, this scheme is not a sufficient substitute for adequate legal aid for female victims of violence and abuse. During the third UPR of Cambodia, Australia recommended that “one-stop service centers” should be established (at least five by 2024) to provide legal services to GBV victims free of charge.⁵² This mirrors the recommendation of the CEDAW Committee which itself recommends “one-stop centers”⁵³ and awareness-raising of legal aid and public defense,⁵⁴ which would most likely result in more efficient resources for female victims. These calls for safe shelters for GBV victims are not only made on an international level, but also on the national level. On International Women’s Day 2019, local NGOs and activists were prevented by Phnom Penh’s municipal security forces from delivering a joint petition to the Council of Ministers calling on the RGC to continue to address the challenges women face. The petition was eventually collected by authorities.⁵⁵ Demand 2 of the petition called upon the RGC to “provide safe shelters for women suffering from domestic violence and for women domestic workers”.⁵⁶

2.1.4. It is noted that the Ministry of Justice intends to establish legal offices close to each of the regional appeal courts which are being built (see paragraph 3.1.2 below) to enable individuals

⁴⁹ Ben Sokhean, ‘Bar members bemoan low payment for pro bono work’, The Phnom Penh Post, 17 October 2017, <https://www.phnompenhpost.com/national/bar-members-bemoan-low-payment-pro-bono-work>; Kai Hauerstein, ‘Assessment Report: Assessing the provision of legal aid and proposing policy recommendations’, Final Draft, June 2018, p 67.

⁵⁰ ‘Sixth periodic report submitted by Cambodia under article 18 of the Convention, due in 2017’, CEDAW, 9 July 2018, CEDAW/C/KHM/6, para 27, <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsglff%2fiazrVw%2bcyfdY9GxZ7T B4fGyJNlHM4%2boFUnvkb8gSMnO%2bcQb8a03CmcpzN9Esa8ebpcFBZyhUr6iK%2fkSfm2FmUQnkW3xj8UPWUItfWo>

⁵¹ ‘Sixth periodic report submitted by Cambodia under article 18 of the Convention, due in 2017’, CEDAW, 9 July 2018, CEDAW/C/KHM/6, paras 25 & 60, <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsglff%2fiazrVw%2bcyfdY9GxZ7T B4fGyJNlHM4%2boFUnvkb8gSMnO%2bcQb8a03CmcpzN9Esa8ebpcFBZyhUr6iK%2fkSfm2FmUQnkW3xj8UPWUItfWo>

⁵² ‘Report of the Working Group on the Universal Periodic Review Cambodia’, HRC, 5 April 2019, A/HRC/41/17, para 110.183, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/098/90/PDF/G1909890.pdf?OpenElement>; See also ‘General recommendation No. 33 on women’s access to justice’, CEDAW, 3 August 2015, CEDAW/C/GC/33, paras 17(e) – 17 (f),

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhslldCrOIUTvLRFDjh6%2fx1pWCd9kc8NuhsZOT1QuzhrDy1rIpOgSyxJmK%2fSo2p3MpTI9diLSL02wtX8JPse1mlicqCglo0em30unjIY%2fnkmn3g>

⁵³ ‘General recommendation No. 33 on women’s access to justice’, CEDAW, 3 August 2015, CEDAW/C/GC/33, para 17(f), <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhslldCrOIUTvLRFDjh6%2fx1pWCd9kc8NuhsZOT1QuzhrDy1rIpOgSyxJmK%2fSo2p3MpTI9diLSL02wtX8JPse1mlicqCglo0em30unjIY%2fnkmn3g>

⁵⁴ ‘General recommendation No. 33 on women’s access to justice’, CEDAW, 3 August 2015, CEDAW/C/GC/33, para 37(c), <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhslldCrOIUTvLRFDjh6%2fx1pWCd9kc8NuhsZOT1QuzhrDy1rIpOgSyxJmK%2fSo2p3MpTI9diLSL02wtX8JPse1mlicqCglo0em30unjIY%2fnkmn3g>

⁵⁵ The Khmer Times, ‘NGOs draft petition to improve women’s rights’, 5 March 2019, <https://www.khmertimeskh.com/50583888/ngos-draft-petition-to-improve-womens-rights/>; The Phnom Penh Post, ‘Forces prevent Women’s Day march’, 11 March 2019, <https://www.phnompenhpost.com/national/forces-prevent-womens-day-march>; Focus on the Global South, ‘Cambodia: Petition for Solutions to Priority Women’s Issues’, 8 March 2019, <https://focusweb.org/cambodia-petition-for-solutions-to-priority-womens-issues/>

⁵⁶ Focus on the Global South, ‘Cambodia: Petition for Solutions to Priority Women’s Issues’, 8 March 2019, <https://focusweb.org/cambodia-petition-for-solutions-to-priority-womens-issues/>

to access these services without travelling to Phnom Penh.⁵⁷ Such centers would decrease reliance on JPOs and may have the impact of enabling victims of violence to seek additional legal opinions regarding their rights. It is imperative that the Ministry of Justice follows through with such plans. In addition, it is welcomed that a special team has been formed to assist impoverished women who cannot afford to pay for legal services when suffering harm or abuse.⁵⁸ However, it is concerning that the legal team only consists of volunteers and funds for this team do not come from the national budget, but Prime Minister Hun Sen's private funds.⁵⁹ This makes not only the sustainability of such a scheme questionable, but also questions the effectiveness, neutrality and inclusiveness of the scheme if the women concerned, for example, demonstrated a critical stance against the government.

2.2 Attitudes regarding marriage and the family result in pressure to use informal mediation to address incidents of domestic violence

2.2.1 There is a general misconception among Cambodian authorities that domestic violence is a "private" matter that does not belong in the courtroom.⁶⁰ Many women suffering from domestic violence are pressured to seek redress through informal mediation as opposed to the criminal justice system.⁶¹ The RGC's efforts to strengthen legal responses to violence against women are welcomed,⁶² however, mediation remains widely practiced.⁶³ Although mediation can be beneficial, women's capacity to make a free choice in such scenarios is questionable due to power imbalances and social pressure. For instance, the Domestic Violence Law provides that mediation can be appropriate in cases of psychological abuse, so long as both parties consent.⁶⁴ This practice directly contradicts General Recommendation No. 33 advocating for no alternative dispute resolution procedures in cases of violence against women,⁶⁵ and demonstrates a severe

⁵⁷ The Khmer Times 'Appeal courts' construction ahead of schedule', 14 February 2019, <https://www.khmertimeskh.com/50577879/appeal-courts-construction-ahead-of-schedule/>

⁵⁸ The Phnom Penh Post, 'PM tasks Lawyer's Council to form special team for women', 20 February 2019, <https://www.khmertimeskh.com/50579742/pm-tasks-lawyers-council-to-form-special-team-for-women/>; The Phnom Penh Post, 'Special legal team urged to aid pre-trial female detainees', 6 March 2019, <https://www.khmertimeskh.com/50584275/special-legal-team-urged-to-aid-pre-trial-female-detainees/>

⁵⁹ *Ibid*

⁶⁰ Theresa de Langis, 'ECCC Baseline Study on Gender Sensitivity in Transitional Justice Processes in Cambodia', Extraordinary Chambers of the Courts of Cambodia, March 2012, https://www.researchgate.net/publication/306056007_ECCC_Baseline_Study_on_Gender_Sensitivity_in_Transitional_Justice_Processes_in_Cambodia_Phnom_Penh_Extraordinary_Chambers_in_the_Courts_of_Cambodia_2012

⁶¹ NiemChheng and Erin Handley, 'Spousal killings call commune officials' mediation role into question', Phnom Penh Post, 19 January 2018, <https://www.phnompenhpost.com/national-post-depth/spousal-killings-call-commune-officials-mediation-role-question>

⁶² 'Sixth periodic report submitted by Cambodia under article 18 of the Convention, due in 2017', CEDAW, 9 July 2018, CEDAW/C/KHM/6, para 57, <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsglff%2fiazrVw%2bcyfdY9GxZ7T B4fGyJNiHM4%2boFUUnvkb8gSMnO%2bcQb8a03CmcpzN9Esa8ebpcFBZyhUr6iK%2fkSfm2FmUQnkW3xj8UPWUItfWo>

⁶³ 'Sixth periodic report submitted by Cambodia under article 18 of the Convention, due in 2017', CEDAW, 9 July 2018, CEDAW/C/KHM/6, para 59, <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsglff%2fiazrVw%2bcyfdY9GxZ7T B4fGyJNiHM4%2boFUUnvkb8gSMnO%2bcQb8a03CmcpzN9Esa8ebpcFBZyhUr6iK%2fkSfm2FmUQnkW3xj8UPWUItfWo>

⁶⁴ Law on the Prevention of Domestic Violence and Protection of Victims, Article 26, 2005, https://www.wcwonline.org/pdf/lawcompilation/Cambodia_dv_victims2005.pdf

⁶⁵ 'General recommendation No. 33 on women's access to justice', CEDAW, 3 August 2015, CEDAW/C/GC/33, para 58(c), <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhslidCrOIUTvLRFDih6%2fx1pWCd 9kc8NuhsZOT1QuzhrDy1rIpOgSyxJmK%2fSo2p3MpTI9diLSL02wtx8JPse1mlicqCgIo0em30unjIY%2fnkmn3g>

lack of understanding about the nature of psychological abuse and the mental and emotional capacity of victims to refuse mediation.

2.2.2. The RGC states that it is making efforts to ensure that a “woman-centered approach” is taken in cases of mediation.⁶⁶ Although a new curriculum is being developed for the Royal Police Academy and operational standards and codes of conduct for police officers who regularly deal with emergency assistance to GBV cases have been implemented, it is unclear how these measures will effectively contribute to a “woman-centered approach” in mediation.

3. Intersectional Barriers to Access to Justice

For many women, discrimination on the basis of sex and gender intersects with other identifying factors affecting women, such as age, ethnicity, health, race, religion or belief, sexual orientation and gender identity or expression.⁶⁷

3.1. Rural women

3.1.1. There is currently only one Court of Appeal and one Supreme Court in Cambodia, both located in Phnom Penh. This creates significant economic and practical challenges for those living in rural areas, as travelling to appeal courts can be expensive and time-consuming. These challenges are compounded by the social obligations women experience, such as childcare and household responsibilities. As a result, a significant number of appeal hearings take place *in absentia*.⁶⁸ Similarly, the vast majority of legal aid lawyers are located in the capital, creating additional barriers for rural women to access legal aid.⁶⁹

3.1.2. However, the RGC is commended on its commitment to building new regional appeal courts in seven provinces to reduce the backlog of cases and to provide judicial services closer to people living outside the capital.⁷⁰ The first two appeal courts are currently being constructed in Battambang and Tbong Khmum provinces and are expected to be completed by the end of 2019.⁷¹

⁶⁶ ‘Sixth periodic report submitted by Cambodia under article 18 of the Convention, due in 2017’, CEDAW, 9 July 2018, CEDAW/C/KHM/6, para 59,

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsglff%2fiazrVw%2bcyfdY9GxZ7T B4fGyJNiHM4%2boFUUnvkb8gSMnO%2bcQb8a03CmcpzN9Esa8ebpcFBZyhUr6iK%2fKsfm2FmUQnkW3xj8UPWUItfWo>

⁶⁷ See ‘General Recommendation No. 28 on the Core Obligations of States Parties Under Article 2 of the Convention on the Elimination of All Forms of Discrimination Against Women’, CEDAW, 16 December 2010, CEDAW/C/GC/28, para 18,

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G10/472/60/PDF/G1047260.pdf?OpenElement>

⁶⁸ CCHR, ‘Fair Trial Rights in Cambodia: Monitoring at the Court of Appeal’, June 2018, p 17 – 18,

https://cchrcambodia.org/admin/media/report/report/english/CCHR%20Report%20on%20Fair%20Trial%20Rights_%20EN G_.pdf

⁶⁹ ‘Justice versus corruption: Challenges to the independence of the judiciary in Cambodia’, IBAHRI, September 2015, p 65, <https://www.ibanet.org/Document/Default.aspx?DocumentUid=4b065d2c-d691-46e5-86bf-0a17c993c938>; Kai Hauerstein, ‘Assessment Report: Assessing the provision of legal aid and proposing policy recommendations’, Final Draft, June 2018, p. 72

⁷⁰ The Phnom Penh Post, ‘Battambang, Tbong Khmum courts to be finished this year’, 22 May 2019, <https://www.phnompenhpost.com/national/battambang-tbong-khmum-courts-be-finished-year>

⁷¹ The Phnom Penh Post, ‘Battambang, Tbong Khmum courts to be finished this year’, 22 May 2019, <https://www.phnompenhpost.com/national/battambang-tbong-khmum-courts-be-finished-year>

3.2. Trafficked women

3.2.1 The key mechanism to counter trafficking in persons and sexual exploitation is the National Committee for Counter Trafficking (NCCT).⁷² However, although a Royal Decree modified the NCCT membership, structure and key activities in order to make that mechanism more effective and Cambodia has signed several bi-lateral treaties to combat human trafficking, sex and labor trafficking remains a significant problem.⁷³ For example, due to a lack of jobs, some Cambodian women and girls leave their homes in rural areas in order to try to find work in tourist destination cities, in many cases leading to traffickers exploiting them through sex trafficking.⁷⁴

3.2.2 It is commended that the RGC has continued their considerable efforts to prosecute and convict traffickers and increased the training of law enforcement officials.⁷⁵ Nevertheless, the steps taken by the government still do not fully meet the minimum standards for the elimination of trafficking.⁷⁶ Recently conducted research suggest that against the backdrop of inadequate government oversight and accountability measures, authorities failed to investigate credible reports of human trafficking via debt-based coercion.⁷⁷ Furthermore, in various high-profile cases, anti-trafficking legislation and law enforcement resources were used by the government to target the political opposition, and other non-traffickers who attempted to document the country's trafficking circumstances.⁷⁸ Although the RGC does not provide data on sentencing traffickers, courts allegedly continue to convict suspects on lesser charges and decide sex trafficking cases with cash settlements in lieu of prison sentences.⁷⁹ Between April 2016 and September 2018, only 2% of trafficking cases investigated by rights group ADHOC led to criminal convictions.⁸⁰

⁷² 'Sixth periodic report submitted by Cambodia under article 18 of the Convention, due in 2017', CEDAW, 9 July 2018, CEDAW/C/KHM/6, para 70,

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsglff%2fiazrVw%2bcyfdY9GxZ7TB4fGyJNiHM4%2boFUnvkb8gSMnO%2bcQb8a03CmcpzN9Esa8ebpcFBZyhUr6iK%2fKsfm2FmUQnkW3xj8UPWUItfWo>

⁷³ 'Sixth periodic report submitted by Cambodia under article 18 of the Convention, due in 2017', CEDAW, 9 July 2018, CEDAW/C/KHM/6, para 85 – 89,

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsglff%2fiazrVw%2bcyfdY9GxZ7TB4fGyJNiHM4%2boFUnvkb8gSMnO%2bcQb8a03CmcpzN9Esa8ebpcFBZyhUr6iK%2fKsfm2FmUQnkW3xj8UPWUItfWo>;

'Freedom in the world 2019 Cambodia', Freedom House, 2019, <https://freedomhouse.org/report/freedom-world/2019/cambodia>

⁷⁴ United States Department of State, 'Trafficking in Persons Report June 2019', June 2019, p 3, available at:

<https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>

⁷⁵ United States Department of State, 'Trafficking in Persons Report June 2019', June 2019, p 125 - 126, available at:

<https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>

⁷⁶ United States Department of State, 'Trafficking in Persons Report June 2019', June 2019, p 125 - 126, available at:

<https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>

⁷⁷ United States Department of State, 'Trafficking in Persons Report June 2019', June 2019, p 126, available at:

<https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>

⁷⁸ Ibid

⁷⁹ Ibid

⁸⁰ Figures obtained from The Cambodian Human Rights and Development Association (ADHOC). From April 2016 until September 2018, ADHOC monitored and investigated 143 cases concerning trafficking-in-persons (involving male and female survivors). Of these, three cases have reached a conviction, 10 cases remain active under court processes as of October 2018.

3.2.3 There is a lack of access to safe shelters available for women victims of violence.⁸¹ The number of shelters for women has fluctuated over the years, from 6 to over 20.⁸² There is no accurate data on the number of safe shelters currently operating in Cambodia. However, it is known that almost all such shelters have been provided by NGOs.⁸³ A recommendation made by the United Kingdom of Great Britain and Northern Ireland during the third UPR of Cambodia was to ensure adequate access and supporting services and sheltered accommodation for victims of human trafficking.⁸⁴

3.3. LGBTIQ women

3.3.1. Although the LGBTIQ community faces particular social and economic vulnerabilities, the justice system is silent when it comes to LGBTIQ individuals.⁸⁵ Therefore, LGBTIQ individuals often find themselves in precarious situations when trying to access the Cambodian justice system, relying on too few lawyers providing pro bono services and/or some civil society organizations providing free legal advice.⁸⁶ Recently conducted research found that there is a widespread lack of knowledge within the LGBTIQ community in Cambodia on how and where to access lawyers when they face legal issues.⁸⁷ In addition, the LGBTIQ community has a low understanding of the concept of legal aid which, together with poor access to information about legal aid in general, results in mistrust in lawyers providing legal aid.⁸⁸

3.3.2. Law enforcement authorities are among the worst abusers of transgender women's rights in Cambodia.⁸⁹ Transgender women are regularly arrested and detained on the basis of their trans identities, often in order to extort money from them.⁹⁰ Research shows that from the interviewed trans women who had been arrested (38.7%), more than 91% believed they were arrested due to their transgender identity; a significant number of transgender women interviewed also reported experiencing physical, sexual and verbal abuse from police officers.⁹¹ Most victims of such abuse see no point in reporting their experiences, believing

⁸¹ 'Sixth periodic report submitted by Cambodia under article 18 of the Convention, due in 2017', CEDAW, 9 July 2018, CEDAW/C/KHM/6, para 67, <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsglff%2fiazrVw%2bcyfdY9GxZ7T B4fGyJNiHM4%2boFUnvkb8gSMnO%2bcQb8a03CmcpzN9Esa8ebpcFBZyhUr6iK%2fKsfm2FmUQnkW3xj8UPWUItfWo>

⁸² Ibid

⁸³ 'Sixth periodic report submitted by Cambodia under article 18 of the Convention, due in 2017', CEDAW, 9 July 2018, CEDAW/C/KHM/6, para 67, <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsglff%2fiazrVw%2bcyfdY9GxZ7T B4fGyJNiHM4%2boFUnvkb8gSMnO%2bcQb8a03CmcpzN9Esa8ebpcFBZyhUr6iK%2fKsfm2FmUQnkW3xj8UPWUItfWo>; United States Department of State, 'Trafficking in Persons Report June 2019', June 2019, p 127, available at: <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>

⁸⁴ 'Report of the Working Group on the Universal Periodic Review Cambodia', HRC, 5 April 2019, A/HRC/41/17, para 110.75, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/098/90/PDF/G1909890.pdf?OpenElement>

⁸⁵ Destination Justice, 'Rainbow Legal Aid Access to Legal Aid for the LGBTIQ Community in Cambodia', February 2019, p 5, to be found on: <http://destinationjustice.org/launching-the-rainbow-legal-aid-in-cambodia-report/>

⁸⁶ Destination Justice, 'Rainbow Legal Aid Access to Legal Aid for the LGBTIQ Community in Cambodia', February 2019, p 5, to be found on: <http://destinationjustice.org/launching-the-rainbow-legal-aid-in-cambodia-report/>

⁸⁷ Destination Justice, 'Rainbow Legal Aid Access to Legal Aid for the LGBTIQ Community in Cambodia', February 2019, p 9, to be found on: <http://destinationjustice.org/launching-the-rainbow-legal-aid-in-cambodia-report/>

⁸⁸ Destination Justice, 'Rainbow Legal Aid Access to Legal Aid for the LGBTIQ Community in Cambodia', February 2019, p 9, to be found on: <http://destinationjustice.org/launching-the-rainbow-legal-aid-in-cambodia-report/>

⁸⁹ 'Discrimination against transgender women in Cambodia's urban centers', Cambodian Center for Human Rights, September 2016, p 18, https://cchrcambodia.org/admin/media/report/report/english/2016_09_21_SOGI_Report_Eng.pdf

⁹⁰ Ibid

⁹¹ Ibid

justice to be unattainable.⁹² Follow-up research in 2018 revealed only a modest improvement of access to justice for transgender women.⁹³

4. Incarcerated Women

Women's marginality is perpetuated in Cambodia's justice system, particularly for incarcerated women, whose daily lives unfold within the confines of a system that fails to uphold their rights under international law. Although the periodic report of the RGC for the CEDAW Committee did not touch upon the issue of incarcerated women, the pre-sessional working group of the CEDAW Committee included the situation of women in detention in their list of issues and questions, which underscores the importance of this issue.⁹⁴ By July 2018, there were 30,444 detainees in Cambodian prisons, of which 2,616 women and 1,551 minors.⁹⁵ Currently, around 80% of female inmates are imprisoned on drug charges.⁹⁶

4.1. Corruption leads to serious human rights abuses against female defendants

4.1.1. Research has shown that a number of women convicted of homicide in Cambodia reported being forced to sign confessions,⁹⁷ directly violating Article 38 of the Cambodian Constitution. Few of the women interviewed were deemed "primary offenders" of the violent crimes for which they were convicted, with most claiming culpability through association with male partners or relatives.⁹⁸ The vast majority claimed they were "intimidated, threatened or assaulted during police questioning".⁹⁹

4.1.2. Guards demand bribes in prison for even the most basic provisions, and family members are required to pay for visitation rights.¹⁰⁰ Some female prisoners are subject to sexual abuse and forced labor. In December 2015, 32 prison officials submitted a complaint to the Prison Department about Tin Sovanny, Rattankiri's provincial prison director, whom they claimed forced female prisoners to have sex with him hundreds of times, and forced them to work in his

⁹² Ibid

⁹³ Information obtained from the Cambodian Center for Human Rights (CCHR), 2018

⁹⁴ 'List of issues and questions in relation to the sixth periodic report of Cambodia', CEDAW, 18 March 2019, CEDAW/C/KHM/Q/6, para 22,

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsglff%2fiazrVw%2bcyfdY9GxZ5qsiPlzMHs7D9K%2bQCA6BBU4Snb11Vb7EspUT6L9XKcylh%2bE53VmsSpjg%2fudK%2bd2qT3ZUliqayFF11YvLaDBZc>

⁹⁵ 'National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21 Cambodia', HRC, 15 November 2018, A/HRC/WG.6/32/KHM/1, para 40, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/341/00/PDF/G1834100.pdf?OpenElement>

⁹⁶ The Phnom Penh Post, 'most female inmates jailed on drug charges', 26 April 2019, <https://www.phnompenhpost.com/national/most-female-inmates-jailed-drug-charges>

⁹⁷ Samantha Jeffries and Chontit Chuenurah, 'Pathways to prison in Cambodia for homicide offending: exploring women's life history narratives', SAGE Journals, 26:2, 12 April 2018, pp 117 – 119,

<http://journals.sagepub.com/doi/abs/10.1177/0967828X18769223?journalCode=sera>

⁹⁸ Samantha Jeffries and Chontit Chuenurah, 'Pathways to prison in Cambodia for homicide offending: exploring women's life history narratives', SAGE Journals, 26:2, 12 April 2018, p 116,

<http://journals.sagepub.com/doi/abs/10.1177/0967828X18769223?journalCode=sera>

⁹⁹ Samantha Jeffries and Chontit Chuenurah, 'Pathways to prison in Cambodia for homicide offending: exploring women's life history narratives', SAGE Journals, 26:2, 12 April 2018, pp 117 and 119,

<http://journals.sagepub.com/doi/abs/10.1177/0967828X18769223?journalCode=sera>

¹⁰⁰ LICADHO, 'Rights at a price: life inside Cambodia's prisons', 20 January 2015, <http://www.licadho-cambodia.org/pressrelease.php?perm=369>

friends' homes.¹⁰¹ Tin Sovanny was later cleared by the Prison Department and the officials who signed the complaint were either moved to other prisons or fired.¹⁰²

4.2. The unnecessary incarceration of mothers and pregnant women has devastating effects

4.2.1. Rates of pre-trial detention in Cambodian prisons are exceptionally high, particularly among women and juveniles.¹⁰³ This contravenes not only the recommendation of the CEDAW Committee to use such detention solely as a last resort, but also Article 203 of the Cambodian Code of Criminal Procedure, which stipulates that "in principle, the charged person shall remain at liberty".¹⁰⁴ Out of 76 cases with woman defendants monitored at the Court of Appeal between November 2016 and June 2018 (involving a total of 97 women), 53% were held in pre-trial detention.¹⁰⁵

4.2.2. Contrary to international standards,¹⁰⁶ Cambodian courts do not take into account women's specific situations when making decisions about detention.¹⁰⁷ Mothers and pregnant women are incarcerated unnecessarily, with devastating effects for families; thousands of children are left without caregivers, or are imprisoned with their mothers who have no alternative means of housing them.¹⁰⁸ According to a recent report by LICADHO, between 2015 and 2018 the number of children in detention with their mothers rose from 30 to 138.¹⁰⁹ Although the actual numbers are unknown, the latest estimate is that there are between 135 and 170 mothers living in prisons with their children and 50 pregnant women currently detained.¹¹⁰ Adult women prisoners are housed in the same facilities as juveniles, and women being held in pre-trial detention are detained alongside women who have been finally convicted of crimes.¹¹¹ These

¹⁰¹ '14 years: the horrors of Prey Sar', Khmer Times, 16 June 2016, <https://www.khmertimeskh.com/news/26182/14-years-the-horrors-of-prey-sar/>

¹⁰² *Ibid*

¹⁰³ LICADHO, 'Rights at a price: life inside Cambodia's prisons', 20 January 2015, p 18, <http://www.licadho-cambodia.org/pressrelease.php?perm=369>; The Phnom Penh Post, 'Kids don't belong in prison', 8 March 2019, <https://www.phnompenhpost.com/opinion/kids-dont-belong-prison>; LICADHO, 'Time for Bail: Ending Needless Mass Detention', October 2018, p 3, http://www.licadho-cambodia.org/reports/files/227Time%20for%20Bail_Ending%20Needless%20Mass%20Detention_fin.pdf

¹⁰⁴ 'General recommendation No. 33 on women's access to justice', CEDAW, 3 August 2015, CEDAW/C/GC/33, para 51(p), <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsldCrOIUTvLRFDjh6%2fx1pWCd9kc8NuhsZOT1QuzhrDy1rlpOgSyxJmK%2fSo2p3MpTl9diLSL02wtx8JPse1mlicqCgIo0em30unjY%2fnkmn3g>; Article 203 of the Cambodian Code of Criminal Procedure, to be found at:

<http://cambodia.ohchr.org/~cambodiaohchr/sites/default/files/Annotated%20Cambodian%20Code%20of%20Criminal%20Procedure%20%5BEN%5D%20%5BMaster%20-%20Final%5D.pdf>

¹⁰⁵ CCHR, 'Fair Trial Rights Newsletter: Fair Trial Rights for Women in Cambodia', August 2018, p 1, <https://cchrcambodia.org/admin/media/newsletter/newsletter/english/CCHR%20Fair%20Trial%20Rights%20Newsletter%20on%20Women%20in%20Cambodia%20-English.pdf>

¹⁰⁶ See The Bangkok Rules, <http://www.un.org/en/ecosoc/docs/2010/res%202010-16.pdf>

¹⁰⁷ CCHR, 'Fair Trial Rights Newsletter: Fair Trial Rights for Women in Cambodia', August 2018, <https://cchrcambodia.org/admin/media/newsletter/newsletter/english/CCHR%20Fair%20Trial%20Rights%20Newsletter%20on%20Women%20in%20Cambodia%20-English.pdf>

¹⁰⁸ LICADHO, 'Mothers behind bars: the impact of detention on women and their children', 26 May 2015, <http://www.licadho-cambodia.org/pressrelease.php?perm=384>

¹⁰⁹ LICADHO, 'Time for Bail: Ending Needless Mass Detention', October 2018, p 3, https://www.licadho-cambodia.org/reports/files/227Time%20for%20Bail_Ending%20Needless%20Mass%20Detention_fin.pdf

¹¹⁰ The Phnom Penh Post, 'Kids don't belong in prison', 8 March 2019, <https://www.phnompenhpost.com/opinion/kids-dont-belong-prison>; Khmer Times, 'Drug offenders crowding prisons', 20 March 2019, <https://www.khmertimeskh.com/50588464/drug-offenders-crowding-prisons/>

¹¹¹ LICADHO, 'Rights at a Price: Life Inside Cambodia's Prisons', January 2015, http://www.licadho-cambodia.org/collection/25/life_inside_cambodia_prison

conditions are in violation of Rule 8 of the UN's Standard Minimum Rules for the Treatment of Prisoners. Such issues are particularly concerning given the squalid conditions of Cambodian prisons, their unsafe social environments, and the insufficient provision of essential services in prisons.¹¹²

4.2.3. Research has shown that the Cambodian prison system is incapable of providing for the most basic needs of children, including education, medical care, proper nutrition, and social interaction.¹¹³ Young children are susceptible to potentially lifelong negative consequences because of their time spent behind bars.¹¹⁴ In addition, pregnant women are not provided with pre- or postnatal care, and are in some occasions forced to return to prison within only one day after giving birth.¹¹⁵ Although statements made by Prime Minister Hun Sen encouraging more compassion in sentencing women with children and calling on government ministries to accelerate trial procedures and reduce the sentences of female detainees who are single mothers are welcomed, it is imperative that the responsible ministries take concrete steps to ensure these outcomes.¹¹⁶

5. Recommendations

By the time of the next CEDAW reporting cycle, we call upon the RGC to:

5.1 *Amend the Domestic Violence Law and Criminal Code to comprehensively address the complex and diverse forms of GBV experienced by women in Cambodia.*

5.2 *Adopt legislation incorporating protections for victims of GBV, focusing on respect for privacy as well psychological support, in compliance with SDG 5.2.*

5.3 *Adopt temporary special measures to ensure equal representation of men and women in the justice sector, particularly among judges, prosecutors and lawyers, in line with article 4 of the Convention.*

5.4 *Take meaningful steps to eliminate discriminatory attitudes towards women in institutions of justice, in line with article 5 of CEDAW, for instance by adequately training judicial actors and law enforcement officials about gender-specific issues, including Sexual Orientation, Gender Identity and Expression and Sex Characteristics, in accordance with SDGs 5.2 and 5.C.*

¹¹² LICADHO, 'Mothers behind bars: the impact of detention on women and their children', May 2015, <http://www.licadho-cambodia.org/pressrelease.php?perm=384>; LICADHO, 'Time for Bail: Ending Needless Mass Detention', October 2018, p 3, https://www.licadho-cambodia.org/reports/files/227Time%20for%20Bail_Ending%20Needless%20Mass%20Detention_fin.pdf; This Life Cambodia, 'Why children accompany mothers into prison an insight into factors influencing this decision in Cambodia', March 2019, p 7 and 26

¹¹³ LICADHO, 'Childhood Behind Bars: Growing up in a Cambodian prison Dara's story', February 2015, <https://www.licadho-cambodia.org/reports/files/203LICADHOReportChildhoodBehindBars-English.pdf>; LICADHO, 'Time for Bail: Ending Needless Mass Detention', October 2018, http://www.licadho-cambodia.org/reports/files/227Time%20for%20Bail_Ending%20Needless%20Mass%20Detention_fin.pdf.

¹¹⁴ 'Time for Bail: Ending Needless Mass Detention', October 2018, p 3, http://www.licadho-cambodia.org/reports/files/227Time%20for%20Bail_Ending%20Needless%20Mass%20Detention_fin.pdf.

¹¹⁵ 'Time for Bail: Ending Needless Mass Detention', October 2018, p 3, http://www.licadho-cambodia.org/reports/files/227Time%20for%20Bail_Ending%20Needless%20Mass%20Detention_fin.pdf.

¹¹⁶ The Phnom Penh Post, 'PM calls for mercy in sentencing women with children', 19 February 2019, <https://www.phnompenhpost.com/national/pm-calls-mercy-sentencing-women-children>

5.5 *Take all necessary measures to effectively combat impunity for acts of violence against women by ensuring that steps are taken to independently investigate, prosecute and sanction all acts of violence against women, including violence perpetrated by State agents, in accordance with SDG 16.3.*

5.6 *Ensure all criminally accused persons have access to legal aid in accordance with the Code of Criminal Procedure of the Kingdom of Cambodia, the International Covenant on Civil and Political Rights (ICCPR) and SDG 16.3.*

5.7 *Ensure that victims of GBV have access to effective legal support in pursuing justice in accordance with the UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, and ensure the realization of one-stop service centers to provide support services free of charge to GBV victims.*

5.8 *Establish regional Appeal Courts to increase access to justice in Cambodian provinces, in accordance with the Law on the Organization of the Courts, and ensure their proper operationalization.*

5.9 *Ensure the greater use of alternatives to pre-trial detention, including judicial supervision, in accordance with SDG 16.3.2.*