

## Cambodia

### 1. Discrimination in the family

#### a) Overarching legal framework for marriage

The Cambodian Constitution prohibits discrimination against women in all fields related to marriage and the family (Constitution of Cambodia, 1993).

A marriage can only be legally recognized if it is registered by the commune council with the civil registry (Civil Code, 2007; Sub-Degree 103, 2002; Van Der Keur, 2014; Government of Cambodia, 2011). A couple who intends to marry must apply for a marriage authorization with the commune council at the woman's place of residence (Van Der Keur, 2014). Informal or de-facto unions are not recognized or regulated by law.

Under the Civil Code, a marriage is treated as void if there has been no intention to marry on the part of both parties on account of mistake as to the identity of the other party, coercion or other cause (Civil Code, 2007).

According to NGO reports, women in Cambodia have limited opportunities to choose whom to marry and arranged marriages are common across the country (Cambodian NGO Committee on CEDAW, 2013). Similarly, in its reporting to the UN, the Government has noted that traditional attitudes and stereotypes pervade among many Cambodians, and that parents put pressure on young persons in choosing partners for marriage, particularly so in the case of girls (Government of Cambodia, 2011).

Many couples in Cambodia do not register their marriage at the civil registry, choosing instead to do a traditional Buddhist marriage ceremony (Van Der Keur, 2014). The lack of marriage registration is considered to be particularly prevalent in rural areas and, as has been noted, primarily endangers the rights of women, in particular the right to seek an annulment or divorce of the traditional marriage (Van Der Keur, 2014). Similarly, in the case of traditional marriages, women's right to marital property and partner alimony are not assured since the couple will not be considered legally married and therefore not legally entitled to share in property and to receive child support (Van Der Keur, 2014). In 2013, the Committee of Elimination of all forms of discrimination also took issue with the prevalence of traditional marriages and recommended that Cambodia take measures to facilitate the formalisation of marriages contracted under customary law by ensuring that registration is affordable and easily accessible (CEDAW 2013; Van der Kreur, 2014).

There are no specific legal provisions that prohibit harmful practices against widows. Widowhood has been equated with a high level of poverty among older women in Cambodia as women generally do not own land or other assets and are dependent on their children, particularly sons (Help Age International, 2013).

## b) Child marriage

The Civil Code sets the legal age of marriage at 18 years for both women and men (Civil Code, 2007). However, if one of the parties has attained the age of majority of 18 years and the other party is a minor at least 16 years of age, the parties may marry with the consent of the parental power holders or guardian of the minor, or, if such consent is not obtained, with the permission of the court (Civil Code, 2007).

The law does not provide for awareness-raising or education programmes on the legal age of marriage, however, according to the US Department of State, in 2015 and 2016, the government and local NGOs took steps to raise awareness of the legal minimum-age requirement (US Department of State, 2015; US Department of State 2016). UNICEF Cambodia is also reported to work with the Government to implement age- and gender-appropriate interventions to reduce child marriage (UNICEF, 2016). There is no further information available about any public measures to generate social support for the enforcement of the legal age of marriage, budgetary allocations or legal sanctions for those facilitating a marriage of an individual who is under the minimum age of marriage.

Available information indicates that child marriages are still commonplace in Cambodia (Cambodian NGO Committee on CEDAW, 2013; Van Der Keur, 2014). In many cases, the girls that are married off are very young, and local authorities reportedly bribed by the girls' parents or the husband to forge the birth certificate of the girl (Cambodian NGO Committee on CEDAW, 2013).

## c) Household responsibilities

There are no legal restrictions for women to be recognized as the head of household, and married women are not required by law to obey their husbands.

Women have the same rights and responsibilities towards their children, including being their legal guardians, during marriage (Civil Code, 2007). Informal unions are not regulated by law in Cambodia and there are no specific regulations guaranteeing the right of women to be the legal guardians of children in informal unions.

NGO reporting to the CEDAW Committee suggests that in cases where a man leaves his wife, she is often left to take care of the children with no financial help. The number of female-headed households is reported to be high (Cambodian NGO Committee on CEDAW, 2013).

Women, married and unmarried, have the same rights as men to freely choose their place of residence (Constitution of Cambodia, 1993). There is no information to suggest that women's right to choose their place of residence is restricted in Cambodia.

NGO reports suggest the prevalence of customary attitudes that perceive men as the de-facto head of household, in particular when it concerns the rights to control and manage all of the family's property (NGO CEDAW and CAMBOW, 2011). Customary law relating to the role and behavior of women, generally referred to as Chbab Srey in Khmer, is deeply rooted among many communities, in particular in rural areas where an overwhelming majority of Cambodians live. According to Chbab Srey, women should be subservient to men, and submissive and obedient to their husbands (STAR Kampuchea and ILC, 2013). Discriminatory social norms consider women to be less competent than

men with regards to family finances and decision-making, and thus they have less power than men to make decisions about their family (STAR Kampuchea and ILC, 2013).

#### **d) Divorce**

A legal marriage can be terminated by a legal divorce order issued by a court (Civil Code, 2007; Van Der Keur, 2014).

Women have the same rights as men to initiate and finalize divorce (Civil Code, 2007). The grounds for divorce include infidelity, desertion, separation for more than one year, and breakdown of the relationship (Civil Code, 2007). The legal grounds for divorce are broadly formulated and provide different possibilities for filing for divorce if one spouse wishes to do so (Van Der Keur, 2014). However, the law provides for judicial discretion to reject claims for divorce if the petitioner is considered to have seriously neglected to cooperate or assist the other spouse (Van Der Keur, 2014; Civil Code, 2007).

Under current legislation, a divorced woman may not remarry until 120 days have elapsed from the day of the dissolution or annulment of her previous marriage (Civil Code, 2007). The passing of the Civil Code in 2007 reduced the number of abstention days from 300 to 120. There are no mandatory waiting periods for men to remarry after divorce.

In 2013, the CEDAW Committee raised concern over the discriminatory nature of this provision and noted that it is unduly restrictive on the rights of women to remarry (CEDAW, 2013). Similarly, the Human Rights Committee, in 2015, was concerned over the restriction for women to remarry until 120 days have lapsed from the divorce (HRC, 2015). The Committee also expressed concern over the directive issued by the Ministry of Foreign Affairs restricting the rights of foreign men and Cambodian women to marry on the basis of the man's age and income. The CEDAW Committee recommended that these restrictions be repealed (HRC, 2015).

While women have the same right to initiate and finalize annulment of marriage and divorce, it has been reported that in practice it is more difficult for women than for men to dissolve a marriage (Cambodian NGO Committee on CEDAW, 2013). Indeed, divorce in Cambodia is generally socially unaccepted and its incidence remains low (Van Der Keur, 2014). Cultural stigma on women who are divorced persists (Van Der Keur, 2014). Such stigma has been reinforced by statements of senior government officials who have emphasized that divorce should only be considered as a last resort (Van Der Keur, 2014).

Limited access to formal justice systems may further limit women's rights in practice: as there are only courts at the provincial level in Cambodia, those wishing to seek a divorce may have to travel long distances to reach the provincial capitals on several occasions as divorce proceedings usually require several visits to the court (Van Der Keur, 2014). The expenses involved, the long travels and the lack of required documents are cited as common challenges for women wanting to seek a divorce (Cambodian NGO Committee on CEDAW, 2013). Another hurdle for women seeking divorce is the fact that most commune council members and judges are male (Van Der Keur, 2014). The low rates of women as members of commune councils and in the judicial sector has been raised as a concern as customary values and practices are reportedly not encouraging women to speak out in public, let

alone in front of a court (Van Der Keur, 2014). Because of this, many women seeking a divorce do not pursue it legally through a court (Van Der Keur, 2014).

In case of divorce, the spouses may agree on custody over their child or children (Civil Code, 2007). If an agreement cannot be reached, a court will decide custody as part of the divorce proceedings (Civil Code, 2007). Unlike other civil law countries, Cambodia does not provide for the possibility for joint custody after divorce (Van Der Keur, 2014). Based on domestic jurisprudence, custody is generally granted to the mother (Van Der Keur, 2014). The parent that loses custody rights, however, maintains the right to be consulted on matters relating to the child's (or children's) well-being, including in relation to education and possible changes to residency (Civil Code, 2007).

### **e) Inheritance**

Women have the same rights as men to inherit and to write a will, both as widows and as daughters (Civil Code, 2007). The inheritance right applies to both land and non-land assets (Civil Code, 2007). In accordance with the Civil Code, the surviving spouse has an absolute right to inherit in intestate successions. There are no specific legal provisions prohibiting property dispossession/grabbing.

Despite women's and men's equal rights, inheritance disputes between family members and disregard for women's inherited land are common in Cambodia, in particular when these concern access to and over land which is a scarce resource in Cambodia (Thiel, 2010). Reports on land titling schemes in Cambodia suggest that daughter's inherited land has been registered without their knowledge or consent jointly with their husbands (Thiel, 2010). Similarly, USAID has noted that many women lack awareness of their rights of inheritance (USAID, 2011). It has also been reported that rights held by the high percentage of women-headed households are vulnerable to loss to male family members, local elites, and commercial interests (USAID, 2011).

## **2. Restricted Physical integrity**

### **a) Violence against women**

There is no specific law addressing violence against women. However, the Government adopted a second National Action Plan to Prevent Violence against Women in 2014 (Government of Cambodia, 2014 (b)). The Plan covers the period 2014-2018 and addresses domestic and sexual violence and trafficking in persons (Government of Cambodia, 2014 (b)). It includes specific targets and expected outputs, and identifies responsible implementing agencies for each target, in addition to establishing the source of funding for the implementation of each target (Government of Cambodia, 2014 (b)).

Despite efforts to combat the extent of violence against women in Cambodia, the level of tolerance for violence against women is reported to be high (USAID, 2010).

### **b) Domestic violence**

Domestic violence is a criminal offence in Cambodia and carries a maximum punishment of five years' imprisonment (Criminal Code, 2010). The Law on the Prevention of Domestic Violence and Protection of Victims, adopted and enacted in 2005, seeks to protect individuals from violence that occurs within the household (Law on the Prevention of Domestic Violence and Protection of Victims, 2005). It is

gender-neutral in addressing victims and defines violence as any acts affecting life, acts affecting the physical integrity, torture or other cruel acts and acts of sexual aggression (Law on the Prevention of Domestic Violence and Protection of Victims, 2005), which are specified to cover physical, sexual, psychological, emotional and economic violence. The law covers abuse from spouses, dependent children and other cohabitants, but not former partners (Law on the Prevention of Domestic Violence and Protection of Victims, 2005).

Mediation is not prohibited by law and cases of violence against women are reported to be frequently disposed through mediation (CEDAW, 2014; Government of Cambodia 2016). A government commissioned study was completed in 2015 to assess the practice of mediation in cases entailing violence against women. The study concluded that mediation has a central role in Cambodian society and recommended that the practice be strengthened by developing minimum standards on mediation in domestic violence cases, codes of conduct for mediators and clarification of the categorization of serious and non-serious cases of domestic violence (Government of Cambodia, 2016).

The Law on the Prevention of Domestic Violence and Protection of Victims provides for specific provisions for investigation and prosecution, such as the obligation of authorities to record incidents and report them to prosecutors. The Law requires that authorities in charge of intervening in cases of domestic violence offer the appropriate assistance to victims of violence, including temporary shelters and urgent medical assistance (Law on the Prevention of Domestic Violence and Protection of Victims, 2005).

A 2010 assessment of the implementation of the Law on the Prevention of Domestic Violence and Protection of Victims indicates that the law has yet to be widely implemented and enforced and has not yet been able to provide adequate protection for women (Joint Civil Society Report with the CCPR Centre, 2015; Government of Cambodia, 2014 (b)). Lack of shelters, lack of skills on the part of local authorities to provide targeted interventions, lack of protocols for professionals dealing with victims of violence and challenges to access legal support services for victims have also been identified as major challenges (Government of Cambodia, 2014 (b)).

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In 2014, the CEDAW Committee expressed concern that the lack of public trust in the justice system and the negative attitudes of judicial officers and law enforcement personnel towards women victims of violence continue to impede the effective prosecution of cases of violence against women (CEDAW 2014). It also expressed concern at the lack of data on the number of protection orders issued and on shelters available for women who are victims of violence (CEDAW, 2014). In 2016, the Government

reported that the 2014-2018 National Action Plan to Prevent Violence against Women had identified, as a main pillar, the strengthening of legal protections and services including police, health, legal aid, counselling and other social services in the recognition that a number of interventions were needed to respond to the extent of violence against women (Government of Cambodia, 2016).

The Ministry of Health developed National guidelines for managing violence against women and children in the health system in 2014, and a series of trainings were conducted for health staff at referral hospitals and health centres in how to best engage with victims of sexual violence.

Despite legal and policy measures taken to address violence against women in Cambodia, the tolerance for violence against women remains high (USAID, 2010). The Government reports that women with disabilities are particularly vulnerable to physical violence by other household members (Government of Cambodia (d), 2014).

### c) Rape

Rape is covered as an act of domestic violence under the Law on the Prevention of Domestic Violence and Protection of Victims, and is punishable as a criminal offence with a maximum penalty of ten years' imprisonment under the Criminal Code (Law on the Prevention of Domestic Violence and Protection of Victims, 2005; Criminal Code, 2010). The Criminal Code defines rape as all acts of sexual penetration, or of any kind whatsoever or an act of penetrating any objects into sexual organs of a person of either the same or of different sex by violence, coercion, threat or surprise (Criminal Code, 2010). Marital rape is not explicitly criminalized. Aggravated forms of rape and sexual violence apply in specified circumstances, for some of which the maximum penalty increases to 30 years' imprisonment (Criminal Code, 2010).

Sexual violence is partly addressed by the Government's second National Action Plan to Prevent Violence against Women in 2014 (Government of Cambodia, 2014 (b)). It includes specific targets and expected outputs, and identifies responsible implementing agencies for each target, in addition to establishing the source of funding for the implementation of each target (Government of Cambodia, 2014 (b)). It commits to the establishment of comprehensive health care services for victims, and, in line with the requirements of the Law on the Prevention of Domestic Violence and Protection of Victims, awareness-raising and capacity-building for professionals and the development of guidelines and protocols in this regard (Government of Cambodia, 2014 (b)). The plan identifies the stakeholders for implementation and the sources of funding to implement the actions foreseen (Government of Cambodia, 2014 (b)).

In 2014, the Ministry of Health developed National guidelines for managing violence against women and children in the health system and a series of trainings were conducted for health staff at referral hospitals and health centres in how to best engage with victims of sexual violence (Government of Cambodia, 2016).

Most rape cases in Cambodia are settled out of court with financial compensation (USAID, 2010). Reports also suggest that in some cases, the perpetrator offers to marry the victim, a solution which may be regarded as viable to protect the reputation of the victim and her family (USAID, 2010).

According to the Government of Cambodia, available information suggests that the number of rapes of minors has increased over the past years (Government of Cambodia, 2014 (b)). Gang-rape is reportedly “recognized as a recreational sex-activity among youth, in particular in urban areas” (Government of Cambodia, 2014 (c)). Reports on the extent of rape in the country suggest that women and girls under 25 years of age are particularly vulnerable to sexual violence (Government of Cambodia, 2014 (c)). Transgender females in the sex industry and women with disabilities are also reported to suffer sexual abuse and rape at high rates (Government of Cambodia, 2014 (c)).

According to NGO reports, rape and sexual exploitation are supported by discriminatory attitudes that generally place the blame on the victim (Joint Civil Society Report with the CCPR Centre, 2015). Access to justice for victims of rape is challenged by the limited implementation of the laws addressing sexual violence and the limited awareness on the part of public officials, including the police, lawyers and judges (Joint Civil Society Report with the CCPR Centre, 2015). In addition, it has been noted that in the Cambodian context, victims are often stigmatised by their community and family and are therefore less likely to report cases of sexual violence and rape (Joint Civil Society Report with the CCPR Centre, 2015).

#### **d) Sexual harassment**

Sexual harassment is a criminal offence under the Criminal Code which specifies that sexual harassment entails abuse of power vested in a person in his or her functions in order to repeatedly put pressure on other persons in exchange for sexual favors (Criminal Code, 2010). As a punishable offence, it carries a maximum sentence of three months’ imprisonment (Criminal Code, 2010). In connection with indecent behavior in the workplace, sexual harassment is also prohibited under the Labour Law (Labour Law, 1997). As such, sexual harassment is expressly prohibited in the workplace. This prohibition does not appear to extend to educational institutions, sporting establishments, public places or cyber harassment. The Government’s second National Action Plan to Prevent Violence against Women does not specifically address sexual harassment, and there are no other policies seeking to enforce the legal prohibitions and sanctions for sexual harassment.

Sexual harassment is reportedly common in the workplace (Government of Cambodia, 2014 (d)).

#### **e) Female genital mutilation**

There are no reports of female genital mutilation (FGM) being practiced in Cambodia, and FGM is not addressed in Cambodian laws or policies.

#### **f) Abortion**

Abortion on demand is legal and can be sought up to 12 weeks (Law on Abortion, 1997). An abortion after 12 weeks is permitted in specified circumstances, including in cases of foetal unviability and if the pregnancy is the result of a rape (Law on Abortion, 1997).

#### **More**

Gender-based violence during the Khmer Rouge era in Cambodia has recently surfaced in the public discourse, as a result of the Extraordinary Chambers in the Court of Cambodia (ECCC), a hybrid UN-

Cambodian tribunal addressing crimes committed by the most responsible and senior leaders from the Khmer Rouge regime. Substantial hearings of Case 002/02 started in 2015 and includes crimes with relation to violence against women (forced marriage and rape in the context of forced marriage) (Government of Cambodia, 2016). As of September 2015, 779 of the total 4 000 civil parties in Case 002 are survivors of crimes of forced marriage and rape in the context of forced marriage (Government of Cambodia, 2016). Starting in late December 2011, a series of dialogues with survivors of gender-based violence during Khmer Rouge regime were organized to identify redress schemes for survivors of gender-based violence (Government of Cambodia, 2016). Additionally, from 2011 to 2014, the Victim Support Section of the ECCC and its partners produced and disseminated call-in radio shows on gender-based violence under the Khmer Rouge, sharing the experiences of women and men, the progress of the legal proceedings by the Chambers, and its implications for gender issues in Cambodia (Government of Cambodia, 2016).

### 3. Restricted Access to productive and financial resources

#### a) Secure access to land and assets

Cambodia is home to a large number of indigenous groups commonly referred to as original ethnic minorities or *chuncheat daoem pheak tech* in Khmer (Office of the United Nations High Commissioner for Human Rights Cambodia, forthcoming). Cambodia has not ratified ILO Convention 169 on Indigenous and Tribal Peoples in Independent Countries (1989), despite recommendations from international human rights mechanisms to do so (CESCR Committee 2009; Universal Period Review, 2009;

Women have the same rights as men to own, manage, make decisions about land and non-land property and to use property as collateral (Constitution of Cambodia, 1993).

The Civil Code provides married women with the same rights as their husband to use, enjoy the benefit from and manage common property, and reaffirms the Constitutional provision that women also have the right to use, enjoy the benefit of and manage their own property (Civil Code, 2007).

The Cambodian Civil Code provides that unless the married couple concludes a pre-nuptial agreement, their assets, including land, will be categorized as statutory marital property (Civil Code, 2007; van der Keur, 2014). The system provides that joint property includes all property earned by one or both spouses during the marriage, but excludes the property of either spouses obtained before the marriage, as well as property obtained by one spouse during the marriage through gift or succession, including proceeds from the disposal of these private properties (Civil Code, 2007; van der Keur, 2014). While it has been noted that the law provides for a fair initial basis for marital property, it also leaves room for ambiguity, including by not specifying whether revenues of excluded private property fall within the marital property scheme (Civil Code, 2007; van der Keur, 2014).

In the event of divorce, the marital property is to be “divided fairly in accordance with the agreement of the parties to the marriage” (Civil Code, 2007). If spouses are unable to agree on the division of common property, the Civil Code establishes that spouses will share equally the common property in addition to his or her separate property (Civil Code, 2007). Where special circumstances apply, the divorce court may divide the common property differently, taking into account all the circumstances



of the marriage and divorce, including the contribution of each spouse to the acquisition, maintenance and increase of property, the period of the marriage, the living standard during the marriage, the age, mental and physical condition of each spouse, their occupations, income and earning capacity, and the welfare of any children (Civil Code, 2007). In dividing the marital property, judges have explicit discretion to deviate from the statutory system upon request of one of the parties (Civil Code, 2007; van der Keur, 2014).

The legal regulatory framework in Cambodia provides that an individual may only be deprived of ownership if it is in the public interest, and only after the payment of fair and just compensation (Constitution of Cambodia, 1993; Land Law, 2001). The only indisputable proof of ownership is a land title certificate, yet many Cambodian landholders still do not have a formal land title and instead depend on “soft” possessory rights (Open Development Cambodia, 2015), taken to include documents that can show proof of ownership, such as applications for land occupation, confirmation from the local government acknowledging letters of transfer or a simple private-sale purchase agreement. Without a formal land title, landholders face the substantial risk of land conflict (Open Development Cambodia, 2015). In 2014 alone, reports suggest that nearly 50 000 people were involved in land disputes (LICADHO, 2014). Women and indigenous communities are particularly vulnerable to land dispossession (Beban and Pou, 2015; Special Rapporteur on the situation of human rights in Cambodia, 2012).

The granting of economic and other land concessions for land that is already occupied by communities and families has particular bearing on women and girls. In 2012, the UN Special Rapporteur on the situation of human rights in Cambodia noted that for both Khmer and indigenous women and girls in remote rural areas, the growing presence of outsiders posed safety concerns, including in terms of potential robbery, theft and physical violence including rape (Special Rapporteur on the situation of human rights in Cambodia, 2012). Security concerns also pertain to women who have been evicted and relocated in new environments, often far from the city leading to the frequent absence of husbands and relatives who have returned to the city centre to work (Special Rapporteur on the situation of human rights in Cambodia, 2012). The Special Rapporteur also raised concerns over the increase in violent attacks against women in the context of protests over Government-granted concessions to land, and of arbitrary detention of female protestors (Special Rapporteur on the situation of human rights in Cambodia, 2012).

Cambodian women have been reported to face particular difficulties in terms of property registration and land titles, reducing their security of tenure and making them more vulnerable to land concessions granted on the land they inhabit (Special Rapporteur on the situation of human rights in Cambodia, 2012). Low levels of registration of women as property owners can, in part, be linked to the low levels of official registration of marriage, which makes women vulnerable in cases of divorce or separation (Special Rapporteur on the situation of human rights in Cambodia, 2012). Although more individual titles have been registered in the name of women, women who are joint title holders report having issues with property rights in cases of separation, abandonment, domestic violence, multiple marriages and divorce (Special Rapporteur on the situation of human rights in Cambodia, 2012). In any of these scenarios, women with low incomes and their children are in particularly precarious situations with regards to property rights (Special Rapporteur on the situation of human rights in Cambodia, 2012).

According to Government reporting to the UN, the Sub-Decree on Social Land-Concessions establishes that land policies must respond to women's needs, in particular women head of households (Government of Cambodia, 2011). One of the key principles for this work is the provision of land titling and continuing the registration of common ownership of land/property between husband and wife. Women should also have representation in land-related committees, for example Cadastral Committees and Participatory Land Use Planning Teams. Despite such commitments, NGOs have reported that women in Cambodia may be prevented from owning land in their own name, and can typically only do so with the approval of their husbands (Cambodian NGO Committee on CEDAW, 2013). NGOs also report that some societal attitudes in Cambodia hold that women are incapable of running business and managing property (Cambodian NGO Committee on CEDAW, 2013). In its concluding observations to Cambodia, the CEDAW Committee noted with concern that women continue to have limited access to land and tenure security (CEDAW Committee, 2013).

According to the International Work Group For Indigenous Affairs, Cambodia's legal recognition of indigenous peoples' rights to their customary lands is among the most progressive in the region (International Work Group for Indigenous Affairs, 2016). The Land Law of 2001 is the principal legal framework for formalizing customary ownership of indigenous peoples through the granting of collective land titles (Land Law, 2001; Sub-Decree 83, 2009). However, complex bureaucratic procedures, the extensive clearing of traditionally owned lands, territories and resources, as well as coerced or involuntary displacement of indigenous communities for economic development impede the process to secure collective land titles for indigenous communities in Cambodia (Office of the United Nations High Commissioner for Human Rights Cambodia, forthcoming).

#### **b) Secure access to formal financial resources**

There are no restrictions for married or unmarried women to access formal financial institutions or to obtain credit (Government of Cambodia, 2011). The Government seeks to promote long- and medium-term credit services with low interest rates through various micro-credit schemes and in doing so has sought to access more rural women to ensure that they can expand their businesses and increase family income (Government of Cambodia, 2011). Nevertheless, NGOs have expressed concern over the manner in which micro-credit, including Government provided such, is handled in Cambodia, noting that there is little planning or education on finance, credit and effective spending prior to loan disbursements with the result that families are driven into further debt (Cambodian NGO Committee on CEDAW, 2013). Societal attitudes are also reported to consider women incapable of running business and managing property (Cambodian NGO Committee on CEDAW, 2013).

#### **c) Workplace rights**

Cambodia has ratified ILO Conventions 100 (Equal Remuneration), 111 (Discrimination in Employment and Occupation), but has not acceded to Conventions 156 (Workers with Family Responsibilities), 183 (Revision of Maternity Protection) and 189 (Domestic Workers).

The Constitution provides women and men the right to freely choose employment, although with the caveat "according to their ability and to the needs of society" (Constitution of Cambodia, 1993). This non-discrimination provision of the Constitution ("men and women have equal rights in all fields, especially in marriage and in family") is considered by the Government to guarantee and protect the

rights of women in all situations, including in the employment sector (Government of Cambodia, 2011). The Labour Law reinforces the non-discrimination provision by prohibiting discrimination based on sex in employment (Labour Law, 1997). This prohibition extends to hiring; defining and assigning of work; vocational training; advancement; promotion; remuneration; granting of social benefits; and discipline or termination of employment contacts (Labour Law, 1997).

The Government indicates that it has taken several measures to combat discrimination against women by creating special conditions for women in employment, including measures to prohibit punishment and dismissal because of pregnancy or maternity leave, or discrimination on the basis of marital status (Government of Cambodia, 2011).

The Criminal Code establishes financial sanctions on employers that discriminate based on gender (Criminal Code, 2011). The Labour Law provides for equal pay for equal work (Labour Law, 1997). Nonetheless, reports indicate that the salary scale is different for women and men and, according to NGO reports, the Government has not properly enforced equality of wages between women and men (NGO CEDAW and CAMBOW, 2011). Companies are not required by law to report on how they pay women and men.

There are no restrictions for women to enter certain professions or to work the same hours as men, including night hours.

The Labour Law provides that women are entitled to a maternity leave of 90 days and at 50% of the wage (Labour Law, 1997). Maternity leave is covered fully by the employer (Labour Law, 1997). Paternity or parental leave are not provided for. Employers are prohibited from firing women during their maternity leave or if the end of their notice period falls within their period of maternity leave (Labour Law, 1997). There are no provisions that prohibit employers from asking prospective or current employees about family status and intentions to have children. NGO reports suggest that a common practice in many industries is to fire women when they are pregnant in order to avoid paying maternity benefits (Cambodian NGO Committee on CEDAW, 2013).

By law, women are not required to have permission from their husband or legal guardian to choose a profession or work, or to register a business.

Although the Labour Law provides for the creation of labour courts with jurisdiction over labour matters, such courts have not yet been established.

The ILO has estimated that informal employment makes up 85% of the workforce in Cambodia (Cambodian NGO Committee on CEDAW, 2013). Employment continues to be characterized by gender divisions: most women in Cambodia are employed informally in domestic work, agriculture, fishing, forestry and small micro-enterprises, and are therefore not protected by the Labour Law (Cambodian NGO Committee on CEDAW, 2013).

## 4. Restricted Civil liberties

### a) Citizenship rights

The Constitution of Cambodia provides that all Cambodian citizens, women and men, have equal rights to nationality (Constitution of Cambodia 1993; Government of Cambodia, 2011). Under the Law on Nationality, women have the same rights to acquire, retain and confer their nationality to their children and, if married, to their spouse (Law on Nationality, 1996; Government of Cambodia, 2011). Marriage to a foreigner does not imply loss of Cambodian citizenship (Law on Nationality, 1996; Government of Cambodia, 2011).

There are no legal requirements to promote awareness of laws and policies that grant women the same rights as men to acquire, change and retain their nationality and to confer nationality to their spouse and children. There is no information that indicates that women's legal right to confer their nationality to their children and, if married, spouses, is a problem in Cambodia.

Married and unmarried women have the same right as men to register the birth of their children (Sub-Decree 103, 2000). The number of birth registration remains low in Cambodia. A civil registration campaign to enhance the number of registered births in the country was launched in 2004, deploying more than 13 000 people to mobilize communities to, amongst other, register births (UNICEF, undated). Two years later, almost 11 million people, accounting for 92% of the total population, had registered their births (UNICEF, undated). According to UNICEF, however, birth registration declined after the campaign had concluded. (UNICEF, undated).

In 2016, the UN Special Rapporteur on the situation of human rights in Cambodia expressed concern that ethnic Vietnamese and Khmer Krom communities who have lived in Cambodia for generations, albeit displaced during the armed conflict, face challenges with birth registration and identity cards (Special Rapporteur on the situation of human rights in Cambodia, 2016). In this regard, the Committee on the Rights of the Child urged the Cambodian Government to ensure the free birth registration for all, regardless of their parents' status and origin (CRC, 2011).

Women have equal rights as men to apply for identity cards (Sub-decree 36, 1996) and passports (Sub-Decree 68, 1994).

The national legal framework does not recognize or address multiple- or intersectional discrimination.

The Cambodian Constitution guarantees the equal right to travel outside and return to the country (Constitution, 1993). There is no information to suggest that women's legal right to leave and return to the country is an issue in Cambodia.

### b) Voting

The Cambodian Constitution provides for universal suffrage for all Cambodian citizens to vote if they have attained the age of 18 years (Constitution, 1993). The right to vote is curtailed for prisoners, people with mental defectiveness or under guardianship as specified by a letter from the competent ministry/institution (Government of Cambodia, 2014 (a)). There is no available information on the existence of measures to ensure that women understand the right to vote and how to exercise it.

In the context of the 2008 general elections, NGO reports indicate that women registered and voted at higher rates than men (COMFREL, 2011). Women with disabilities continue to face particular challenges to exercise their right to vote (COMFREL, 2011), with a recent survey suggesting that a significantly lower number of women with disabilities registering to vote and voting in comparison with women without disabilities (COMFREL, The Cambodian Disable People Organization and Handicap International Federation, 2010).

### c) Political voice

The Constitution establishes the right for both sexes, with a minimum of 25 years of age, to stand as candidates for the elections of the members of the National Assembly and, at 40 years of age, to run for political office in the Senate (Constitution, 1993).

There are no binding quotas to ensure the equal participation of women in politics (Government of Cambodia, 2014 (a)). However, with a view to increase the number of women in decision-making positions, the Government set a voluntary target of 25% of female representation in both civil service and political decision-making, to be achieved by 2015, as specified in the Cambodian Millennium Development Goals and the Government's five-year strategic plan (IV) for gender-equality and the empowerment of women 2014-2018 (known as the Neary Rattanak in Khmer). Nonetheless, according to NGO reports, the Government has not met these targets, and women continue to be under-represented in the political domain and the judiciary with little change being seen since 1999 (Joint Civil Society Report with the CCPR Centre, 2015). Similar concerns have been echoed by the Human Rights Committee which, in 2015, expressed concern about the low representation of women in political and public sectors, particularly decision-making positions (HRC, 2015). According to civil society reports, the low levels of female participation in politics is further compounded by current practices of political parties, where the majority of female candidates is placed on alternative candidate lists rather than on the titular candidate lists for elections (Joint Civil Society Report with the CCPR Centre, 2015).

The Government reports that challenges to increase women's political voice relate to discrimination against women which impacts their ability to be promoted and that women are often concentrated in sectors traditionally associated with women and at lower levels of government (Government of Cambodia, 2014 (a)). The absence of fast-track measures, such as quotas, is described as contributing to progress (Government of Cambodia, 2014 (a)). Civil society organizations have noted that in Cambodia, politics is considered to be a male job, and that generally held societal perceptions of women are that they are weaker and less competent than men (Joint Civil Society Report with the CCPR Centre, 2015). Women's access to the political arena is also hampered by preference for sons in terms of providing education (Cambodian Centre for Human Rights, 2013).

### d) Access to justice

The Cambodian Constitution and the Code of Civil Procedure recognize that women married and unmarried have the same rights and responsibilities as men in all aspects of court proceedings (Constitution of Cambodia, 1993; Code of Civil Procedure, 2007).

There are no specific references to the evidentiary weight of women's testimonies in courts. The legal framework does not include specific elements addressing women's exercise of her right to sue and

there is no information to suggest that civil and criminal procedural rules require that the particular interests of women and girls are taken into account.

There are no separate courts or tribunals to facilitate women's and girls' access to justice. USAID, in its comprehensive Cambodia Gender Equality Assessment, has noted that the formal justice system does not always provide for gender-sensitive justice which is still largely dependent on who is administering justice and who needs to use it (USAID, 2010).

According to USAID, the number of women working in the judicial system is still low (USAID, 2010). The low rates of women in the judicial sector has been noted to interlink with customary values and practices that are not encouraging women to speak out in public, let alone in front of a court (Van Der Keur, 2014).

Alternatives to formal courts include the Cadastral system for land disputes, councils at the local level and community leaders, however, as has been noted by USAID it is not clear how effective each alternative is in resolving issues that concern women (USAID, 2010). Limited access to legal aid or women has been noted as a particular concern (USAID, 2010). In 2014, the CEDAW Committee has expressed concern over lack of a comprehensive legal system which negatively affects women's access to justice, and the additional court expenses incurred by women due to corrupt practices (CEDAW, 2014).

There is no law or policy specifically addressing the situation of human rights defenders. The CEDAW Committee has expressed particular concern about the reported use of intimidation and harassment by law enforcement personnel against women human rights defenders advocating for land rights (CEDAW, 2014).

Cambodia has not established a specialized body tasked with monitoring gender equality. However, under the current five-year strategic plan for gender equality and women's empowerment, the Ministry of Women's Affairs, in partnership with other implementing ministries, institutions and development partners, committed to developing annual work plans together with the Department of Planning and Statistics. A review will also take place at an annual basis throughout the five-year lifespan of the strategy (Government of Cambodia, 2014 (b)).

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