

## CAMBODIA

### 1. Discriminatory family code

The new Civil Code sets the minimum **legal age of marriage** at 18 for both men and women.<sup>1</sup> In practice however, **early marriage** is widespread, with the 2010 Cambodian Demographic and Health Survey (DHS) finding that one-quarter of women in Cambodia aged 25-49 were married by age 18.<sup>2</sup>

Cambodian law grants men and women equal rights in terms of **parental authority**, although in traditional Cambodian culture, pregnancy and child care are the responsibility of women, who must also continue their normal duties in addition.<sup>3</sup> In the event of **divorce**, the civil code stipulates that the parents must reach a mutual agreement about the “parental power holder of the child”.<sup>4</sup> If an agreement cannot be reached, the courts must decide taking into account the child’s best interests when determining custody, but ensuring that the parent who loses custody has the right to visit and remain in contact with the children, and has the responsibility to pay child support.<sup>5</sup>

The Civil Code provides women and men equal **inheritance** rights both as daughters and widows.<sup>6</sup>

#### **More**

Although monogamous marriages are the only legally recognised form of union, informal polygamous unions are reported to exist in Cambodia.<sup>7</sup> However, **polygamy** is punishable by law.<sup>8</sup>

Women and men have the same rights to **divorce**, which can be requested by mutual consent, or on the basis of one or several of a list of acceptable grounds.<sup>9</sup> However, the law stipulates that women must wait 120 days after dissolution of a marriage before they can marry again, although there is no similar waiting period for men.<sup>10</sup>

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<sup>1</sup> The Civil Code of Cambodia (2007), Article 948

<sup>2</sup> DGH (2010), 4.

<sup>3</sup> NGO\_CEDAW (2011), p.42

<sup>4</sup> Civil Code, Article 1037

<sup>5</sup> Civil Code, Article 1037

<sup>6</sup> The Civil Code of Cambodia (2007), Article 2

<sup>7</sup> CEDAW\_NGO (2011)

<sup>8</sup> Law on Monogamy (2006)

<sup>9</sup> The Civil Code of Cambodia (2007), Article 978

<sup>10</sup> The Civil Code of Cambodia (2007), Article 948 (1)

## 2. Restricted physical integrity

In 2005, policy makers passed the Law on the Prevention of Domestic Violence and the Protection of Victims.<sup>11</sup> The law criminalises acts of **domestic violence** and allows courts to issue protection orders to protect victims from further violence; however it does not specify penalties.<sup>12</sup> While the introduction of the law was a positive step forward, implementation of this law remains extremely weak for a number of reasons.<sup>13</sup> The majority of Cambodian women are unaware of the law, given its limited dissemination and the high rate of female illiteracy in the country.<sup>14</sup> Enforcement of the law has been hindered by a lack of supporting infrastructure and services such as shelters, qualified lawyers, psychological support for victims, and judicial training programs.<sup>15</sup> And, while NGOs services are available to assist women victims of domestic violence, they mostly cover the larger cities, leaving women in the rural areas with limited options.<sup>16</sup> Further, the requirements to bring a case are often onerous and discouraging. Victims must have extensive documentation of their injuries in order to prove their case, and the costs of medical reports are prohibitively high for many.<sup>17</sup> Compounding all of these obstacles, the CEDAW Committee found that the general lack of public trust in the justice system, due to continued reports of corruption, and the negative attitudes of judicial officers and law enforcement personnel towards women victims of violence also impeded the effective prosecution of cases.<sup>18</sup> As a result of these barriers to accessing justice through the formal channels, the majority of cases are heard at the community level, where local reconciliation processes often discriminate against women with pressure applied inappropriately to continue living with a violent partner.<sup>19</sup>

A key challenge in Cambodia is the silence, acceptance and stigma around violence against women. The UN Committee on the Elimination of Discrimination against Women (CEDAW) Committee expressed concern in 2013 that the *Chbab Srey*, the traditional code of conduct for women, continues to define everyday life on the basis of stereotypical roles of women and encourage submissiveness: cultural stereotypes that it found perpetuated violence and discouraged reporting.<sup>20</sup> Indeed, national surveys reveal widespread acceptance of domestic violence. According to the 2010 Demographic and Health Survey (DHS), when provided with a list of five reasons for which a man may be justified in beating his wife, 46% of women agreed with at least one reason.<sup>21</sup> That survey also reveals that 22% of ever-married women (aged 15-

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<sup>11</sup> Law on the Prevention of Domestic Violence and the Protection of Victims (2005)

<sup>12</sup> Law on the Prevention of Domestic Violence and the Protection of Victims (2005), Articles 24-15

<sup>13</sup> NGO-CEDAW (2013), p.1

<sup>14</sup> CEDAW-NGO (2011), p.60

<sup>15</sup> CEDAW-NGO (2011), p.60

<sup>16</sup> NGO-CEDAW (2013), p.13

<sup>17</sup> CEDAW (2013), p.5

<sup>18</sup> CEDAW (2013), p.5

<sup>19</sup> NGO-CEDAW (2013), p.1

<sup>20</sup> DanChurchAid/Christian Aid (2009)

<sup>21</sup> National Institute of Public Health (2006), Table 20.7

49) have experienced physical, emotional, or sexual violence, most often by a current or previous husband, representing a 3% decline from 2000.<sup>22</sup>

While there have been recent improvements, rates and levels of acceptability of domestic violence remain extremely high in all levels of Cambodian society.<sup>23</sup> The Cambodian Human Rights and Development Organization reported that it received 388 reported cases of domestic violence during 2012.<sup>24</sup> However, real figures are difficult to determine, since intimate partner violence is significantly under-reported due to cultural taboos that tell women that they would bring shame and dishonour upon their families by speaking out.<sup>25</sup> Concerning prevalence of domestic violence, the 2005 Demographic and Health Survey found that 14% of women had experienced physical and/or sexual violence by an intimate partner in their lifetime.<sup>26</sup> Especially marginalized women are at an even greater risk. For example, a 2013 AUSAID research project found, that women with disabilities in Cambodia experience higher levels of controlling behaviours from partners, and significantly higher levels of all forms of violence (emotional, physical and sexual) from family members compared to other women.<sup>27</sup>

**Rape** is a criminal offence in Cambodia, with punishments of 5 to 10 years of imprisonment.<sup>28</sup> Marital rape is not specifically mentioned in the Penal Code. Marital rape could be included under 'sexual aggression' in the domestic violence legislation; however, the strength of these provisions is limited by the fact that there are no penalty provisions attached.<sup>29</sup> In recent years the Government has taken several positive steps to improve the legal framework on sexual assault. The 2010 Criminal Code has strengthened the wording of the previous law on rape,<sup>30</sup> and the government has launched a second National Action Plan to Prevent Violence on Women (2014-2017), as guidance for further policy interventions. In practice however, Cambodia suffers from relatively high rates of rape, which has been linked to a wide spread social acceptance of female submissiveness, and the stigmatization of victims.<sup>31</sup> The Cambodian Human Rights and Development Organization reported that it received 313 reports of rape during 2012. Of these, 71 were tried by the courts and 21 mediated by the courts or police, with the remainder awaiting trial.<sup>32</sup> However, these numbers may not reveal the full picture: the US Department of State reported that cases are unlikely to be representative of the prevalence of rape due to under reporting.<sup>33</sup> Civil society groups have also noted that the incidence of gang rape appears to be increasing both among sex workers and women in general.<sup>34</sup> A 2013 UN study on attitudes

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<sup>22</sup> DGH (2011)

<sup>23</sup> NGO-CEDAW (2013), p.1

<sup>24</sup> US State Department (2013)

<sup>25</sup> CEDAW-NGO, p.59

<sup>26</sup> OECD (2014), Gender, Institutions and Development Database, <http://stats.oecd.org>

<sup>27</sup> AUSAID (2013)

<sup>28</sup> Criminal Code of the Kingdom of Cambodia (2010), Art 239.

<sup>29</sup> Law on the Prevention of Domestic Violence and the Protection of Victims 2005, Article 7,

<sup>30</sup> NGO-CEDAW (2011) pp.66 – 67

<sup>31</sup> UNIFEM (2004).

<sup>32</sup> US State Department (2013)

<sup>33</sup> US State Department (2013)

<sup>34</sup> CEDAW-NGO (2011); UNDP, UNFPA, UN Women and UNV (2013), p.48

to rape in Cambodia revealed the following percentages of men surveyed who admitted to have committed rape in their lifetimes: 20.8% had committed rape of partner, 8.3% committed non-partner rape in their lifetime, while 5.2% admitted to participating in a gang rape.<sup>35</sup> The most common motivation cited was sexual entitlement, followed by punishment.<sup>36</sup> Moreover, a large proportion of men reported that they were younger than 15 years at the time they first perpetrated rape.<sup>37</sup>

Implementation of the law is also hampered by high costs. For example, a 2007 Government study found that forensic examinations – often crucial in rape cases – cost about two weeks’ average income in rural areas.<sup>38</sup> Consequently, many perpetrators of gender-based violence are allowed to settle their cases with a small payment to the victim or their family in exchange for the complaint being withdrawn.<sup>39</sup>

**Sexual harassment** and indecent behaviour in the workplace are prohibited by Article 172 of the Cambodian Labour Law; however the effectiveness of these protections is undermined by the fact that no penalties are specified.<sup>40</sup> The International Labour Organization (ILO) continues to consider that sexual harassment is a problem in Cambodia, citing a 2012 study which found that the predominantly male power structure in factories are conducive to sexual harassment, with one in five garment workers having experienced sexual harassment in the sample surveyed.<sup>41</sup> The US State Department reported that there were no arrests or prosecutions for sexual harassment in 2012.<sup>42</sup>

There are no reports that **female genital mutilation** (FGM) is practiced in Cambodia.

### *More*

**Trafficking** and kidnapping for purposes of sexual exploitation is reported to be a significant problem in Cambodia.<sup>43</sup> According to the US State Department’s 2013 Trafficking in Persons Report, efforts to combat trafficking are said to have slowed from the previous year.<sup>44</sup> There are also a very large number of child prostitutes, thought to account for 35% of all of those working in the sex industry.<sup>45</sup> Cambodia has enacted a number of laws and policies to combat the trafficking and exploitation of women and children, including a revision of the Law on the Suppression of Human Trafficking and Sexual Exploitation in 2008.<sup>46</sup> However, the implementation of the legislation remains largely ineffective<sup>47</sup> and does not fully comply with

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<sup>35</sup> UNDP, UNFPA, UN Women and UNV (2013), p.40

<sup>36</sup> UNDP, UNFPA, UN Women and UNV (2013), p.42.

<sup>37</sup> UNDP, UNFPA, UN Women and UNV (2013), p.43

<sup>38</sup> Yrigoyen, F., et al., (2007)

<sup>39</sup> Cambodian NGO-CEDAW Committee (2013), p.1.

<sup>40</sup> Labour Law, amended 20 July 2007, Article 172

<sup>41</sup> International Labour Organization (ILO) (2012)

<sup>42</sup> US State Department (2013)

<sup>43</sup> CEDAW (2013), p.6: CEDAW-NGO (2013), p.65

<sup>44</sup> US Department of State (2013b)

<sup>45</sup> Children/Youth as Peacebuilders (2009), p.90

<sup>46</sup> Royal Kram NS/RKM/0208/005 on the Suppression of Human Trafficking and Sexual Exploitation.

<sup>47</sup> CEDAW (2013), p.6

the Trafficking Victims Protection Act's minimum standards for the elimination of trafficking.<sup>48</sup> According to NGO reports, the law has a harsher impact on the victims than on the perpetrators, who often avoid prosecution due to corruption and bribery.<sup>49</sup> In 2012, only 23% of those accused of sex trafficking crimes were arrested.<sup>50</sup>

**Abortion** is available on request in Cambodia.<sup>51</sup> Women have the legal right to access contraception and information about reproductive health and family planning, but cost and geographical location often limit access.<sup>52</sup> According to the 2010 Demographic Health Survey, 35% of married women are using a modern method, which amounts to a substantial increase from 27% in 2005.<sup>53</sup> The survey also found that 17% of married women have an unmet need for family planning.<sup>54</sup>

### 3. Son bias

The male-to-female sex ratio at birth in 2013 is 1.05 and for the working age population (15-64 years old) is 0.93.<sup>55</sup>

There is no evidence to suggest that Cambodia is a country of concern in relation to **missing women**.

#### *More*

Of those children under two years old that are included in the 2010 Demographic and Health Survey (DHS), 80.5% of girls and 77.1% of boys had received all their basic vaccinations.<sup>56</sup> Under-five mortality rates were higher for boys than for girls, although rates of malnutrition were virtually the same.<sup>57</sup> Overall, this would not indicate son bias in regards to early childhood care. UNICEF reports that primary school enrolment rates were almost identical.<sup>58</sup> However, these numbers drop at secondary level. A large number of rural areas do not have public secondary schools, and students must migrate to urban areas to continue their education, which many families do not consider to be an acceptable option for their daughters.<sup>59</sup> Even where girls are accommodated, dropout rates among females remain significant at the secondary and tertiary levels, which the Government attributes to poverty, late school entry and teenage pregnancies.<sup>60</sup>

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<sup>48</sup> US State Department (2013b)

<sup>49</sup> CEDAW-NGO (2011)

<sup>50</sup> US State Department (2013b)

<sup>51</sup> UN (2011)

<sup>52</sup> US State Department (2013)

<sup>53</sup> DGH (2011), 6

<sup>54</sup> DGH (2011), pp. 6-7.

<sup>55</sup> CIA (2013)

<sup>56</sup> DGH (2011), Table 13.3.

<sup>57</sup> DGH (2011), Tables 11.3 and 14.1

<sup>58</sup> UNICEF

<sup>59</sup> CEDAW (2013), p.11

<sup>60</sup> CEDAW (2013), p.7

#### 4. Restricted resources and assets

Cambodian women have equal rights with men to **land** and **non-land assets**. The Sub Decree on Social Land Concessions stated that, “[i]n order to ensure the land policy responds to all citizens’ needs, such policy must respond to women’s needs, especially women heads of household.”

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. The government reports that it has implemented the Land Titling Programme, issuing land titles to citizens, with three-quarters of the land titles issued in rural areas. As a result, from 2002 to 2007 this programme distributed 1.6 million parcels of land. Of this, 70% is common property, 20% is the private property of women, 5% is the private property of men and the other 5% is the collective property of pagodas.<sup>61</sup> Another reform was put in place in 2012 through the Government Order 001. The land titling process was rendered quicker and faster than before through individual land titling. The results of this new policy are yet to be determined.<sup>62</sup>

The Royal Government has made efforts to mainstream gender concepts into the land reform laws and policies. Yet some concerns remain about women losing opportunities to legitimately register and occupy their land. Many factors influence this issue, including women’s lack of education and limited access to accurate information regarding land registration. The problem is compounded by a lack of information relating to divorce procedures, residence desertion, and the customary attitude that perceives men as the head of household with exclusive rights to control and manage all of the family’s property.<sup>63</sup> Local NGOs report that the land titling process has been particularly slow for ethnic groups living in rural areas.<sup>64</sup> The UN Committee on the Elimination of Discrimination against Women (CEDAW) also expressed its concern that women are subjected to displacement and eviction owing to large-scale land concessions and urban development; and that relocation sites provided to victims of eviction frequently lack basic infrastructure and access to essential services, such as water, sanitation and basic health care, which affects women disproportionately.<sup>65</sup>

Women’s rights to **non-land assets** are currently governed by provisions in the Civil Code which makes a distinction between joint property (i.e. that acquired or bought during the marriage) and separate property (i.e. that owned by either spouse before the marriage).<sup>66</sup> Separate property can be managed and disposed of independently by its owner; decisions over joint property require agreement of both spouses. Many women choose to leave their husbands in charge of most matters related to property ownership, meaning they effectively lose their rights over joint property, placing them at a distinct disadvantage in the event of divorce.<sup>67</sup> A 2006 USAID study reports that limited awareness of their rights – coupled with poor access to legal

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<sup>61</sup> CEDAW (2011)

<sup>62</sup> Star Kampuchea (2013)

<sup>63</sup> NGO-CEDAW (2011), p.52

<sup>64</sup> NGO\_CEDAW (2011), p.8

<sup>65</sup> CEDAW (2013), p.11

<sup>66</sup> Civil Code, articles 969-977

<sup>67</sup> CEDAW (2004), p. 75, 78-79

aid and advice – makes women more vulnerable in contractual affairs, including when others make claims on their land.<sup>68</sup>

Women officially have equal rights in respect of other non-land assets also. However, in practice women generally have less power to make spending, employment, and family-related decisions than men<sup>69</sup>, which may be both a cause and a consequence of women’s limited participation in the formal economic sector - with only 17% of Cambodian women employed for remuneration.<sup>70</sup> The literacy rate of employed women is only 69%, compared to 84% for men: a gap that also strongly influences employment opportunities for women.<sup>71</sup> Some NGOs also report that women are generally socially perceived as incapable of running businesses or managing money in any large capacity.<sup>72</sup>

The new Civil Code provides women with equal rights to **financial services**, including bank loans. In addition, the Government introduced a micro-credit program specifically designed to assist rural populations with economic development, for which women are encouraged to apply.<sup>73</sup> However, limited access to information often makes it difficult for women to benefit from these micro-credit initiatives.<sup>74</sup> For example, although the creation of Village Credit Committees was a positive measure intended to provide access to small-value loans to poorer women, including widows and victims of domestic violence, NGOs have observed that poor women who have received small loans seem to be increasingly swamped in debt.<sup>75</sup>

## 5. Restricted civil liberties

Legally, women in Cambodia are not restricted in accessing **public space** and do not have to obtain permission from their husbands or fathers to apply for a passport.<sup>76</sup> The right to freedom of speech, assembly and association are frequently violated in Cambodia, according to Freedom House.<sup>77</sup> It appears that there are many women’s rights groups active in Cambodia, working on a wide range of issues.<sup>78</sup> However, women human rights defenders are reporting increased reprisals for their work. Land disputes increased sharply in 2012, with women often in the forefront of protests and suffering abuse and imprisonment alongside loss of land and livelihoods.<sup>79</sup> Additionally, research shows that many women are fired from their jobs, particularly in the garment industry, once they join a labour union.<sup>80</sup>

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<sup>68</sup> USAID (2006), Vol. 1, pp. 19-20.

<sup>69</sup> Cambodian Centre for Human Rights (2013),

<sup>70</sup> NGO\_CEDAW (2011), p.48

<sup>71</sup> NGO\_CEDAW (2011), p.48

<sup>72</sup> NGO-CEDAW (2013), p.7

<sup>73</sup> Government of Cambodia (2010)

<sup>74</sup> CEDAW (2004), pp. 69, 73.

<sup>75</sup> NGO-CEDAW (2011), p.55

<sup>76</sup> CEDAW 2011, p. 49

<sup>77</sup> Freedom House (2013)

<sup>78</sup> CEDAW (2004), pp.19, 23, 33, 35

<sup>79</sup> NGO-CEDAW (2013), p.4

<sup>80</sup> NGO-CEDAW (2013b), p.8

The Constitution guarantees Cambodian women full equality and political rights<sup>81</sup>, but traditionally women have played a very small role in public life.<sup>82</sup> There is no **quota** for women at the national or sub-national levels. In November 2013 women held 25 of 123 seats in national parliament (20.3%).<sup>83</sup> Currently, there are several women in senior government positions, including: one deputy prime minister (among nine in office), two ministers (Minister of Women's Affairs; and Minister of National Assembly, Senate Relation and Inspection), 14 secretaries of state and 29 undersecretaries of state.<sup>84</sup> Approximately 20% of civil servants are female, short of Government's stated goal of 50 percent.<sup>85</sup>

The Government of Cambodia has taken a number of steps in recent years to increase the participation of women in local political decision-making roles, including appointing women as Deputy Governors in all but one of twenty-four provinces and municipalities; and stipulating that sub-national councils should ensure representation of women in all committees – including as chairpersons and deputy chairpersons.<sup>86</sup> However, civil society groups have reported that women village chiefs are often unable to work effectively due to lack of cooperation from male colleagues.<sup>87</sup> The Cambodian Center for Human Rights has also noted that it is common, during local elections, for political parties to list female candidates towards the bottom of the ballot to ensure that they are not elected to positions with power.<sup>88</sup> However, a UN Women partnership with women's NGO's in the lead-up to the commune elections in 2007 provided training for female candidates as well as training on voter's awareness of the importance of women's representation in politics; as a result, 2007 female candidates rose to 21% from 15% in 2002 and 15% got elected, as opposed to 8.5% in the previous elections.<sup>89</sup>

Outside of politics, very few women occupy positions of power and authority in business and the civil service, or security agencies.<sup>90</sup>

### ***More***

The Labour Law guarantees 90 days of paid **maternity leave** for employed women at half their wages, with benefits paid solely by the employer.<sup>91</sup> However, since the vast majority of female workers are in unwaged or low-skill informal employment, these benefits are not available to them. Further, permanent civil servants and domestic or household workers are not covered by maternity legislation.<sup>92</sup>

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<sup>81</sup> The Constitution of the Kingdom of Cambodia, Articles 31 and 34

<sup>82</sup> NGO-CEDAW (2013), p.34

<sup>83</sup> IPU (2013)

<sup>84</sup> NGO-CEDAW (2013b), p.6

<sup>85</sup> NGO-CEDAW (2013b), p.6

<sup>86</sup> NGO-CEDAW (2011), p.26

<sup>87</sup> NGO-CEDAW (2011), p.26

<sup>88</sup> Cambodian Center for Human Rights (2013), p. vii

<sup>89</sup> UN Women (n.d.),

<sup>90</sup> US Department of State (2013)

<sup>91</sup> Labour Law, amended 20 July 2007, Articles 184-185

<sup>92</sup> Labour Law, amended 20 July 2007, Article 1

Like men, women can pass on Cambodian **citizenship** to their children.<sup>93</sup>

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<sup>93</sup> Civil Code, Article 987

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