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Cambodian Center for Human Rights

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2017 Mid-term UPR National Consultation Outcome Report

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Cambodian Center for Human Rights

The Cambodian Center for Human Rights ("CCHR") is a non-aligned, independent, non-governmental organization ("NGO") that works to promote and protect democracy and respect for human rights – primarily civil and political rights – throughout the Kingdom of Cambodia ("Cambodia"). CCHR's vision is of a non-violent Cambodia in which people can enjoy their fundamental human rights, are empowered to participate in democracy, and share equally the benefits of Cambodia's economic development. CCHR promotes the rule of law over impunity, strong institutions over strong men, and a pluralistic society in which variety is welcomed and celebrated rather than ignored and punished. CCHR's logo – a dove flying in a circle of blue sky – represents the twin principles of peace and freedom.

This Outcome Report summarizes presentations, panel discussions and small group discussions undertaken during the Mid-Term Universal Periodic Review National Consultation on 29 and 30 June 2017 co-organized by CCHR, the Office of the United Nations High Commissioner for Human Rights ("OHCHR") in Cambodia, the Cambodian Human Rights Committee ("CHRC"), UPR Info based in Geneva and the International Commission of Jurists ("ICJ") (together, the "co-organizers").

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Queries and Feedback

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Contents

Introduction

Consultation Background

In June 2014, the Human Rights Council (the "HRC") of the United Nations ("UN") convened for its 26th session. During this session, the Report of the Working Group [1] of the Kingdom of Cambodia ("Cambodia")'s second Universal Periodic Review ("UPR") was formally adopted. Of the 205 recommendations made to the Royal Government of Cambodia (the "RGC") by other UN member States, the RGC accepted 163 and noted the remaining 42.

The UPR is an important method for assessing the human rights record of a specific State. As it is a peer evaluation, where other UN Member States conduct the review, it is seen by many as a fair and equal assessment process. The UPR is a non-binding process. Nevertheless, by choosing to accept recommendations, a State is making a commitment on the international stage to implement them within the five years of the UPR cycle. It has become customary practice for States to submit "Mid-Term Reviews" to the HRC half way through their UPR cycle. This submission is voluntary, and the RGC decided not to submit a mid-term review during its second UPR. Because this is an informal mechanism, civil society may decide to conduct a mid-term review of its own accord, with or without the State's participation. This Consultation Workshop was organized by the Cambodian Center for Human Rights and other civil society partners in order to review Cambodia's progress in respect of the its second UPR. Despite the fact that the RGC chose not to submit a mid-term UPR report, the RGC nevertheless participated in this mid-term UPR Consultation Workshop, via the Cambodian Human Rights Committee (the "CHRC") and the Ministry of Justice (the "MoJ").

On 17 and 18 July 2014,[2] CCHR and the Office of the High Commissioner for Human Rights ("OHCHR") organized a post-UPR National Consultation and Advocacy Workshop in Phnom Penh, Cambodia. This Consultation aimed at introducing NGOs to the UPR process and to strategies to participate in this process. Participants discussed the recommendations and decided which ones should be considered as short-term, medium-term and long-term priorities. Three years later, CCHR, OHCHR, CHRC, UPR Info, and ICJ organized a National Consultation and Assessment Workshop in the context of Cambodia's mid-term UPR review. It took place on 29 and 30 June 2017 in Phnom Penh. Invitees were

[1] Human Rights Council, 'Report of the Working Group on the Universal Periodic Review' (27 March 2014), http://bit.ly/1Ajhusn

[2] CCHR, 'CCHR and OHCHR to host Post-UPR National Consultation and Advocacy Workshop (Media Alert) (16 July 2014), http://bit.ly/1vQg9uq

predominantly from NGOs focused on economic, social and cultural rights, freedom of expression and freedom of assembly, land rights, legal and judicial reform, and women's and children's rights as well as representatives from CHRC and the Ministry of Justice.

Objectives

The mid-term Consultation Workshop was an opportunity for both the RGC and NGOs working in varied but equally important human rights fields to come together and evaluate the progress on implementation of UPR recommendations as well as to gain more knowledge about the UPR process through presentations and panel discussions, and to discuss their own ideas for monitoring and advocating for Government implementation.

Proceedings

I. Opening Remarks

Mr. Chheat Sreang, Member of Board of Directors of the Cambodian Center for Human Rights (CCHR)

Mr. Chheat Sreang opened the event with welcoming remarks. He highlighted the functions and advantages of the UPR system and reminded that this mechanism allows CSOs to contribute to the realization of human rights in their respective countries. He discussed the UPR process in Cambodia and the actions taken following the last two reviewing cycles. Mr. Chheat Sreang then pointed out the goals of the two-day National Consultation: getting more input and recommendations for future actions and improving the human rights situation in Cambodia. He outlined the program of the first day of the workshop. The topics to be covered were progress made so far, the realization of the UPR in Cambodia and the role of CSOs in realizing them. Mr. Chheat Sreang concluded by noting the importance of promoting the UPR to the general public in order to foster participation of people regarding respect, protection and promotion of their human rights.

Ms. Marie-Dominique Parent, Deputy Representative, Office of the United Nations High Commissioner for Human Rights in Cambodia (OHCHR)

Ms. Marie-Dominique Parent welcomed all participants and thanked CCHR for facilitating the workshop. She emphasized that the UPR represents a global assessment of human rights in Cambodia and are fundamental to improve respect for human rights in the country. Ms. Parent also stressed that the realization of the UPR requires efforts from everyone involved (civil society, development partners, public), even if the Government has the last word. According to her, this particular workshop was exemplary of broad stakeholder involvement, as it gathered participants with different roles and mandates that share the same goal: to improve human rights.

Ms. Parent further pointed out that Cambodia would be up for review by the Human Rights Council in 2019. It will then have to show what it has done to implement the recommendations from the previous review. Therefore, the purpose of this workshop was to set us on the path to assess the state of implementation and identify the recommendations toward which no action had been taken yet or toward which improvement was still needed.

She urged the Government to work together with CSOs to achieve the implementation of the recommendations by 2019. Furthermore, she asked civil society to help the Government with its own submission and to see what more can be done to achieve additional recommendations. Ms. Parent reminded that the participation in the UPR process, despite being voluntary, represents an important tool of the Human Rights Council to achieve compliance with human rights.

Mr. H.E Keo Remy, Chairperson of the Cambodian Human Rights Committee (CHRC)

H.E Keo Remy expressed his gratitude for the collaboration of CSOs and UN bodies and thanked CCHR for organizing the UPR workshop. He emphasized the importance of a close collaboration between

the Government and civil society and asked for the continuation of a culture of dialogue to promote human rights in Cambodia.

H.E Keo Remy referred to the UPR process as a key mechanism to take note of the human rights situations in UN member states and to monitor their development. He mentioned the fact that Cambodia did not turn in a midterm report but stressed that its Government is working on human rights promotion. He underlined the important role of technology and the Internet as well as social media with respect to human rights and urged to learn from other countries.

H.E Keo Remy then encouraged CSOs to keep a good relationship with the Government. He also emphasized that only actions that are in line with existing legal provisions can be accepted, and that freedom of expression ends where it limits peace and stability. H.E Keo Remy further commented on women's rights and on Government policies to improve the situation of girls by building schools close to every home. Moreover, he pointed out Cambodia's efforts in strengthening LGBTIQ rights.

With regard to social media and open Internet access in Cambodia, H.E Keo Remy stressed that Cambodia is a very open country but that freedom of expression is given as long as it does not infringe on the rights of others. He concluded with a call to further peace and stability, warning that war is always a disaster for human rights and therefore needs to be avoided at any cost.

II. "Introduction to the UPR process"

Presentation by Mr. Hans Fridlund, Program Manager at UPR Info

Mr. Hans Fridlund recommended visiting www.upr-info.org, which offers a lot of information about the UPR process. Under this voluntary mechanism, the human rights situation of all UN Member States is reviewed every five years. The UPR is a long lasting process. Therefore, it does not apply

to urgent human rights situations. He explained the objectives of the UPR. Among others, the UPR seeks to (1) improve the human rights situation on the ground, (2) share best practices among States and other stakeholders, and (3) support cooperation to promote and protect human rights.

Mr. Fridlund then described some aspects of the UPR itself. During the Review, the State under consideration is represented by a state delegation, often led by a minister. OHCHR has set up a Voluntary Fund to which Least Developed Countries (LDCs) and Small Island Developing States (SIDS) can apply for financial resources in order to support their respective delegation travelling to Geneva in order to participate the review. During the discussions, any UN Member State can pose questions, comments and/or make recommendations to the State under review. In the case of Cambodia's 2nd UPR cycle, 76 states made a total of 205 recommendations. This was very typical, with an average of 200 recommendations per review in the case of other countries. Furthermore, many States make the same or very similar recommendations. As a consequence, once clustered, there are not as many recommendations as it seemed at first.

Mr. Fridlund remarked that the top three areas for recommendations relate to (1) international instruments, (2) women's rights, and (3) children's rights. This is mainly because these issues are internationally regarded as less political and less controversial. This could explain why Cambodia accepted almost 80% of all recommendations. This is a very positive sign, but acceptance means little if no concrete steps are taken.

With regard to the implementation of the recommendations, Mr. Fridlund pointed out that the UPR has triggered positive outcomes. 48% of all recommendations and 19% of noted recommendations of the first cycle of the UPR were either fully or partially implemented.

Mr. Fridlund then gave examples of good practices for UPR mid-term reporting:

- Broad CSO coalitions
- Report on all recommendations
- Joint reporting
- Involvement of national CSOs
- Validation meetings
- Press conferences
- Translations
- Briefing of Government, diplomatic and donor community
- Oral statement at the Human Rights Council

He concluded by giving an insight into the advocacy cycle surrounding the UPR. Involvement of states can be at any step of the UPR process, but formal deadlines should be identified in order to work in advance. The state under review should take action through national consultations and the implementation of the recommendations. The recommending states play a role within reviewed countries via embassies and in Geneva via permanent missions. They should participate in pre-sessions and monitor and support the implementation of the recommendations.

Questions

A number of questions were put forward at the end of the presentation, including the following:

- Why does the UPR take place every 5 years?
- How can Government and CSOs work effectively together?

Responses

Regarding the length of a UPR cycle, Mr. Fridlund highlighted the fact that the UPR is a big operation that requires a lot of time. The Human Rights Council decided that five years would give enough time to review all states and allow them to implement recommendations. Even if recommendations are not time bound, it is understood that they should be implemented before the next review.

With respect to the cooperation between Government and CSOs, Mr. Fridlund answered by referring to the example of Kenya. In this case, CSOs had released a document explaining in detail what they expected from the Government and how they would measure implementation. The document became a blueprint for the guidance of the implementation of recommendations. Civil society needs to be a constructive voice in the UPR and prepared to work together with all stakeholders.

III. Panel Discussion: "Progress and Challenges in Implementing of UPR Recommendations"

Moderated by Mr. Piseth Duch, Advocacy Director, CCHR

Panelists:

1- Ms. Claudia de la Fuente, Human Rights Officer at OHCHR
2- H.E. Chin Malin, Undersecretary of State at the Ministry of Justice
3- Mr. Zachery Lampell, Legal Advisor – Freedom of Expression, The International Center for Not-for-Profit Law (ICNL)
4- Mr. Seung Sankaruna, Senior Investigator at ADHOC

Three themes were raised during the panel discussion:

- Does OHCHR have any mechanisms to track the implementation process of the UPR?
- Do the three recently adopted laws (LANGO, TUL and the amendments to the Law on Political Parties ("LPP")) have a negative impact on the implementation of the recommendations?
- Independence of the judicial system

First, OHCHR does not have a mechanism to track implementation. So far, OHCHR worked with CHRC so that they can coordinate with the rest of the Government to gather the information needed to implement the recommendations.

Second, the three recent legislative changes (LANGO, TUL and amendments to LPP) have been criticized by civil society organizations on the basis that they restrict fundamental freedoms significantly. The UPR is a good opportunity to correct these flaws and abide by the number of recommendations that suggest improving the legal framework that affects fundamental freedoms.

Third, it was noted that Cambodia's judicial system has received widespread and longstanding criticism for its perceived lack of independence. Furthermore, human rights defenders and land activists are discriminated against. Despite the many recommendations accepted by Cambodia on that matter, protection mechanisms for human rights defenders are non-existent in practice. They are often accused of being part of the opposition if they criticize the Government, which restricts the fundamental freedoms of communities and the general public.

Questions

A number of questions were put forward by the moderator and the participants, including the following:

- What can we do to make national and subnational levels work together to implement laws correctly?
- Are judicial decisions politically motivated?
- With respect to the past elections and the upcoming elections, what should the Government do?

Responses

Responses by H.E. Chin Malin, undersecretary of state, Ministry of Justice:

- With respect to the effective implementation of law between national and subnational levels, this is a good question. In general, in the policymaking process, there is policymaking and policy implementation. Sometimes, policymaking is good but implementing that policy fails because of different understandings, on the one hand, and a lack of understanding of implementers on the other hand. Sometimes, only national level actors, who makes that policy alongside international experts, understands it well, while the lower level does not understand the policy and some policies do not reflect our country's situation.

- In general, we have some issues with policy making as well as our legal framework since we didn't involve all relevant stakeholders in the process of creating them. Actually, in order for

everyone including grassroots level to understand the law consistently, they need to be involved in the process from the start of the zero draft. Both implementers and policy- and law- drafters need to involve from the start to ensure consistent understanding. Then, we need some time to explain that policy and law further to implementers because of their different level of understanding as well as different social and political environment of those implementers.

- Therefore, once all parties have understood the law, there will be no problem in terms of implementation after it was promulgated. Once the law had been already adopted, then circulating or raising awareness, that would be difficult as some law or policy are written by foreign experts who incorporated concepts from modern countries. When such law has been applied in Cambodia, only those who have higher knowledge in legal field can understand it, but others can misunderstand including law enforcement officer. For instance, after reviewing the four Cambodian codes (also relevant to UPR recommendations), including Criminal Code and Criminal Procedure Code (a model of France) and Civil Code and Civil Procedure Code (a model of Japan), we found that these codes have minor errors in the stage of drafting due to our resource constraints, so we hired international experts to write the codes and concepts of which were extracted from modern counties that failed to reflect the real situation of Cambodian society.

- As such, in order for avoidance of misunderstanding and for properly implementing of the laws, some content should be revised to make it simpler, and in addition to this, there must be wide disseminating to the public and relevant stakeholders for their equal understanding of the law. That why the Ministry of Justice, whose role is to draft legislation, conducts training sessions relevant stakeholders including attorneys, judicial police, judge, prosecutor and journalists.

- Responding to politically motivated judicial decisions, it appears that the public have voiced opinions like this too, but some are right and some are not because they didn't understand the legal procedure. Actually, some cases were complicated and take a long time and some cases are completed quickly based on the type of each case. Some people failed to review provisions and judicial procedures but analyze based on an individual status. They should look at provisions of the law and judicial procedures rather than looking at an individual's status. However, it should be recognized that some of these opinions might be sometimes correct, but not all the time. We cannot compare one case with another case because some cases are complicated that need to have more time to investigate since relevant persons, evidence and legal issues are different. However, in order to ensure justice there should be a standard practice although nowadays the decision was made by judge's discretion based on legal procedures and actual evidence. We cannot force judges to speed up any case because they follow procedures and they render judgment based on evidence, witnesses, and legal provisions.

Responses by Mr. Zachery Lampell, Legal Advisor – Freedom of Expression, the International Center for Not-for-Profit Law (ICNL):

- With regard to the effective implementation of law, it is noted that UPR recommendation number 118.111 by Australia recommended to fully respect in law and practice the freedom of assembly, to be consistent with international law.

- In addition to clear legal articles, a three-way approach is necessary to facilitate the implementation of the laws:
    - Education - so that all stakeholders understand what the laws say and how they should be implemented.
    - Monitoring - from both civil society and Government or joint initiatives to make sure the laws are not being misused.
    - Discipline / enforcement measures - if authorities are not following the laws that are transparent.

- Another example, Washington D.C a couple of years ago had many issues related to freedom of assembly, there were number of the court cases and the court found the police forces in Washington D.C violated the human rights of residents based on freedom of assembly. The authorities then took part in education and training with police officers through cooperation with civil society.

Responses by Ms. Claudia de la Fuente, Human Rights Officer at OHCHR:

- In response to the effective implementation of law among subnational and national level, it would help with implementation of the law if the laws themselves were clearly drafted. While some come from modern countries and translation itself is not easy because the term in Khmer might not exist, it is very important when drafting and revising laws to make sure that each article is clear and that there is no term that can be subjective in implementation. Otherwise when you get this to the subnational level there might different interpretation and application of the law.

- With regarding the role of politics in judicial decision-making, it is important to highlight that each case is unique and complex. In some cases, the complaint of the public is justified. In others, a case can appear politically motivated simply because of the complexity of its legal process. Some cases are faster than others and further delay can be due to the increasing number of prosecutions. Nevertheless, the Ministry of Justice needs to reduce pre-trial detention and speed up processes.

- With respect to what should the government do with respect to the elections, we don't do electoral monitoring per se at OHCHR, but we did monitor the human rights situation around the election, and one observation we noted with concern was the use of judicial system against members of opposition and some civil society officers in the year prior to the election. That is something that is still a concern to us and another element of concern to us is some of the speeches that were used by high level government officials calling for violence for warning

of possible war if the opposition party win the election. This rhetoric can hamper to people's right to vote freely.

- For next year's elections, Government should stop seeing civil society as the enemy. It needs to accept criticism and take recommendations and requests seriously. Judicial measures against the political opposition and civil society actors should not be used. Furthermore, Government officials should stop calling for violence and civil war if the opposition party were to win the elections.

Responses by Mr. Seung Sankaruna, Senior Investigator at ADHOC:

- In relation to concerns of politically motivated judicial decisions, it has been generally observed that the rights to freedom of expression and assembly have suffered a decline, and even education about human rights and laws have also been hindered, in the wake of the national election in 2013. Furthermore, the courts haven't demonstrated significant independence in terms of rendering decisions, in particular cases related to land rights activists who have been unfairly convicted. So far, the Government hasn't introduced any strategy in response to the recommendations made by UN member states relevant to protecting the rights of human rights defenders. For instance, the case of the ADHOC's human rights defenders who have been imprisoned for one year. Therefore, the Government should review the received recommendations and strengthen their implementation efforts.

IV. Panel Discussion: "Developing a Strategic Advocacy Plan for Monitoring the Implementation of UPR Recommendations"

Moderated by Kingsley Abbott, Senior International Legal Advisor for Southeast Asia, Asia Pacific Programme, International Commission of Jurists
Panelists:

1- Mr. Hans Fridlund, Program Manager at UPR Info,
2- Ms. Chak Sopheap, Executive Director of the Cambodian Center for Human Rights,
3- Mr. Phan Phorp Barmey, Senior Manager at Advocacy and Policy Institute

The panel discussion first mentioned the different steps that should be taken by Cambodia to monitor the implementation of the recommendations. First, the link between the local and the global level should be strengthened. Indeed, monitoring happens thanks to countries sharing human and financial resources. UPR is a state-driven process and the role of civil society is to help them. Second, Cambodia should make the most out of the midterm stage of the UPR. It is a good time to reflect on achievements and to look forward to what still has to be done. Third, vague recommendations should be avoided, as they are very difficult to monitor. Monitoring will be facilitated by advocacy for precise recommendations.

The panel discussion then commented on the strategies that should be developed by civil society to monitor the implementation of the recommendations. Five main categories of strategies were distinguished by Ms. Chak Sopheap, Executive Director of CCHR, and Mr. Phan Phorp Barmey, Senior Manager at API.

1°/ Lobbying of States

- Through diplomats in Cambodia
- Diplomats are busy and it is important to keep it as precise and simple as possible to give them an idea on the recommendations they have to make in order to give a useful contribution to the UPR mechanism in Cambodia.
- Make reviewing of reports as easy as possible by including executive summaries or factsheets that contain the most important key findings of a report. This helps diplomats to put pressure on the Governments to achieve human rights goals.

2°/ Submissions to the UN

- Submit shadow reports to UN Human Rights Bodies
- Do more advocacy work at the Human Rights Council in Geneva

3°/ Collaboration among CSOs

- Try to fully understand the complex UPR mechanism
- Better collaboration of CSOs is needed. Each CSO can contribute to a larger submission of a joint civil society report. CSOs need to be working collectively to monitor UPR implementation.
- Find more scientific strategies for an evidence-based evaluation of the implementation
- Find gaps and areas that need improvement and formulate indicators for them
- Compare data with many other organizations to ensure the quality of the evidence
- Introduce a gender perspective through collaboration with LGBTIQ and women's rights NGOs

4°/ Raise public awareness of the UPR mechanism

- Ask for the participation and engagement of the public
- Use TV and radio to reach the public and spread awareness on a national level

5°/ Public access to information

- Educate students about the draft law on access to information

- Network with other organizations to ensure access to information and update each other on developments
- Urge the government to work with CSOs on ensuring access to information
- Try to engage the private sector
- Lobby UNESCO

V. "Monitoring & Evaluation of UPR: Introducing a Feasible Approach"

Presentation by Dr. Virak Prum, Transparency International Cambodia

Dr. Virak Prum started his presentation by using the "SWOT" analysis on the issue of UPR monitoring and evaluation.

- **Strengths:** Interest of many actors in this subject so that CSOs do not need to focus their work on this
- **Weaknesses:** Difficult to separate technicalities from politics
- **Opportunities:** Institutionalization and harmonization of various efforts into a common pattern of change
- **Threats:** Naming and shaming

He then mentioned the 8-Step Process outlined by Dr. John Kotter[3] to help organizations avoid failure and become adept at change.

- Increase urgency
- Build guiding teams
- Get the vision right
- Communication for buy-in
- Empower action
- Create short-term wins
- Don't let up
- Make change stick

Dr. Virak Prum also referred to the theory of change, a three-step monitoring with the impact of matrix, which helps an organization describe the needs it is trying to address, the changes it wants to make and what it plans to do.

- Step 1: Map your theory of change and discuss your contribution with the team
- Step 2: Strengthen your level of evidence
- Step 3: validate your data and sources with relevant stakeholders and partners

[3] Dr. John Kotter, Harvard Business School professor, is the author of 'Leading Change' first publishing in 1996.

Finally, Dr. Prum suggested replacing the traditional compliance mindset with a risk-based decision-making. The goal is to increase the ability to meet with unpredictable circumstances. For instance, money and human capital are limited and donors are increasingly leaving Cambodia. It is therefore necessary to concentrate efforts on certain important areas instead of trying to focus on everything.

VI. "Strategies to effectively implement recommendations and lessons learned from other countries"

Presentation by Kingsley Abbott, Senior International Legal Adviser for Southeast Asia, Asia Pacific Programme, International Commission of Jurists

States have the responsibility to implement recommendations, but civil society and other stakeholders play a significant role in monitoring, promoting and assisting the implementation. NGOs should include work on UPR in their everyday work. What can NGOs do?

1°/ National Advocacy

- Disseminate submissions and outcomes of the UPR as widely as possible
- Hold media events
- Engage with the government
- Draw up a shadow national report
- Draft user-friendly and short advocacy fact-sheets on specific topics (for use at all levels of advocacy)

2°/ Monitoring the human rights situation

- Get the information needed
- Be aware of what recommendations were accepted
- Draw up a list of which recommendations have been implemented and which have not
- Continue with normal monitoring and advocacy work and refer to the accepted recommendations as evidence of commitments

3°/ International advocacy

- Engage with friendly member states of the Human Rights Committee at all times
- Build relations with diplomats and identify what issues they are interested in
- Keep them updated before, during and after the process
- Find out what their plans are instead of just giving them information

- Ask them to hold joint briefings, provide them with submissions and good visual material when you have meetings with them
- Have a strategy
- Seek assistance of international organizations, engage with the UN
- Reach out to regional and international organizations that have headquarters in Geneva
- Try to influence the resolution to further extend the mandate of the Special Rapporteur
- Keep media informed as national media sometimes pick up statements at the UN level

4°/ Preparing for the next UPR cycle

- See the UPR as an opportunity to use your existing work
- Do not be emotional in your reporting
- Build a coalition with others
- Work on recommendations and ensure the facts you refer to are reliable
- Keep media informed
- Include focus on the last UPR cycle

VII. "How can NGOs and CSOs support RGC's implementation process?"

Presentation by H.E. Katta Orn, member of the Cambodian Human Rights Committee

CSOs and relevant stakeholders play a role in supporting CHRC and RGC's implementation. Key stakeholders involved in cooperation with CHRC include:

- OHCHR who provides technical support and capacity building;
- The European Union, Sweden and Japan who provide financial and technical support; and
- CSOs who help review and give recommendations for CHRC's draft report to the UN, cooperate in raising awareness and promoting UPR recommendations, and cooperate in organizing training or workshop to strengthen capacity and skills for officials who are responsible for drafting the report.

Group Discussions & Recommendations

Over the course of the two days of the Consultation, one break-out session was organized for participants to discuss in-depth the progress in respect of the UPR recommendations which were made that relate to their organization's main area of work. Participants were divided into five groups: (1) economic, social and cultural rights; (2) rights to freedom of expression and freedom of assembly; (3) land rights; (4) legal and judicial reform; and (5) women's and children's rights. They were asked to divide recommendations into general and specific ones. A traffic light system was used to define the progress made on the specific recommendations. A discussion on the more general recommendations was held afterwards. While the traffic light system was very useful for participants, it reflects the views of those who took part in the workshop and it would be preferable if a larger and more diverse group were to make such determinations during future UPR review activities.

The traffic light classification system (recommended by UPR Info) operates as follows:

- **RED:** No (or almost no) progress has been made towards implementing this recommendation.
- **ORANGE:** The recommendation has not been fully implemented, but some progress has been made.
- **GREEN:** The recommendation has been fully implemented.

The following section summarizes the output of this break-out session for each thematic group.[4]

[4] The views and recommendations expressed by the participants do not necessarily reflect CCHR's position and recommendations to the RGC.

Economic, Social and Cultural rights

1°/ Specific recommendations

Recommendation	Color	Reason
118.6 – Ratify the International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Family (Ecuador)	Red	No ratification.
118.7 – Consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families that it signed in 2004 (Egypt)	Orange	Some actions taken, but not fulfilled yet.
118.8 – Take the necessary steps to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	Orange	Some progress has been made.
118.9 – Ratify the UNESCO Convention against Discrimination in Education (Brazil)	-	Unclear because it is relevant to the education sector.
118.25 – Implement and strengthen policies and laws to protect and promote the rights of persons with disabilities and ensure that these mechanisms enjoy a human rights based approach consistent with the CRPD and in consultation with civil society (Colombia)	Orange	Some parts are not implemented.
118.26 – Adopt and implement laws that prohibit all forms of ill-treatment of children and that protect them from forced labor, sexual exploitation and abuse (Portugal)	Orange	There are some provisions in the Criminal Code but they are not specific enough. Cambodia misses stricter laws and implementation of existing laws. There has been proof of forced child labor and no action was taken to stop it.
118.57 – Continue to combat discrimination suffered by the children of marginalized and vulnerable groups and eradicate gender-based stereotypes. Along these lines, ensure the continuation of the Strategic Education Plan 2009-2013, to offer the same opportunities to all children and youth regardless of race, color, sex, language, belief, religion, political beliefs, circumstances of birth and social conditions (Colombia)	Orange	Limited implementation but there has been some activities carried out by the Government.

Recommendation	Color	Reason
118.59 – Continue with measures to guarantee the birth registration of children, with no discrimination against migrant children, and continue strengthening the legal framework for the procedures of acquisition of nationality (Argentina)	Orange	Progress has been made but the legislation is still a concern, especially in rural areas. There is room for improvement.
118.67 – Continue its efforts in promoting and protecting the rights of the child, including finalizing and implementing the new draft of a national plan to eliminate the worst forms of child labor for the period 2013-2018 (Indonesia)	Orange	The Government has been trying to implement a gender strategy but there is a lot of room for improvement.

Rights to Freedom of Expression and Freedom of Assembly

1°/ Specific recommendations

Recommendation	Color	Reason
118.15 – Review the penal code to ensure it aligns with Cambodia's obligations under the ICCPR pertaining to freedom of expression and take the necessary actions to amend or repeal any articles which do not meet these obligations (Canada)	Red	The offences related to freedom of expression in the penal code have not been reviewed since the 2nd UPR.
118.17 – Establish a law on freedom of information in accordance with international standards (Belgium)	Orange	The law has been drafted and is in the consultation stage but has not yet been promulgated.
118.21 – Take steps to bring Cambodia's laws and practices into line with existing international human rights standards in relation to freedom of expression, including press freedom (Ireland)	Orange	Improvement needed.
118.3 – Ratify the Second Optional Protocol to the ICCPR (Hungary)	Red	No ratification.
119.21 to 27 – articles referring to human rights defenders.	Red	No concrete action taken while human rights defenders remain targeted.

Land Rights

1°/ Specific recommendations

Recommendation	Color	Reason
118.129 – Cease forced dispossession and guarantee just and transparent process when it comes to land tenure (Mexico)	Orange	There is progress but there is a lot left to be done.
118.135 - Increase measures to tackle illegal land evictions, including those against indigenous people, and consider fortifying the legislative framework consistently with international standards (Italy)	Orange	In cases of land evictions, local authorities often do not act according to the law and violate human rights.
119.30 – Continue applying the 2012 directive on land concessions (Spain)	Orange	Effective and ongoing application is highly recommended.
119.33 – Develop and implement alternate strategies to assist those being displaced as a result of the taking of land and ensure that those persons have adequate housing and access to basic services, health care and employment (Republic of Korea)	Red	There is no protection or assistance for displaced people who lose their homes and traditions. The Government has done little about this.

Legal and Judicial Reform

There were around 113 recommendations in total. The group noted that the set of recommendations was overall very specific and therefore good to monitor.

1°/ Specific recommendations

Recommendation	Color	Reason
118.1 - 118.4 – Ratify Optional Protocol 1 and 2 to ICCPR (France, Austria, Hungary, Latvia)	Red	No ratification.
118.6 - 118.8 – Take the necessary steps to ratify the International Convention on the Protection of the Rights of all Migrants Workers and Members of their Families (Ecuador, Egypt, Ghana)	Orange	Little sign of activities that aim to ratify the Convention. The Government should take concrete and swift action to ratify it.
118.9 – 11 – Take steps to ratify the UNESCO Convention against Discrimination in Education (Brazil, Chad, Austria)	-	Not aware of the status of these recommendations, so no color can be assigned.
118.12 – Continue the process of accession to the core human rights instruments (Azerbaijan)	Orange	
118.13 – Adopt effective measures to combat the culture of violence and impunity to establish an independent and adequately resourced national	-	Not aware of the status of these recommendations, so no color can be assigned.

Recommendation	Color	Reason
preventive mechanism according to OP_CAT requirements (Germany)		
118.14-16 – Review the penal code to ensure it aligns with Cambodia's obligations under the International Convention on Civil and Political rights (Montenegro, Canada, Belgium)	Red	The penal code has not been reviewed for compliance with ICCPR since the 2nd UPR.
118.17 – Establish a law on freedom of information in accordance with international standards (Belgium)	Orange	Ongoing progress with the Ministry of Information.
118.20 – Revise the Penal Code as well as other laws so that they comply with international freedom of expression standards and prevent the harassment of human rights defenders, journalists and NGOs (Czech Republic)	Red	No revision and the right to information is not well implemented.
118.23 – Take the necessary steps to strengthen the legal framework surrounding elections so as to ensure that future elections are free and fair, thereby allowing Cambodian citizens to have a say in the decisions that affect their lives and to elect the officials who reflect and respond effectively to their needs (Canada)	Orange	The election laws have been improved but are still not strong enough to guarantee free and fair elections.
118.49 – Make further efforts to raise awareness on gender equality and to combat discrimination against women (Slovenia)	Orange	Progress has been made.
118.60 – Consider taking the necessary measures to further improve prison conditions (India) **118.61** – Take measures to avoid the use of excessive force and ensure that conditions of arrest and pretrial detention meet international standards (Belgium)	Orange	Rights of prisoners are not well protected; prison conditions have not been improved.
118.62-118.65 – Recommendations relating to the prevention and combat of violence and sexual abuse against women and children, including rape	Orange	The Government has been doing a lot but there are gaps to be fulfilled.
118.72 – Combat the issues of rape and prostitution of minors by ensuring the full implementation of the laws criminalizing sexual abuse and exploitation (Belgium)	Orange	Still a lot of sexual abuse and little protection.

Recommendation	Color	Reason
118.79-118.90 – Legal reforms.	Orange	Laws relating to the judicial system exist. But the enforcement is poor and therefore against the concept of human rights. More improvement is needed.

Women's and Children's Rights

1°/ Specific recommendations

Recommendation	Color	Reason
118.5 – Ensure the realization of the right to education to all children in Cambodia, including to the children of Vietnamese origin, and sign and ratify the Optional Protocols to ICESCR and to the Convention on the Rights of the Child on a communications procedure (Portugal)	Red	Refused by the Government.
118.26 – Adopt and implement laws that prohibit all forms of ill-treatment of children and that protect them from forced labor, sexual exploitation and abuse (Portugal)	Orange	The Government has not passed the law but is trying to improve the situation. Nevertheless, kids are still working in factories and are employed illegally.
118.49 – Make further efforts to raise awareness on gender equality and to combat discrimination against women (Slovenia)	Green	The Ministry of Women Affairs has been working on this a lot, including campaigns trying to achieve the SDGs (especially Goal Nr.5)
118.52 – Continue efforts on the elimination of all forms of discrimination against women (Algeria)	Orange	There has been progress but there is still a lot of discrimination against women.
118.62 – Take all the measures to prevent and combat violence and sexual abuse against women and children, including rape, by promoting an effective mechanism to receive and investigate complaints of sexual violence and offering the victims psychological and medical assistance (Uruguay)	Red	Violence against women is still very wide spread. Example of a sex worker who was left to die by local authorities. She drowned in the Tonle Sap river while being chased by state security guards.
118.63 – Deploy further efforts in order to prevent and punish violence, including rape, against women and children and pay special attention to the most vulnerable families living in a poor environment (Italy)	Orange	Women, children and marginalized groups remain vulnerable. Further efforts by the government are needed, especially those who live in rural areas.

Recommendation	Color	Reason
118.65 – Reform national legislation with the aim of improving the protection of children and women from violence and above all domestic violence (Russian Federation)	Green	The national legislation was reformed, for example, Law on the Prevention of Domestic Violence
118.124 – Steps up the fight against false job offers and sign agreements with countries where Cambodian women are hired (Spain)	Orange	The Government has taken some steps and signed agreements with neighboring countries that are not respecting women's rights to try to make things better for women.

Conclusion

The UPR remains a relatively new process, which is still becoming embedded into the practices of both the RGC and Cambodian civil society. The second UPR of Cambodia witnessed a different approach by the RGC, whereby they noted a number of recommendations, rather than accepting them all. During this consultation workshop, both RGC representatives and members of local and international civil society organizations recognized the importance and value of the UPR, and the need to further enhance advocacy, implementation and monitoring around the UPR process.

Although it is not an obligatory step in the UPR process, the mid-term UPR review has become an increasingly important and established step in the overall UPR process. While the RGC decided not to submit a mid-term report for its second cycle UPR, it is nonetheless encouraging that they were willing to engage in this civil society-led Consultation Workshop. It is to be hoped that they will submit a mid-term report during the third and future cycles of the UPR.

Group discussions about progress in respect of the recommendations received by Cambodia during its second round UPR suggest that many challenges remain in respect of Cambodia's human rights situation. Although some progress has been made in the areas of women and children's rights, and economic, social and cultural rights, progress in respect of recommendations on freedom of expression and judicial reform has been limited – with these areas even suffering a deterioration since Cambodia's second UPR. It is evident that the RGC must increase its effort to implement the recommendations it has accepted, and to improve cooperation with civil society to that end.

Discussions about how better to prepare for Cambodia's 3rd UPR – including increased engagement between Cambodian civil society and the RGC and improving coordination between local actors and the international diplomatic community – were highly fruitful. It is envisioned that coalitions of CSOs will cooperate in order to ensure optimal preparation to maximise the utility of the process, leading to joint shadow reports in respect of thematic areas, and coordinated advocacy efforts targeting the international diplomatic community. Local organizations will be guided and advised by international partners in this process.

As Cambodia looks ahead to its next UPR in 2019, it is imperative that both the RGC and Cambodian civil society are fully engaged in the process. During this critical period in Cambodia's democratic development – with national elections on the horizon in 2018 - international human rights mechanisms, such as the UPR, are set to take on renewed and unprecedented importance.

Annex 1: Consultation Agenda

Day 1 – Thursday, 29 June 2017: Cambodia's UPR

8:00 AM Arrival of participants and registration

8:30 AM National Anthem

Opening Remarks

Mr. Chheat Sreang, Member of Board of Director of the Cambodian Center for Human Rights (CCHR)

Ms. Marie-Dominique Parent, Deputy Representative, Office of the United Nations High Commissioner of Human Rights in Cambodia (OHCHR)

H.E. Keo Remy, Chairperson of the Cambodian Human Rights Committee (CHRC)

9:00 AM Presentation on Introduction to UPR process including a mid-term review and NGO submission by a representative from Mr. Hans Fridlund, Program Manager at UPR Info

9:40 AM Coffee break

10:00 AM Presentation on Introduction to UPR process including a mid-term review and NGO submission by a representative from Mr. Hans Fridlund, Program Manager at UPR Info

10:40 AM Panel discussion on "Progress and Challenges in Implementing of UPR Recommendations" from the RGC's and key stakeholders' perspectives

Facilitator: Piseth Duch, Advocacy Director, CCHR

Panelists include:

Ms. Claudia de la Fuente, Human Rights Officer at OHCHR
H.E. Chin Malin, Undersecretary of State at the Ministry of Justice
Mr. Zachery Lampell, Legal Advisor – Freedom of Expression, The International Center for Not-for-Profit Law (ICNL)
Mr. Seung Sankaruna, Senior Investigator at ADHOC

The panel will covers issues such as:

- Monitoring implementation
- Role of different actors in implementation
- Experience of different NGOs from the previous UPR cycle
- Preparation for the mid-term review and what's next for the 3rd cycle

12 noon Lunch

1:30 PM Small group discussions on UPR recommendations by themes:

1. Economic, Social and Cultural Rights
2. Rights to Freedom of Expression and Freedom of Assembly

3. Land Rights
4. Legal and Judicial Reform
5. Women and Children's Rights

3:15 PM Coffee break

3:30 PM Reporting from the groups and plenary discussion

Facilitator: CCHR

Feedback: OHCHR-Cambodia, UPR Info and ICJ

4:30 PM End of Day 1

Day 2 – Friday, 30 June 2017: Advocacy Strategies and Monitoring for Implementation of UPR Recommendations

8:00 AM Arrival of participants and registration

8:30 AM Panel Discussion on Developing Strategic Advocacy Plan for Monitoring the Implementation of UPR Recommendations, facilitated by Mr. Kingsley Abbott, Senior International Legal Adviser for Southeast Asia, Asia Pacific Programme, at the International Commission of Jurists

Panelists include:

4- Mr. Hans Fridlund, Program Manager at UPR Info,
5- Ms. Chak Sopheap, Executive Director of the Cambodian Center for Human Rights (CCHR),
6- Mr. Phan Phorp Barmey, Senior Manager at API

9:30 AM Coffee break

9:50 AM Presentation on Monitoring & Evaluation of UPR: Introducing a Feasible Approach" by Dr. Virak Prum, Transparency International Cambodia

10:20 AM Small group discussions on developing advocacy strategies and identify certain areas/recommendations that CSOs want to follow up and report on next year

12 noon Lunch

1:40 PM Reporting from the groups and plenary discussion

Facilitator: CCHR

2.30 PM Presentation on Strategies to effectively implement recommendations and lessons learned from other countries

By Mr. Kingsley Abbott, Senior International Legal Adviser for Southeast Asia at the International Commission of Jurists

3:30 PM Coffee break

3:45 PM	How can NGOs and CSOs support the RGC's implementation process?
	By H.E. Katta Orn, member of the Cambodian Human Rights Committee
4:30 PM	Participants evaluate the whole workshop
4:45 PM	Final remarks and closing
	Mr. Duch Piseth, Advocacy Director at CCHR
	Mr. Hans Fridlund, Program Manager at UPR Info

Annex 2: Participating NGOs, media and government's bodies

	Domestic NGOs
1	Community Legal Education Center (CLEC)
2	CARAM Cambodia (CARAM)
3	Cambodian Committee for Cambodia (CCC)
4	Cambodian Human Rights and Development Association (ADHOC)
5	Cambodian Center for Independent Media (CCIM)
6	Advocacy and Policy Institute (API)
7	Legal Support for Children and Women (LSCW)
8	Cambodian Food and Service Worker's Federation (CFSWF)
9	Independent Democratic Association of Informal Economic (IDEA)
10	Cambodian League for the Promotion & Defense of Human Rights (LICADHO)
11	Community Translation Organization (CTO)
12	Mother Nature (MN)
13	Samaky Organization
14	Center for Alliance of Labor and Human Rights (CENTRAL)
15	Committee for Free and Fair Elections in Cambodia (COMFREL)
16	Neutral & Impartial Committee for Free & Fair Elections in Cambodia (NICFFEC)
17	Transparency International Cambodia (TI Cambodia)
18	Cambodian Volunteer for Society (CVS)
19	The Cambodian NGO Committee on CEDAW (NGO CEDAW)
20	SILAKA
21	Cambodian Women for Peace and Development (CWPD)
22	Urban Poor Women Development (UPWD)
23	Pen Cambodia

	International NGOs
24	UPR info in Geneva
25	The Office of the High Commissioner for Human Rights in Cambodia
26	Article 19
27	Swedish Embassy in Cambodia
28	International Center for Not-for-Profit Law (ICNL)
29	UN Women Cambodia
30	Den Church Aid
31	International Commission of Jurists (ICJ)
32	Center for Human Rights and International Justice at Stanford University (WSD HANDA)
33	American Center for International Labor Solidarity (ACILS)

	Media
34	Fresh News
35	VOD News
36	Bayon News
37	Radio Free Asia
38	Grand News (GN)
	Government Body
39	Cambodia Human Rights Committee (CHRC)
40	Ministry of Justice of Kingdom of Cambodia (MoJ)