



ចម្បងមណ្ឌលសិទ្ធិមនុស្សកម្ពុជា
Cambodian Center for Human Rights



CITIZENSHIP RIGHTS FOR KHMER KROM IN CAMBODIA



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Report and Partners

This report is an output of the joint research project, “Citizenship Rights for Khmer Krom in Cambodia: Survey on the Legal Status of Khmer Krom,” carried out by Alliance for Conflict Transformation (“ACT”), the Cambodian Center for Human Rights (“CCHR”), and Khmer Kampuchea Krom for Human Rights and Development Association (“KKKHRDA”) (together, “the partners”). The project aims to provide empirical data about the legal status of Khmer Kampuchea Krom (“Khmer Krom”) in Cambodia, including data related to the experiences of and difficulties faced by Khmer Krom as a result of their citizenship status.

ACT is a local, non-profit, non-governmental organization (“NGO”) located in Phnom Penh. ACT is composed of like-minded individuals committed to working together to provide skills and knowledge in conflict resolution and transformation and peace-building. ACT is mainly focused on building and strengthening capacities for peace, based on analysis of current issues and situations. The skills ACT seeks to provide include identifying the most strategically useful actions to transform conflicts, in order to maximize the impact for sustainable peace and development. ACT was registered as an organization in 2002, after implementing a number of peace-building training programs.

CCHR is a leading, non-aligned, independent 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 development. CCHR promotes the rule of law over impunity; strong institutions over strong men; and a pluralistic society in which variety is harnessed and celebrated rather than ignored or punished.

KKKHRDA was founded in Phnom Penh, Cambodia, on 21 May 1995. It was recognized by the Council of Ministers in 1995 and authorized by the Ministry of Interior in 1996. KKKHRDA is an independent local organization, non-exploitation, non-political and formed by a number of Khmer Kampuchea Krom people who are concerned with human rights, democracy and the rule of law. KKKHRDA focuses upon the vision of increasing the access of Khmer Kampuchea Krom people to fundamental freedoms, rights and appropriate living conditions; with a mission to promote and ensure the protection of rights of the minority Khmer Kampuchea Krom people, so that they may have access to: their rights as citizens, legal documentation, and freedom of expression.

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Queries and Feedback

Should you have any questions or require any further information about the Report, or if you would like to give any feedback, please email info@cchrcambodia.org



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Definitions and Acronyms

ACT	Alliance for Conflict Transformation
Cambodia	Kingdom of Cambodia
CCHR	Cambodian Center for Human Rights
CE	Common Era
BCE	Before Common Era
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CERD	Convention on the Elimination of all forms of Racial Discrimination
CRC	Convention on the Rights of the Child
Constitution	Constitution of the Kingdom of Cambodia, 1993 (as amended)
CSO(s)	Civil society organization(s)
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IHRL	International human rights law
KKKHRDA	Khmer Kampuchea Krom Human Rights and Development Association
NGO	Non-governmental organization
RGC	Royal Government of Cambodia
UDHR	Universal Declaration of Human Rights
UN	United Nations

Executive Summary

While the Royal Government of Cambodia (“RGC”) has publicly declared members of the Khmer Krom ethnic group to be Cambodian citizens, in practice domestic law fails to provide a clear legal or administrative avenue by which Khmer Krom can realize this right. The strict requirements - set out in the Nationality Law and related regulations - for individuals to be granted Cambodian identity cards mean that, in reality, many Khmer Krom are unable to access identity documents and enjoy the rights that citizenship should provide. Khmer Krom individuals, who are frequently born outside Cambodia and lack a permanent address in Cambodia, have difficulty satisfying the strict legal criteria in order to obtain an identity card. Identity cards are required to unlock the rights that accompany citizenship in practice. Without an identity card, a citizen cannot, for example, purchase land, secure employment or access education. Further, they cannot register to vote - a right which is of particular relevance as the 2017 commune elections and 2018 national elections approach.

This report aims to provide empirical data about the legal status of Khmer Krom in Cambodia, including data relating to difficulties and experiences that they face. It reveals that members of the Khmer Krom without identity cards continue to face difficulties living in Cambodia, including discrimination, lack of housing, and lack of recognition from the authorities. Of the survey respondents, 60.6% cited discrimination as one of the main difficulties or challenges they face in Cambodia.

Troublingly, the report reveals that the majority of Khmer Krom who were surveyed lack awareness of their rights under Cambodian law and of the procedures for acquiring Cambodian identity cards, with a striking 91.6% of respondents unaware of the citizenship rights for Khmer Krom under the Cambodian Constitution and Nationality Law. The research revealed that 59.5% of respondents had never applied for a Cambodian identity card, with the most frequent explanations for this being that they did not receive information on how to do so (25.95% of responses) and that they did not know if anyone could assist them (16.03%). In this way, the research provides new insight into the reasons why Khmer Krom struggle to regularize their legal status in Cambodia and demonstrates scope for targeted interventions to address the obstacles identified. The research findings suggest that the lack of clarity and legal certainty created by the contrast between the RGC’s statements that Khmer Krom are Khmer citizens, and the absence of a clear administrative or legal avenue to allow them to access these citizenship rights in practice, is acting as a barrier to Khmer Krom realizing these rights. As a result, this report recommends, *inter alia*, that the RGC promptly adopt a new legal instrument, setting out a clear procedure by which Khmer Krom can apply for - and be issued with - national identity cards.

Chapter 1 (Introduction) provides a brief overview of the history of the Khmer Krom, before exploring the difficulties they have faced in both Cambodia and Viet Nam.

Chapter 2 (Legal Frameworks) examines provisions of international and domestic law that provide protections for the rights of minority groups including the Khmer Krom; and the procedures for obtaining identity cards under Cambodian law.

Chapter 3 (Purpose and Methodology) outlines the purpose of the research and the methodology that was used to obtain the information that informs this Report.

Chapter 4 (Research Findings: Citizenship Rights of Khmer Krom in Cambodia) presents the research findings.

Chapter 5 (Conclusion and Recommendations) summarizes some of the main findings from the research and, based upon these, offers concrete recommendations to the RGC, civil society organizations (“CSOs”), and local authorities.

1. Introduction

1.1. History

The Khmer Krom are a minority whose population is concentrated in an area spanning modern day southern Cambodia and Viet Nam's Mekong River delta. Historically, this region has been referred to as *Kampuchea Krom* (meaning lower Cambodia). Research suggests that Khmer people have lived in this region from as early as the 1st century B.C.E.¹ Khmer rule over the Kampuchea Krom region continued well into the 17th Century but was latterly eroded by Vietnamese influence and colonization.² In the 1880s, the French formally colonized the region and partitioned Kampuchea Krom. This began a period of relative stability, with the Vietnamese and Khmer Krom co-existing and naturally and gradually integrating. Upon Vietnamese independence in 1949 the area of Kampuchea Krom became part of the new Vietnamese state.

Ngô Đình Diệm's 1955-1963 regime, which gained control of the south and transformed it into the Republic of Viet Nam, oversaw forced integration between the Vietnamese and the Khmer Krom. The regime also passed several ordinances to confiscate thousands of hectares of Khmer Krom farmland for distribution to Vietnamese migrants, whilst various repressive measures forced the adoption of Vietnamese names and language.³

Meanwhile, Khmer Krom suffered further abuses in Cambodia during the Khmer Rouge regime of the mid-1970s, often being referred to as "*Khmer bodies with Vietnamese minds*."⁴ The vast majority fled to Vietnam. After toppling the Khmer Rouge in 1979, the Vietnamese government repatriated the refugees back to Cambodia. The alleged crimes that are being considered as part of Case 004, which is currently under investigation by the Co-Investigating Judges of the Extraordinary Chambers in the Courts of Cambodia, include charges against Mr. Yim Tith of carrying out genocide of Khmer Krom.⁵

1.2 Khmer Krom in Viet Nam today

Culturally, the Khmer Krom have a deep connection with Cambodia, with the majority speaking Khmer and practicing Theravada Buddhism. A cultural divide from the Vietnamese has resulted in pressure upon the Khmer Krom - to suppress their identity and assimilate into Vietnamese culture. Protests over confiscated land or restrictions to political freedoms have been met with violent suppression by

¹ Peter Scott and Khmer Kampuchea-Krom Federation 'A Brief History of the Kampuchea Krom: The Khmer-Krom Journey to Self-Determination' (Khmers Kampuchea-Krom Federation 2009) <<http://bit.ly/2iRqu5r>> (archeologists have found the site of a city which "provides evidence that the Khmer civilization lived in 1st century B.C., or during the Nokor Phnom (Funan Kingdom) period").

² Laura Marcia Kirchner, 'Living on the margins: On the Status and Standing of Minorities and Indigenous Peoples in Cambodia' (Heinrich Böll Foundation 2015) <<http://bit.ly/1XFN911>> (hereafter referred to as "Laura Marcia Kirchner, 2015").

³ Human Rights Watch, 'On the Margins: Rights Abuses of Ethnic Khmer in Vietnam's Mekong Delta' (Human Rights Watch 2009) <<http://bit.ly/2iRFZdM>> (hereafter referred to as "[Human Rights Watch, 2009](http://bit.ly/2iRFZdM)").

⁴ Mahdev Mohan, 'Reconstituting the "Un-Person": The Khmer Krom and The Khmer Rouge Tribunal' (2008) 12 SYBIL 43-55, <<http://bit.ly/2ieAhRr>>; citing Kim Keokanitha, "Khmer Kampuchea Krom in the mind of Khmer Rouge" *Searching for the Truth*, (31 July 2002), p. 26.

⁵ Press release, "Mr. Yim Tith charged in Case 004", *Extraordinary Chambers in the Courts of Cambodia* (9 December 2015) <<http://bit.ly/2iUJptx>>

Vietnamese authorities. Examples of restrictions include interference with religious practices and harsh responses to protests conducted by ethnic Khmer, including reports that following peaceful demonstrations, numerous Khmer monks were defrocked by local authorities, while others have allegedly been imprisoned or face pagoda detention and surveillance.⁶

The Vietnamese government's official position is to promote and support the Khmer Krom, including their linguistic and religious rights.⁷ Yet, the Khmer Krom feel they are denied the equal rights and opportunities granted to other minorities in Viet Nam, leading many to seek refuge in Cambodia.

1.3 Khmer Krom in Cambodia

Khmer Krom are treated inconsistently by the RGC. As discussed in detail below,⁸ the RGC has offered them citizenship if they choose to live in Cambodia, but this policy has proven to have issues surrounding its implementation.⁹ At a local level, Khmer Krom have experienced discrimination in Cambodia because they are viewed as being Vietnamese, despite their Khmer ethnicity and religious, cultural and linguistic ties. Khmer Krom protests and activism have been shown a degree of tolerance in Cambodia, provided they do not aggravate Cambodian-Vietnamese relations. However, a wave of protests during 2007-2008 resulted in a violent crackdown in both Viet Nam and Cambodia.¹⁰ Protests by Khmer Krom have continued to take place, especially since 2012.

1.3.1 The identity card issue

It is estimated that 20-30 per cent of Khmer Krom in Cambodia lack identity cards.¹¹ Identity cards are essential for access to healthcare, education, land ownership, employment, passports, finance and other benefits available to citizens such as the ability to vote. Many are denied registration for births and marriages without the identification cards, resulting in the creation of a generation of people who lack documentation.

In part, and as discussed in detail below,¹² the problem arises due to a lack of a formal administrative processes for Khmer Krom or other ethnic groups to access identity cards. A Khmer Krom applicant will likely have a Vietnamese-sounding name, a distinct accent, and documentation listing Viet Nam as their birthplace. Some have no fixed address or live on land without formal title. The problem is perpetuated because proof of residence in Cambodia is necessary in order to obtain an ID card and to buy land, one needs an ID card.

⁶ UN Human Rights Council, Report of the independent expert on minority issues, Gay McDougall, Addendum: Mission to Viet Nam (5 - 15 July 2010) United Nations General Assembly, Sixteenth session 24 January 2011, A/HRC/16/45/Add.2, paras. 32, 44, 66. <<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G11/103/82/PDF/G1110382.pdf?OpenElement>>

⁷ Human Rights Watch, 2009

⁸ See section 2.2 below.

⁹ [Human Rights Watch, 2009](#) (refers to a letter written by King Norodom Sihanouk, dated 22 December 1992 upon which the following statement is based: "the Cambodian government has repeatedly and publicly stated that it considers Khmer Krom from Vietnam who move to Cambodia to be Cambodian citizens"). See also, Letter from the Deputy Prime Minister and Minister of Foreign Affairs to Minister of Justice, Letter No. 7725, November 21, 2006.

¹⁰ [Laura Marcia Kirchner, 2015](#), p.23; See also, [Human Rights Watch, 2009](#).

¹¹ Minority Rights Organization, 'Khmer Krom Background' (Minority Rights Organization, 2014), <<http://bit.ly/2iRL2L6>>

¹² See section 2.2 below.

If their application for identification is not denied outright, Khmer Krom applicants report being asked to change their name to something that sounds “more Khmer” or to fabricate a birthplace in Cambodia. Khmer Krom thus face a difficult choice between sacrificing their heritage and identity or continuing to live without documentation. As recently as July 2016, the media reported Khmer Krom being denied identity cards or renewal of expired cards.¹³ Some government officials have claimed they needed to wait for a directive from superiors or the Ministry of Interior before issuing cards.¹⁴

¹³ May Titthara, ‘Khmer Krom Refused ID Cards’, *Khmer Times*, 12 July 2016 <<http://bit.ly/2hT6KBH>>

¹⁴ CCHR ‘False Promises: Exploring the Citizenship Rights of the Khmer Krom in Cambodia’ (July 2011)

2. Legal Framework

2.1 International Law

The Constitution of the Kingdom of Cambodia (the “Constitution”) gives constitutional status to the human rights contained in the Universal Declaration of Human Rights (the “UDHR”),¹⁵ International Covenant on Civil and Political Rights (the “ICCPR”),¹⁶ the International Covenant on Economic, Social and Cultural Rights (the “ICESCR”),¹⁷ the Convention on the Elimination of all Forms of Discrimination Against Women (the “CEDAW”),¹⁸ and the Convention on the Rights of the Child (the “CRC”).¹⁹ Article 31 of the Constitution provides:

*“The Kingdom of Cambodia recognizes and respects human rights as stipulated in the United Nations Charter, the Universal Declaration of Human Rights and the covenants and conventions related to human rights, women’s rights and children’s rights.”*²⁰

The position of international human rights law (“IHRL”) within the Cambodian legal system has been further strengthened by the Constitutional Council’s recognition that international treaties ratified by Cambodia are directly applicable in domestic law, even if they are not explicitly listed, as is the case for the Convention on the Elimination of all forms of Racial Discrimination (“CERD”).²¹ Accordingly, the guarantees of the rights to non-discrimination contained in the international legal instruments below (as well as the other rights they contain), apply to all persons subject to Cambodia’s jurisdiction, whether or not they are recognized as Khmer citizens, as they have constitutional status and are directly applicable in Cambodian domestic law.

2.1.1 Protections against discrimination

As a party to a number of legally binding international treaties that prohibit discrimination on grounds including ethnicity, race, and nationality, Cambodia has a number of relevant obligations with which it must comply.

¹⁵ United Nations, *Universal Declaration of Human Rights*, United Nations General Assembly, Paris, 10 December 1948 <<http://bit.ly/1O8f0nS>> (hereafter referred to as the “UDHR”).

¹⁶ United Nations, *International Covenant on Civil and Political Rights*, United Nations General Assembly, New York, 1976 <<http://bit.ly/Jz4HwZ>> (hereafter referred to as the “ICCPR”).

¹⁷ United Nations, *International Covenant on Economic, Social and Cultural Rights*, United Nations General Assembly, resolution 2200A (XXI) of 16 December 1966 <<http://bit.ly/J1E1V3>> (hereafter referred to as the “ICESCR”).

¹⁸ United Nations, *Convention on the Elimination of All Forms of Discrimination against Women*, United Nations General Assembly, resolution 34/180 of 18 December 1979 <<http://bit.ly/1BbMigU>> (hereafter referred to as the “CEDAW”).

¹⁹ United Nations, *Convention on the Rights of the Child*, United Nations General Assembly, resolution 44/25 of 20 November 1989 <<http://bit.ly/1fGccXV>> (hereafter referred to as the “CRC”).

²⁰ Kingdom of Cambodia, ‘Constitution’, 1993, amended 2008 <<http://bit.ly/2ieGtZF>> (hereafter referred to as the “Cambodian Constitution”).

²¹ Kingdom of Cambodia, ‘The Constitutional Council: Decision of 10 July 2007’, 26 June 2007, Decision No. 092/003/2007, Case-file No. 131/003/2007. <<http://bit.ly/2iDWRUz>>

International Covenant on Civil and Political Rights²²

Article 2 of the ICCPR, to which Cambodia is a party, provides a general prohibition on discrimination, including on grounds of race, national origin and birth. This includes an obligation on states to take action to ensure all individuals can enjoy the rights in the Covenant on an equal basis. Similarly, Article 26 provides that all persons are equal before the law. Article 27 provides explicit protection for the rights of individuals from ethnic, religious or linguistic minorities, who are afforded the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion; and to use their own language. This right creates a positive obligation upon the state to protect and preserve the unique identities of these groups.²³ Under Article 25(b), every citizen has the right to vote, without unreasonable restriction and without discrimination on the basis of any of the grounds set out in Article 2 of the ICCPR. Article 25(c) provides that every citizen has the right of “access, on general terms of equality, to public service” in their country.

International Convention on the Elimination of all Forms of Racial Discrimination²⁴

Cambodia is also party to the CERD. In Article 2, states parties undertake to “engage in no act or practice of racial discrimination” and to “ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation.” Where national laws, regulations or policies have the effect of creating or perpetuating racial discrimination, states parties must take effective measures to review them.

Article 5 sets out a list of rights, in the enjoyment of which states guarantee the right to equality before the law. Of particular relevance to the Khmer Krom are: political rights, in particular the right to participate in elections; the right to return to one's country; the right to nationality; the rights to housing and to own property; the right to public health, medical care, social security and social services; and the right to education.

Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities²⁵

While General Assembly resolutions are not legally binding upon UN members, they represent a strong political commitment by states to uphold the principles contained therein. This declaration commits states to actively promote the ability of minorities to enjoy their rights on an equal basis with others, including enjoyment of their own unique identity as a minority group. States should “protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities” and “encourage conditions for the promotion of that identity.” The declaration recognizes that minorities have the right to participate in cultural, religious, social, economic and public life, as well as decision-making, on a national level.

²² [ICCPR](#).

²³ UN Human Rights Committee, General Comment 23 (1994) HRI/GEN/1/Rev.1, para. 6.2.

²⁴ United Nation, *International Convention on the Elimination of all Forms of Racial Discrimination*, United Nations General Assembly resolution 2106 (XX) of 21 December 1965. <<http://bit.ly/1k1MoiX>> (hereafter referred to as the “CERD”).

²⁵ United Nations, *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, United Nations General Assembly, resolution 47/135 of 18 December 1992 <<http://bit.ly/1ewV9id>> (hereafter referred to as the “[Declaration on Minorities](#)”).

2.1.2 Protections for children

The ICCPR provides that every child shall be registered immediately after birth, shall have a name and has the right to acquire a nationality.²⁶ The CRC builds on the ICCPR, to elaborate specific protections for minors. In addition to a general prohibition on discrimination within Article 2, a number of guaranteed rights are relevant to the Khmer Krom. The rights to: acquire a nationality;²⁷ “preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference;”²⁸ access health care services;²⁹ an adequate standard of living;³⁰ education;³¹ and for children that belong to minority or indigenous groups, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.³²

2.1.3 International Refugee Law

Khmer Krom find themselves in a challenging legal limbo under international refugee law.³³ The Refugee Convention, to which Cambodia is a party, defines a refugee as a person who has a: “*well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country*”.³⁴ Khmer Krom fleeing persecution in Viet Nam are unable to seek refugee status in Cambodia, due to the Cambodian government’s declarations that Khmer Krom are entitled to Khmer nationality. However, their inability to prove their Khmer identity for the purposes of the Law on Nationality, or to obtain identity cards, means that their stated entitlement to nationality is of little practical benefit. The RGC’s statements recognizing the citizenship of Khmer Krom also impede their ability to seek refugee protection in third countries.³⁵

2.1.4 Protections against Statelessness

International law contains a number of protections for individuals who find themselves without a recognized nationality, and therefore lacking the protection of any state. The 1954 Convention relating to the Status of Stateless Persons³⁶ and the 1961 Convention on the Reduction of Statelessness³⁷ set out a number of minimum rights which should be enjoyed by stateless persons and establish a framework by which stateless persons can acquire nationality, respectively. However,

²⁶ [ICCPR](#), Art. 24.

²⁷ [CRC](#), Art. 7.

²⁸ [CRC](#), Art. 8.

²⁹ [CRC](#), Art. 24.

³⁰ [CRC](#), Art. 27.

³¹ [CRC](#), Art. 28.

³² [CRC](#), Art. 30.

³³ See CCHR Report, ‘False Promises: Exploring the Citizenship Rights of the Khmer Krom in Cambodia’ CCHR, July 2011 <<http://bit.ly/2ihHkwc>>

³⁴ United Nations, *Convention and Protocol Relating to the Status of Refugees*, United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons, Geneva, 28 July 1951, Art. 1 <<http://bit.ly/2j6sRnL>> (hereafter referred to as the “[Refugee Convention](#)”).

³⁵ CCHR Report, ‘False Promises: Exploring the Citizenship Rights of the Khmer Krom in Cambodia’ CCHR, July 2011, page 19 <<http://bit.ly/2ihHkwc>>

³⁶ United Nations, *Convention Relating to the Status of Stateless Persons*, United Nations Conference of Plenipotentiaries, New York, 28 September 1954 <<http://bit.ly/2ihPC7m>> (hereafter referred to as the “[1954 Convention](#)”).

³⁷ United Nations, *Convention on the Reduction of Statelessness*, United Nations Conference of Plenipotentiaries, 30 August 1961 <<http://bit.ly/2eMMtvZ>> (hereafter referred to as the “[1961 Convention](#)”).

Cambodia is not a party to either of these Conventions and therefore is not legally bound by their provisions. In addition, the fact that Khmer Krom have been expressly recognized by the RGC as Khmer citizens, as will be discussed below,³⁸ means that they are unlikely to meet the definition of statelessness under international law.³⁹ Nevertheless, the difficulties experienced by Khmer Krom prevent them from accessing the citizenship documents that allow them to benefit from the rights provided to those of Cambodian nationality. This means that, in practice, they often face many of the same challenges as are faced by stateless persons; yet they are excluded from the protections afforded to stateless persons under international law.

2.2 Status of the Khmer Krom Under Domestic Law

The domestic legal provisions of Cambodia must be analysed in light of the statements made by the RGC. The Cambodian government has, over the past twenty-five years, repeatedly and publicly stated that it considers Khmer Krom who were living in Kampuchea Krom (southern Viet Nam) but then move to Cambodia to be Cambodian citizens, including in official documents⁴⁰ as well as responses given to the UN Committee on the Elimination of all forms of Racial Discrimination in 2010.⁴¹ Yet, in practice, there is no specific legal or administrative procedure by which Khmer Krom can realize their rights. As a result, there is a gap between the high-level statements of the RGC and implementation at local level, with the result that often Khmer Krom are not recognized as Khmer citizens in practice.

In terms of substantive rights which are explicitly provided for, the Constitution provides that Khmer citizens will not be deprived of their nationality.⁴² However, the criteria for the way in which one qualifies as a Khmer citizen is not set out in the Constitution, which simply provides that acquisition of Khmer nationality will be determined by law.⁴³

The objective of the 1996 Law on Nationality, as outlined under Article 1, is “to determine [K]hmer nationality/citizenship;” and, as stated in Article 19, “only those persons of [K]hmer nationality, may have the right to receive and hold identity cards of [K]hmer nationality and passports of the Kingdom of Cambodia.” The law sets out three avenues by which an individual can become eligible for Khmer citizenship: by birth, by marriage, or by naturalization.⁴⁴

³⁸ See section 2.2 below.

³⁹ [1954 Convention](#), Art. 1 (which provides: “the term 'stateless person' means a person who is not considered as a national by any State under the operation of its law”).

⁴⁰ [Human Rights Watch, 2009](#), footnotes 251 (“In a letter dated December 22, 1992, King Norodom Sihanouk publicly affirmed that all Khmer persons born in Vietnam have the right to Cambodian citizenship with full legal status if they come to reside in Cambodia”), 252 (“Cambodian Ministry of Foreign Affairs letter N^o. 1419, August 2, 2005”), 253 (“Letter from the Deputy Prime Minister and Minister of Foreign Affairs to the Minister of Justice, letter N^o. 7725, November 21, 2006”), 254 (“His Excellency Deputy Prime Minister Hor Namhong [sic] meets with the US Assistant Secretary of State,” Cambodian Ministry of Foreign Affairs news release, February 8, 2007, <http://www.mfaic.gov.kh/bulletindetail.php?contentid=2172> (accessed April 26, 2008)).

⁴¹ Cameron Wells and Tharum Bun, “Khmer Krom ID denied,” *The Phnom Penh Post* (22 February 2010) <<http://bit.ly/2izqCwC>>

⁴² [Cambodian Constitution](#), Art. 33. Note: while some jurisdictions distinguish between the concepts of “nationality” and “citizenship,” in Cambodian law the two terms appear to be used interchangeably. Article 2 of the Nationality Law provides: “A person of Khmer nationality/citizenship is a Khmer citizen.”

⁴³ [Cambodian Constitution](#), Art. 33.

⁴⁴ 1996 Law on Nationality, Arts 4 (birth), 5-6 (marriage), 7-17 (naturalization) <<http://bit.ly/2ii142P>>

The criteria for acquiring nationality by birth are set out in Article 4. This is further divided into two different means by which an individual can qualify for Khmer nationality by birth. First, regardless of place of birth, those born from parents with Khmer nationality shall obtain Khmer citizenship.⁴⁵ Second, an individual born in Cambodia shall obtain Khmer citizenship, if they are born from a foreign mother and father who were born and living legally in Cambodia. A child born from an unknown mother or father, or who was found in Cambodia as a newly born child, shall be considered as being born in Cambodia.⁴⁶ Both of these avenues pose difficulties for Khmer Krom, who may have Vietnamese identity documents stating that their place of birth was in Viet Nam; and whose names (and those of their parents) will often “sound Vietnamese” to the state officials processing their identity card application.

The Law on Nationality also creates a number of penalties. For example: “[a]ny person who fakes, scratches to erase, rewrite over or lends to someone or write a falsified name on the identity card of [K]hmer nationality [...] shall be punished to imprisonment from 5 (five) to 10 (ten) years”.⁴⁷ Both state officials and the Khmer Krom applicants therefore risk up to ten years in prison if they engage in this practice. Further: “any official or government agent or any person who conspires, helps dissimulating or provides identity card of Khmer nationality or passport to any person who has no Khmer nationality” will face from five to ten years in prison.⁴⁸ As a result, despite the statements by the RGC, state officials may be unwilling to take the risk of granting an identity card to a Khmer Krom individual who, *prima facie*, seems not to meet the requirements of the Nationality Law. This report therefore recommends that further clarity be provided to officials, to ensure that they are aware that the Law on Nationality does apply to the Khmer Krom. This report recommends that this is implemented through issuing a legal instrument confirming that, if a person can confirm Khmer nationality, that individual is eligible for permanent ID documents.⁴⁹

In a Sub-Decree issued in 2007, the RGC sets out the evidence which the authorities should consider when assessing whether a person fulfills the criteria stipulated in the Law on Nationality.⁵⁰ The 2007 Sub-Decree provides that all individuals of Khmer nationality over 15 are obliged to apply for an identity card using the following:

- Birth certificates which prove that such a person is a Cambodian citizen; or
- Family book which confirms his/her spouse is a Cambodian national; or
- Judgments of the court which stated that such persons were born from fathers or mothers who have Cambodian nationality; or

⁴⁵ 1996 Law on Nationality, Art. 4(1) <<http://bit.ly/2ii142P>>

⁴⁶ 1996 Law on Nationality, Art. 4(2) <<http://bit.ly/2ii142P>>

⁴⁷ 1996 Law on Nationality, Art. 21 <<http://bit.ly/2ii142P>>

⁴⁸ 1996 Law on Nationality, Art. 22 <<http://bit.ly/2ii142P>>

⁴⁹ See CCHR Report, 'False Promises: Exploring the Citizenship Rights of the Khmer Krom in Cambodia', CCHR, July 2011, p. 36 <<http://bit.ly/2ihHkwc>>

⁵⁰ Kingdom of Cambodia, 'Sub-Decree on Cambodian Nationality Identity Cards' Royal Government of Cambodia, No. 60, 12 June 2007 <<http://bit.ly/2j55Tws>> (hereafter referred to as "[Sub-Decree No. 60, 2007](http://bit.ly/2j55Tws)").

- Royal-Decree proclaiming the recognition of the application for Cambodian nationality to the concerned persons; or
- The documents or evidence proving that the concerned persons were born from fathers or mothers who had Cambodian nationality.⁵¹

The 2007 Sub-Decree replaced an earlier version issued in 1996. The 2007 Sub-Decree lowered the age of eligibility from 18 to 15, made the application for ID cards an obligation and removed the provision that the criteria could be satisfied on provision of “any document which could prove that such a person is a Khmer citizen”. While the 2007 Sub-Decree has replaced the 1996 version, any ID cards issued under the 1996 provisions are still valid until their expiry. The last of these cards will expire in 2017.

The issuing of identity cards is further defined by Prakas 6375 of 29 July 2015 on Procedure and Conditions for Requesting, Providing and Using Cambodian ID Cards, Ministry of Interior,⁵² which sets out the administrative requirements that must be met by applicants. Applicants must go in person to the police station in their commune or district, with the following documents:

- Birth certificates or old Khmer National ID card, or;
- Royal Decree proclaiming the recognition of the legal naturalization or the request of Khmer nationality or;
- Final judgments of the court which states that such persons were born from fathers or mothers who have Khmer nationality; or
- Documents or evidence proving that the concerned persons were born from fathers or mothers who have Khmer nationality; and
- Residence book or Family book.

The applicant must complete the application form and pay a fee, currently set by Prakas at 10,000 Riel.⁵³ On 30 December 2016, the Ministry of Interior and Ministry of Economy and Finance adopted a new prakas, eliminating fees for identity cards, residence books and family books, as well as a number of other administrative services.⁵⁴

Although Prakas 6375 does not contain an explicit requirement that applicants provide details of a permanent address,⁵⁵ provision of a residence book or family book is essential. Khmer Krom have faced difficulties obtaining a residence or family book when they arrive in Cambodia as they may have no permanent address, and this in turn limits their ability to obtain identity cards. 2016 saw a

⁵¹ [Sub-Decree No. 60, 2007](#), Art. 5.

⁵² Prakas 6375 on Procedure and Conditions for Requesting, Providing and Using Cambodian ID Cards, Ministry of Interior, 29 July 2015.

⁵³ Joint Prakas No. 3666 on Public Services Provided by Ministry of Interior, 18 March 2015 <<http://bit.ly/2jCxZ3E>>

⁵⁴ Inter-ministerial Prakas No. 14414 on the Provision of Administration Fees of the Ministry of Interior adopted on 30 December 2016. See also Ananth Baliga and Kong Meta, ‘Gov’t to eliminate fees’, *The Phnom Penh Post* (10 January 2017) <http://bit.ly/2jcgAok>

⁵⁵ Cf. Prakas 2473 Procedure and Conditions for Applying, Offering and Usage of Khmer Identity Cards, 14 July 2007, Article 3.

significant development with the issuing of Prakas 65 on the Amendment of Article 3 of the Prakas 6375 of 29 July 2015 on 13 January 2016, which provided that where a person does not have a residence book or family book, they can provide another document certifying their address in order to obtain an identity card.⁵⁶ This document is a letter signed by a local police official and their local commune authority, as explained in the Ministry of Interior's Guidance No 002 on Procedures of Issuing a Letter Certifying Residence for the Purpose of Applying for a Khmer ID, also issued on 13 January 2016. An individual can obtain such a letter by appearing in person at the police station and the commune office where they are living and filling out a form requesting such a letter. However, in order to obtain it, they need to provide: 1) a birth certificate or letter certifying their Khmer nationality or official documents certifying their Khmer nationality; and 2) one witness who is living in the same commune. The witness must possess a Cambodian identity card and a residence book or family book. Therefore, while this new Prakas and accompanying guidance are a welcome development, in that they allow persons lacking permanent addresses to access identity documentation, it does not significantly improve the situation of Khmer Krom, who will still face the obstacle of proving their Khmer identity.

In conclusion, the difficulty facing Khmer Krom who try to obtain identity cards appears to be the result of the inconsistency between the high-level statements by the RGC to the effect that Khmer Krom benefit from Khmer citizenship - which in terms of the domestic legal hierarchy have no legal value in themselves - and the national legislation and regulations through which citizenship is implemented. The strict provisions of the Nationality Law and associated regulations do not account for the particular situation of Khmer Krom, who are entitled to citizenship but lack the documentation through which this entitlement normally must be proved - there is no "fourth avenue" under the Nationality Law, or created by regulations, which provides a route for those who are entitled to citizenship on the basis of their identity as Khmer Krom to regularize their legal status. As a result, low-level state officials are left without clear guidance on how these statements by their superiors are to be given effect in practice.

⁵⁶ Prakas 65 on the Amendment of Article 3 of the Prakas 6375 of 29 July 2015, 13 January 2016.

3. Purpose and Methodology

3.1 Purpose

As noted above, the purpose of this research is to provide empirical data about the legal status of Khmer Krom in Cambodia, including data relating to the experiences of, and difficulties faced by, Khmer Krom as a result of their lack of citizenship status, with reference to the obstacles to applying for identity cards. Previous research has already identified the phenomenon whereby Khmer Krom in Cambodia often fail to enjoy in practice the citizenship rights to which they are entitled.⁵⁷ For this reason, this research aims to add value by targeting only those Khmer Krom who do not currently possess Cambodian identity cards, in order to focus on the reasons underlying their failure to obtain documentation. This will include Khmer Krom who have previously possessed valid identity cards which have expired and not been replaced.

As a result of the electoral registration process that took place between September and November 2016 ahead of the commune elections in June 2017, researchers discovered that in a number of Khmer Krom communities, following the visit of the research team, Khmer Krom were issued with identity cards by local authorities. As a result, some of the survey respondents who were not in possession of identity cards at the time of their interviews may now possess identity cards. Further research will be needed to discover whether the election registration campaign has led to an increase in the overall proportion of Khmer Krom throughout Cambodia who now hold identity cards.

3.2 Methodology

Between the months of October and November 2016, research teams visited Khmer Krom communities in order to conduct surveys. There were 264 survey responses collected from Khmer Krom individuals. The surveys contained a mixture of open and multiple-choice questions. Responses were collected through individual, and occasionally group, discussions, although in some instances, where Khmer Krom communities were in remote areas, interviews were conducted via telephone.

The mobility of Khmer Krom communities, in addition to inadequate communication networks and a lack of resources, meant that identifying potential survey participants in a wholly unbiased manner would be impractical. The research team therefore used pre-existing networks and relationships with Khmer Krom communities to identify suitable communities within which to conduct the survey. This method is referred to as 'snowball sampling,' and although it limited the extent to which the survey could be considered representative insofar as its reliance on human referrals renders the method inherently biased, the aforementioned limitations precluded the possibility of using more scientific sampling techniques.

Over the course of the field mission, the initially targeted provinces were revised to take account of logistical difficulties due to the rainy season, as well as seasonal movements in Khmer Krom

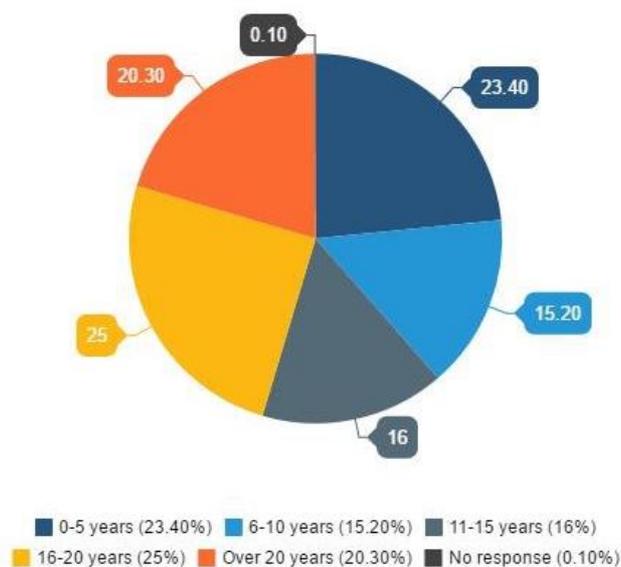
⁵⁷ CCHR Report, 'False Promises: Exploring the Citizenship Rights of the Khmer Krom in Cambodia', CCHR, July 2011 <<http://bit.ly/2ihHkwc>>

populations who, in some cases, had moved to other countries in the region for the fishing season, or to visit their hometowns during the Pchum Ben holiday. As a result, the final survey results contain responses from Khmer Krom individuals in Takeo, Siem Reap, Kandal, Kampong Chhnang, Kampong Speu, Kratie and Banteay Meanchay provinces, in addition to Phnom Penh municipality, as shown in the table below:

No	Province	# of Interviewees	# of individuals who declined to complete the survey
1	Siem Reap	114	8
2	Phnom Penh	87	9
3	Kampong Chhnang	22	0
4	Kratie	10	2
5	Takeo	11	0
6	Kampong Speu	10	0
7	Kandal	6	0
8	Banteay Meanchey	4	0
Total		264	19

In terms of time that survey respondents had been living in Cambodia, there was an even spread. However, future research may wish to distinguish between Khmer Krom who have been living in Cambodia long-term without citizenship documents, and Khmer Krom who have recently arrived, due to the likely difference in the issues they face.

How many years have you been living in Cambodia?



Males were slightly overrepresented among survey respondents:⁵⁸

	Total	Male	Female
Number of respondents	264	144	120
Percentage	100%	54.55%	45.45%

In addition to surveying Khmer Krom individuals, the research team conducted interviews with four local authorities, to obtain further information on issues faced by Khmer Krom; attitudes towards them; and the authorities' understanding of the identity card application process. The representatives whom the research team interviewed were from commune and village authorities in Banteay Meanchay and Kampong Chhnang provinces, and Phnom Penh municipality.

3.3 Scope and Limitations

As with any collection of data, the findings were constrained by certain limitations. There is no firm consensus as to the population of Khmer Krom in Cambodia. Estimates of the number of Khmer Krom living in Cambodia range from 82,000⁵⁹ to 1.2 million;⁶⁰ as a result, this research – based on survey responses from 264 individuals - should not be considered representative, but it will, nevertheless, provide useful baseline results by identifying key issues faced by Khmer Krom in obtaining identity cards, around which targeted interventions can be based in the future. In addition, due to seasonal movements of Khmer Krom and difficulties in accessing certain communities during the rainy season, a disproportionate number of survey responses were collected in urban centers (chiefly Phnom Penh and Siem Reap), whereas provincial or rural Khmer Krom communities are less well-represented. Certain multiple choice questions allowed survey participants to give more than one answer, resulting in a total percentage in excess of 100%. On the other hand, results to certain questions will be skewed by non-responses. As will be discussed further below,⁶¹ responses to certain questions were compromised by the reluctance of respondents to state their fear of repression from Cambodian or Vietnamese authorities, with the result that, on this issue, the quantitative data gathered in the survey may not accurately reflect the reality of the experiences of the Khmer Krom.

⁵⁸ Central Intelligence Agency, 'The World Factbook: East & Southeast Asia: Cambodia' 12 December 2016 <<http://bit.ly/1pIAsH7>> (an estimate from 2016, gives the sex ratio for Cambodia's population as 0.94 male(s)/female).

⁵⁹ Committee on the Elimination of Racial Discrimination, 'Written replies by the Kingdom of Cambodia concerning issues (CERD/C/KHM/Q8-13) formulated by the Committee on the Elimination of Racial Discrimination relating to Cambodia's eight to thirteenth periodic reports', Document No. CERD/C/KHM/W/8-13/Add.1, 17 February 2010 <<http://bit.ly/2iflypE>>

⁶⁰ Khmers Kampuchea Krom Federation, 'Khmer Krom People Statistics', Khmers Kampuchea Krom Federation <<http://khmerkrom.org/news-events/human-rights-monitor/142-23khmer-krom-people-statistics>>

⁶¹ See sections 4.1.1 and 4.2.1 below. .

4. Research Findings: Citizenship Rights of Khmer Krom in Cambodia

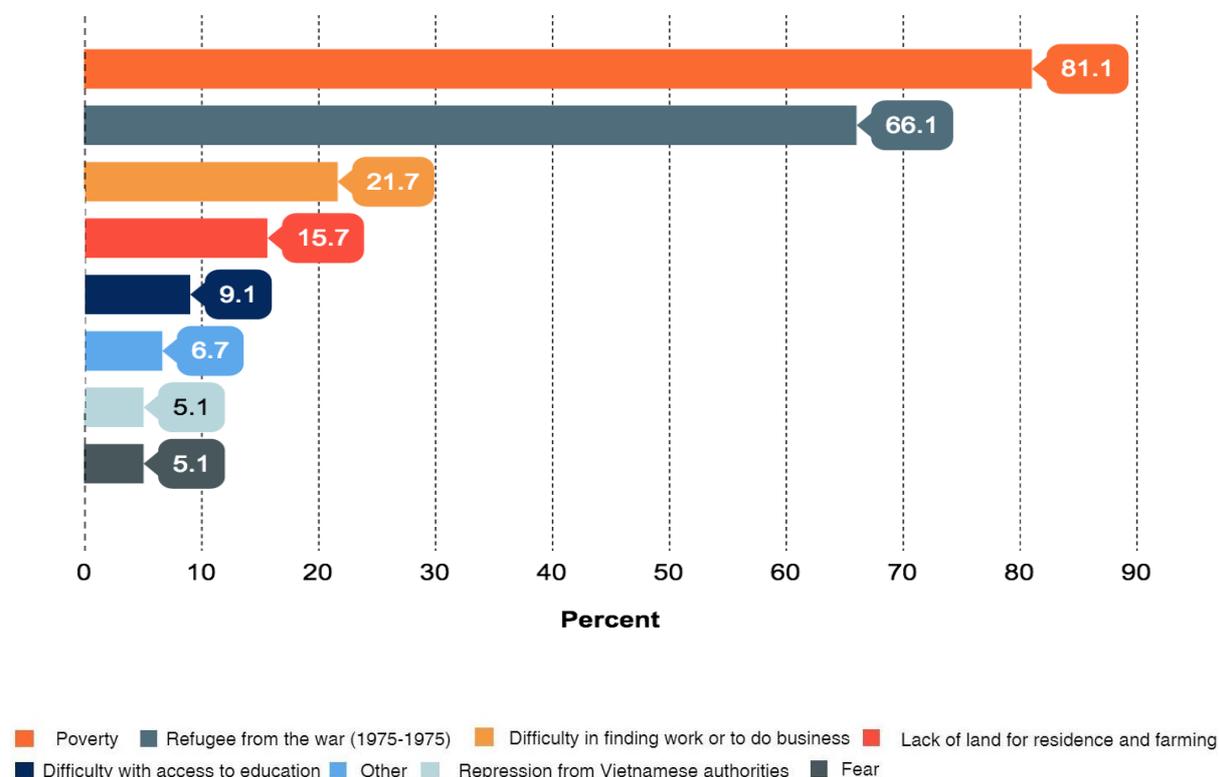
This section of the report will present the findings of the research, which demonstrate that Khmer Krom who lack identity cards continue to face significant difficulties in Cambodia, including lack of housing and land, discrimination and lack of legal recognition. The findings also reveal a dearth of information and awareness on the part of Khmer Krom surveyed, with reference to the rights to which they are entitled under Cambodian law, and on how they can obtain identity cards that allow them to benefit from these rights in practice.

4.1 Migration of Khmer Krom to Cambodia

Of the Khmer Krom individuals without identity cards who were surveyed, 95.70% of respondents were born in Kampuchea Krom (i.e. in Viet Nam). This is consistent with previous understandings of the obstacles faced by Khmer Krom when trying to obtain identity cards, namely, that Khmer Krom whose place of birth is outside Cambodia have faced difficulties proving they fulfil the strict requirements for Khmer citizenship under the Nationality Law.

4.1.1 Reasons for moving to Cambodia

What were the main reasons for leaving Viet Nam and moving to Cambodia?⁶²



The leading reasons given by respondents for leaving Viet Nam and moving to Cambodia were poverty (81.1%) and that they had been refugees fleeing from the war in 1975-79 (66.1%). These answers were followed by: difficulty to do business or find work (21.7%); lack of land for residence and farming

⁶² Respondents were able to give more than one answer.

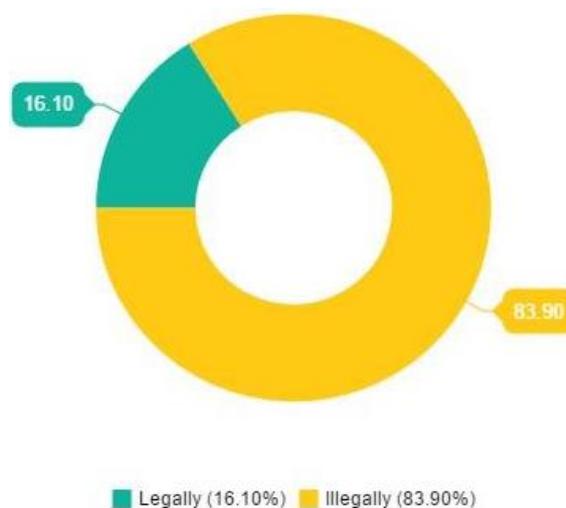
(15.7%); and difficulties with access to education (9.1%). As noted above, the amount of time survey participants had been living in Cambodia since leaving Viet Nam varied widely. As a result, it is possible that further research - which would allow these results to be broken down with reference to the length of time for which the individuals had been living in Cambodia - could reveal that different waves of Khmer Krom migrants were motivated by different factors.

The research teams found that, in some cases, the respondents who were interviewed had experienced repression by Vietnamese authorities, which had motivated them to move to Cambodia. However, fear of reprisals from the Vietnamese government in the event that they were returned to Viet Nam by the RGC – despite the anonymous nature of the data collection - meant that respondents were unwilling to record this as a reason for their migration within the survey itself. As a result, given that the responses regarding this issue are compromised, the quantitative data shown above may not be an accurate representation of the influence which fear had in leading the Khmer Krom to leave Viet Nam for Cambodia. Some Khmer Krom interviewed also described their fear of speaking publicly about their negative experiences in Cambodia, on the basis that it may lead to a negative reaction from Cambodian authorities, stricter scrutiny of the legal status of Khmer Krom currently in Cambodia, and even their deportation to Viet Nam.

When asked why they decided to move to Cambodia rather than another country, respondents gave a wide range of reasons: 33.86% of responses referred to shared Khmer identity, language or nationality; 33.07% referred to “ease of doing business,” while 24.70% of responses referred to the fact that the respondent had followed family members or friends who were already in Cambodia. Only 4.78% of responses referred to the rights Khmer Krom have to live in Cambodia - this lack of awareness of the rights to which Khmer Krom are entitled under Cambodian law will be explored further below.⁶³

4.1.2 Undocumented migration

How did you cross the border to Cambodia?

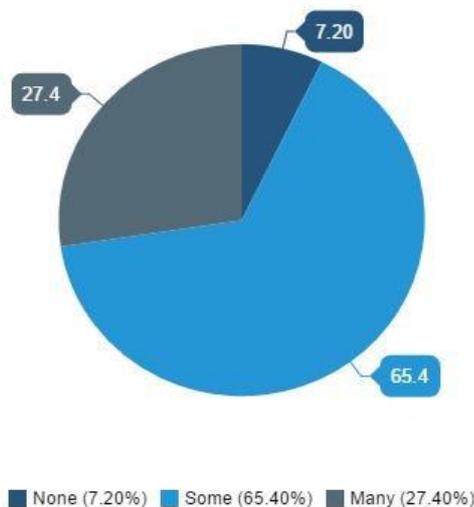


⁶³ See sections 4.3.1 and 4.3.2 below.

The vast majority of respondents (83.9%) replied that they had crossed the border into Cambodia “illegally.” By far the most frequently given reason was the lack of a passport or other legal documents (32.82%).

4.2 Experiences of Khmer Krom in Cambodia

4.2.1 Difficulties, problems and challenges

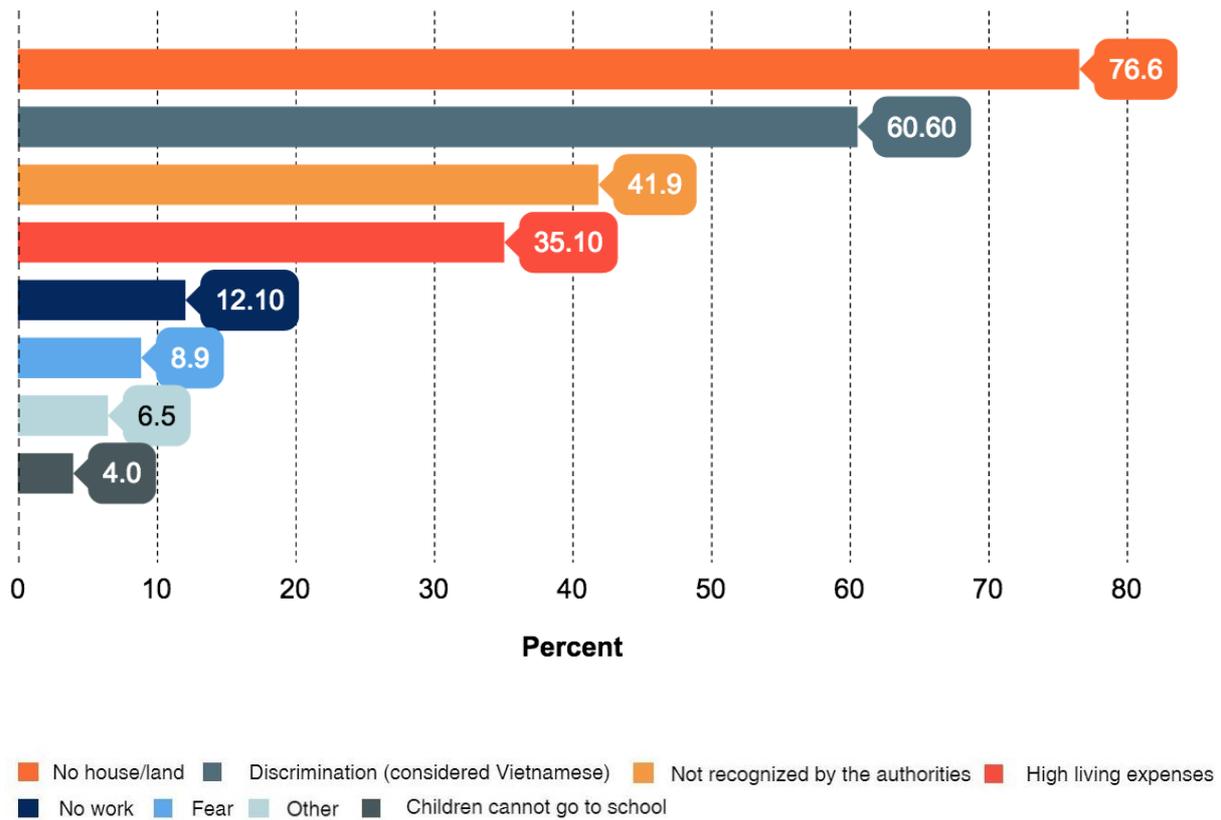


Do you face any difficulties or problems in Cambodia?

An overwhelming 92.8% of respondents replied that they faced difficulties or problems in Cambodia, with 27.4% of respondents reporting that they faced “many” difficulties. The most frequently cited difficulty was lack of a house or land (76.6%); while land rights violations remain widespread in Cambodia, and do not just affect Khmer Krom communities, this could possibly be due to the difficulties Khmer Krom may experience in trying to buy land or property without identity documents. This was closely followed by discrimination on the basis that Khmer Krom are believed to be Vietnamese, a response which was given by 60.6% of respondents; and 41.9% cited lack of recognition by the authorities.

Similarly, when asked about the most important issues which need to be solved in their current living conditions, 42.00% of respondents cited “discrimination by authorities and local Khmer.” These findings show that discrimination continues to be a significant feature of the experiences of the Khmer Krom in Cambodia and, in addition, that discrimination suffered by Khmer Krom must also be considered in the context of the negative attitudes towards Viet Nam and persons of Vietnamese nationality or ethnicity which exist within Cambodia. Some interviewees additionally spoke of political discrimination by local authorities, based on the assumption that Khmer Krom are supporters of the opposition Cambodian National Rescue Party.

What are your main difficulties or challenges in Cambodia?⁶⁴



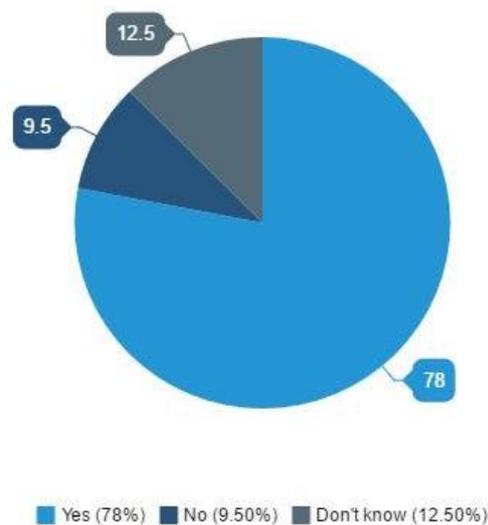
Surprisingly, given that Khmer Krom have commonly experienced problems accessing education due to their lack of identity cards, only 4% of respondents selected “children cannot go to school” as a difficulty. However, when asked what are the most important issues to be solved in their current living conditions, 17.80% of respondents cited “better access to education.” This increase when the question refers to education more broadly may be explained by the fact that research teams found a considerable difference in access to education depending on the age of the young person concerned. For example, in Takeo province, the research teams found that children are able to attend primary and secondary school without identity documents. However, in order to attend high school, children were required to produce birth certificates. As a result, some Khmer Krom children were not able to attend school beyond Grade 7.

As above, data in relation to “fear” as a difficulty or challenge faced by Khmer Krom may be compromised and, as a result, the quantitative data may not accurately reflect the extent to which Khmer Krom experience fear during their lives in Cambodia. While Khmer Krom were willing to speak to the research teams about their fear of the police and local authorities before or after the “formal” interview took place, they told the research teams that they were unwilling to record this in their survey responses, due to their fear of reprisals or deportation. Although the interviewees did not report any recent examples of Khmer Krom communities being returned to Viet Nam, for many Khmer Krom the memory of deportations of activists continues to exert a strong influence.

⁶⁴ Respondents were able to give more than one answer.

4.2.2 Attitudes to Cambodia

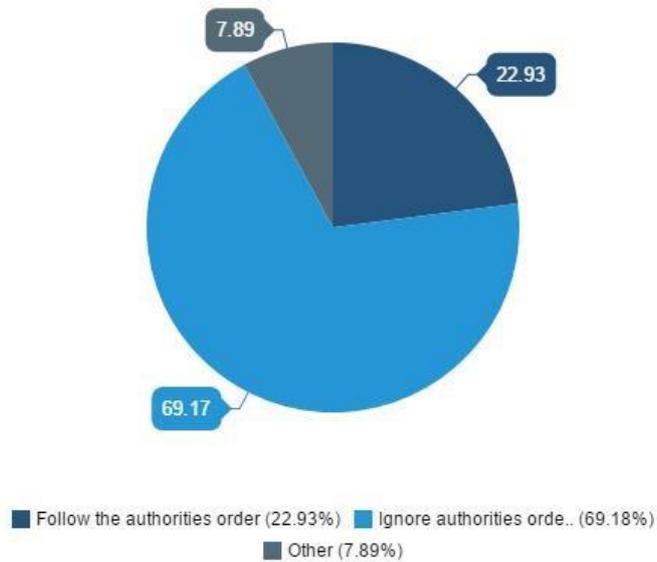
Do you want to live in Cambodia permanently?



Despite these difficulties, 78% of respondents expressed a desire to live in Cambodia permanently. This may be as a result of the positive factors referred to above, such as shared Khmer identity, the ease of doing business, and the presence of family and friends. However, as previous research has shown,⁶⁵ and as discussed above, Khmer Krom face relatively few other options when fleeing Viet Nam, as the statements by the RGC recognizing them as Khmer citizens preclude them seeking refugee status in Cambodia, or in third countries. Khmer Krom who did not express a wish to remain in Cambodia referred to their desire to return to be with family members who continued to live in Viet Nam.

⁶⁵ CCHR Report, 'False Promises: Exploring the Citizenship Rights of the Khmer Krom in Cambodia', CCHR, July 2011 <<http://bit.ly/2ihHkwc>>

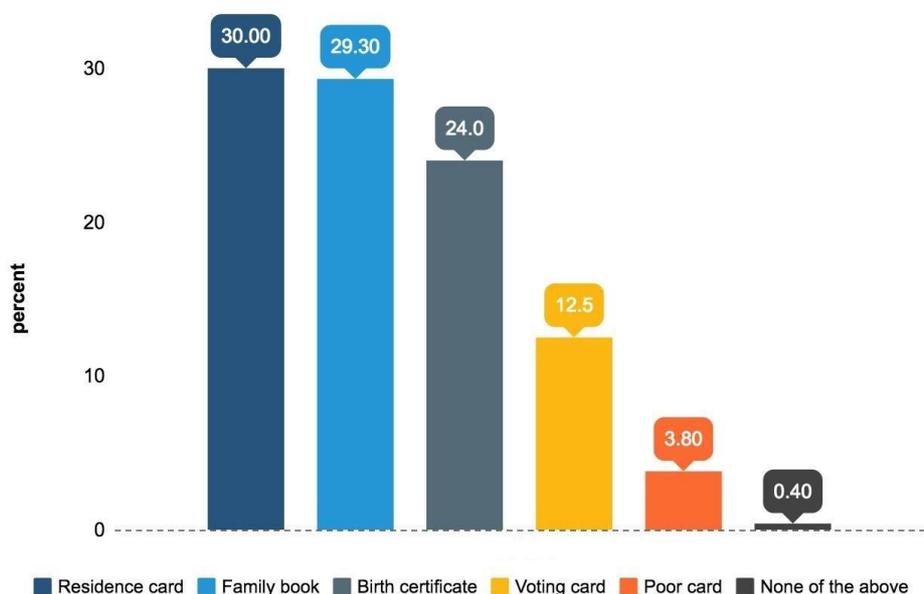
What would you do if the Cambodian authorities sent you back to Viet Nam?



When asked what they would do if the Cambodian authorities sent them back to Viet Nam, the majority of responses indicated that, in such a situation, the Khmer Krom would ignore any such order and advocate to claim their rights to live in Cambodia. Furthermore, when asked what Khmer Krom should do to resolve the issues they face, 29.3% of responses referred to advocacy and 30% of responses referred to mobilizing within their communities. Therefore, it appears that there is willingness, among the Khmer Krom communities who were surveyed, to engage in activism to promote and claim their rights, if the alternative is returning to Viet Nam. However, the fears expressed by interviewees regarding their ability to speak freely about the actions of the Cambodian authorities suggest that Khmer Krom may face obstacles to exercising their fundamental freedoms in order to claim their rights, which may discourage them from engaging in advocacy activities.

4.3 Citizenship status

Which other identification documents do you have?



Although not being in possession of Cambodian identity cards, almost all respondents possessed some form of identification. However, for the individuals surveyed, they are nevertheless still not in possession of valid identity cards. This may be because – as in the case of birth certificates – the information contained in these documents (such as a place of birth in Viet Nam or a Vietnamese-sounding name) appears, in the eyes of the state official processing the application, to disqualify the Khmer Krom individual from citizenship. Alternatively, it may be that they are failing to satisfy other requirements of the administrative process, such as a permanent address in Cambodia. Equally, as discussed below,⁶⁶ it could be the case that Khmer Krom are not aware that these documents allow them to obtain identity cards, or that they face other obstacles in the application process, such as discrimination or practical hurdles.

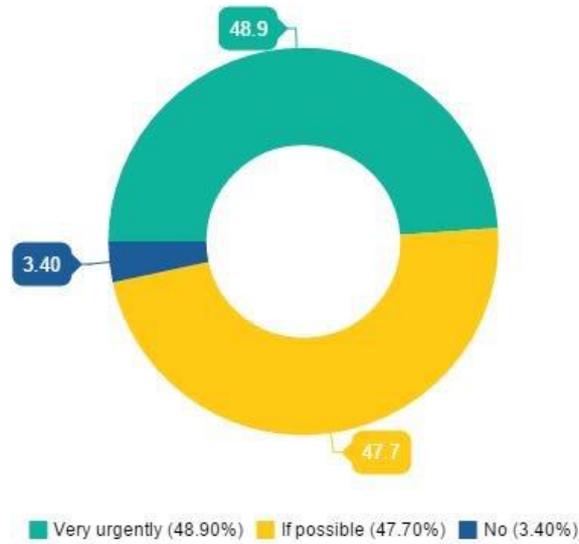
The findings revealed that only 12.5% of respondents possessed voting cards. This strikingly low figure suggests that the inability of Khmer Krom to obtain identity cards may be impacting the ability of Khmer Krom to exercise their democratic right to vote. To register to vote, the individual must prove Khmer nationality; and to cast their ballot, the voter must have documents to certify their identity during polling.⁶⁷ However, as noted above,⁶⁸ the research teams found that in some communities, subsequent to the researchers' visit, some Khmer Krom had since received identity cards and been registered to vote as part of the national registration campaign ahead of the commune elections.

⁶⁶ See section 4.3.2 below.

⁶⁷ Article 50, Law on the Election of Members of the National Assembly (2013, as amended) (the "LEMNA").

⁶⁸ See section 3.1 above.

Would you like to have a Cambodian identity card?

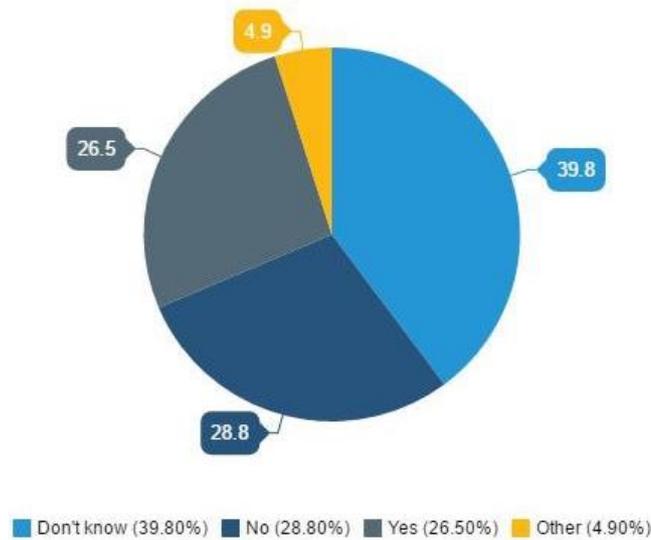


It is clear that the fact that our respondents do not possess identity cards is not because they do not wish to obtain them. 96.6% of respondents replied they would like to have a Cambodian identity card, with 48.9% of respondents stating that they would like one “very urgently.”

4.3.1 Awareness of citizenship rights under Cambodian law

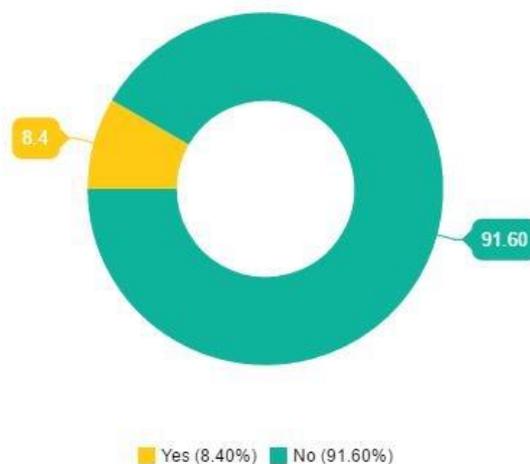
This research has revealed that one of the most significant obstacles to the Khmer Krom in obtaining identity cards may be a lack of awareness - both of the rights they have to Khmer citizenship, and of how they can obtain identity cards in practice.

Do you think that Khmer Krom get Khmer citizenship when they come to live in Cambodia?



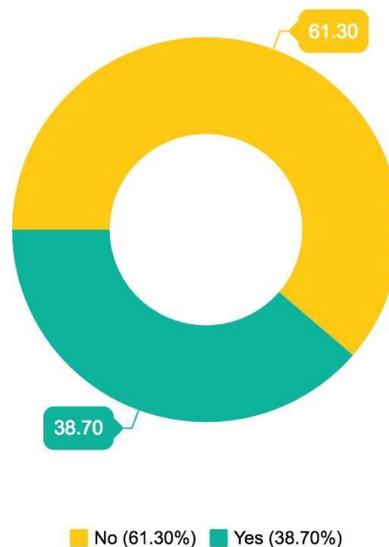
The survey revealed an alarming lack of knowledge on the part of Khmer Krom, with reference to the rights to which they are entitled under Cambodian Law. In response to the question “Do you think that Khmer Krom get Khmer citizenship when they come to live in Cambodia?” only 26.5% of respondents correctly answered “yes.” Similarly, when asked if they had heard about citizenship rights for Khmer Krom according to the Cambodian constitution and the Nationality Law, an overwhelming 91.6% of respondents answered in the negative. These findings are possibly due, in part, to the uncertainty and lack of clarity created by the RGC’s statements that Khmer Krom are entitled to Khmer nationality. Since these statements have not been accompanied by the creation of a legal or administrative procedure by which Khmer Krom can realize these rights, the statements appear at odds with the strict requirements set out in existing legislation and regulation.

Have you heard about citizenship rights for Khmer Krom according to the Cambodian constitution and the Nationality Law?



4.3.2 Awareness of procedures to obtain identity cards

Did you ever get any information about doing ID card?



On a practical level, the findings revealed a striking lack of information available to Khmer Krom regarding the procedures to obtain identity documents in practice. The findings showed that 61.3% of respondents had never received any information about applying for an identity card. Of those who had received information, 68.63% of responses reported receiving it from the authorities; 23.53% from a neighbor, friend or family member; and very few – 2.94% - from a community representative or indigenous people’s rights organization.

The findings revealed that 40.5% of respondents had applied for identity cards. Since they did not possess a valid identity card at the time of the survey, presumably they had either been unsuccessful, or succeeded in obtaining an old identity card which has since expired. However, despite the vast majority of respondents indicating that they wished to obtain identity cards,⁶⁹ 59.5% of respondents had never applied for a Cambodian identity card, with the most frequently given reasons being that they did not receive information (25.95% of responses); they did not know if anyone could assist them (16.03%); they do not have the required documents (15.27%); or that they “do not know” (12.98%). Respondents also expressed concern that: they are living in rented accommodation and so do not have a permanent address; about the need to make payments to the authorities; and, worryingly, the belief that Khmer Krom are not entitled to identity cards or that the authorities would not process their application. Two respondents replied that they were busy looking after children. Although we do not know the gender of these respondents, this suggests a potential gendered aspect to the identity card issue that would benefit from being further explored.

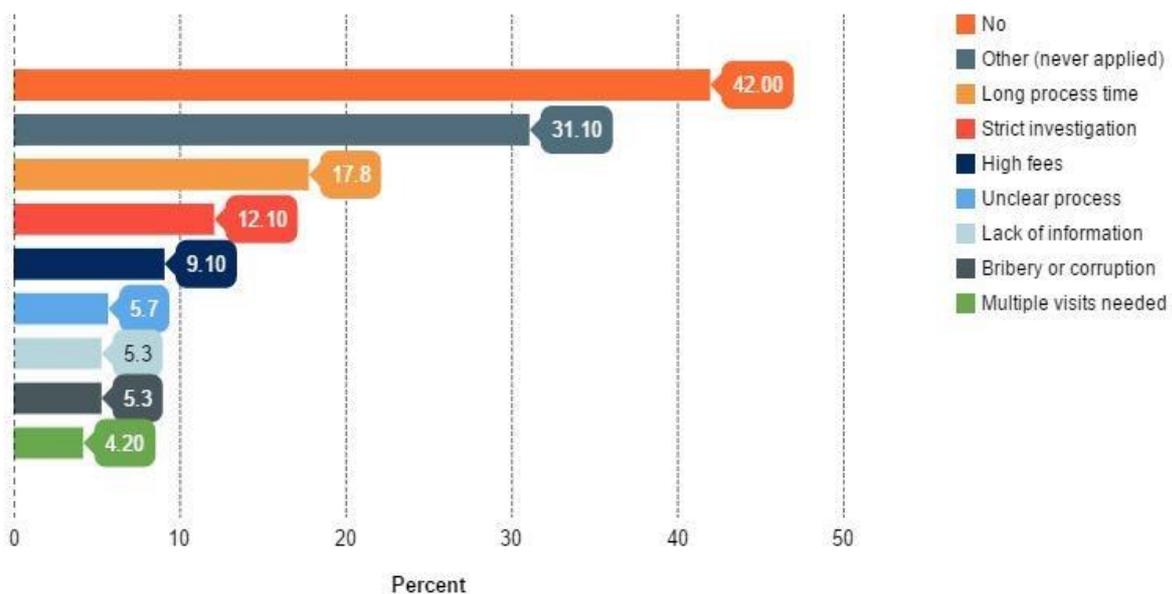
The majority of respondents (71.6%) had never obtained an old Cambodian identity card. However, of those Khmer Krom who possessed old identity cards, 58.7% had not swapped them for new electronic identity cards. Again, the most frequently given explanations were that: they did not know

⁶⁹ See section 4.3 above.

(38.16% of responses); they believed – incorrectly – that it was not possible for Khmer Krom to exchange old identity cards for new ones (21.05% of responses); or because the process is too difficult (19.74% of responses). Of those who had never obtained old Cambodian identity cards, 70.4% had not heard about the new electronic Cambodian identity cards. Again, these responses suggest that lack of understanding of the rights of Khmer Krom, as well as of the relevant procedures, is a significant obstacle to Khmer Krom obtaining identity cards.

4.3.3 The application process

Regarding the application process itself, 75.97% of respondents did not know how long the application process takes. The findings revealed that 21.32% believed it took less than six months, but some respondents thought application for identity cards could take from six months to one year (2.33%); with one response stating the belief that the process took two years to complete. This lack of clarity, or perception that the process is very lengthy, may have the effect of deterring Khmer Krom from applying for identity cards.



Did you encounter any difficulties in doing ID card?⁷⁰

Indeed, the belief that the procedure to obtain an identity card is long and time consuming appears to be confirmed by the experiences of those Khmer Krom who had attempted to apply in the past. While the majority of respondents (42.00%) indicated that they had experienced “no difficulties” when applying for an identity card, the research team found that this response may not accurately reflect their experiences. Some Khmer Krom who selected this response reported that, on going to apply for an identity card and submitting their application, they were told to return home and wait while their application was processed, only to never hear any further response. In such cases, while the Khmer Krom may not have experienced the other difficulties listed above, the inability or

⁷⁰ Respondents were able to give more than one answer.

unwillingness of the local authorities to promptly process their applications acts as an obstacle to Khmer Krom obtaining identity cards.

Significant numbers of respondents did cite difficulties with long processing times (17.80%) and strict investigations by the authorities (12.10%), as well as high fees (9.10%). Although not captured in the data, research teams found that experiences of implementation of the identity card application process varied significantly between provinces.

Only 5.30% of responses cited bribery or corruption; although, given that requests for bribes are rarely made explicitly, it is possible that Khmer Krom may have unknowingly made corrupt payments when applying for identity cards, which may also have been responsible for increasing application fees in practice, with the result that the incidence of bribery and corruption may be higher than reported.

Of the respondents, 86.60% had never changed their name while applying for an identity card, with interviewees explaining that they did not want to change their Khmer Krom identity. Given the existing research documenting the refusal of authorities to believe that Khmer Krom with Vietnamese-sounding names are Khmer citizens, and the practice which has developed - with the encouragement of the authorities - whereby Khmer Krom change their names to obtain identity cards,⁷¹ this is possibly a factor explaining why our respondents had not been successful in obtaining valid identity cards. Those who had changed their names during the application process gave increased ease of finding work as a reason. However, some interviewees did report receiving threats from the authorities that they must change their names to obtain an identity card.

4.4 The role of the authorities

4.4.1 Assistance provided by the authorities

The majority of respondents (68.10%) did not know where to obtain help in applying for an identity card and only 16.29% of all survey respondents had received assistance in applying for an identity card. Of those who received help, 60.47% were assisted by the authorities; 11.63% were assisted by the village chief to fill out the documents, while 25.58% were helped by their parents, relatives or others. However, when asked if they think Cambodian authorities help Khmer Krom to apply for ID cards when they come to Cambodia, only 36.7% of respondents replied positively.

4.4.2 Attitudes of the authorities

In addition to the data collected from Khmer Krom survey participants which has been analyzed above, the research teams conducted interviews with four senior officials from three different local authorities, in order to obtain complementary information regarding how authorities view both the issues faced by Khmer Krom, and the identity card application process. This limited data cannot be considered representative. However, it provides an interesting counterpoint to the findings above.

Three of the four authorities considered that Khmer Krom living in their area of responsibility faced difficulties; although one authority considered that Khmer Krom in their area did not face any

⁷¹ CCHR Report, 'False Promises: Exploring the Citizenship Rights of the Khmer Krom in Cambodia', CCHR, July 2011, p. 7 <<http://bit.ly/2ihHkwc>>

difficulties. When asked to identify the main challenges or difficulties faced by Khmer Krom in Cambodia, the most frequently given responses were “difficulty processing documents” and “discrimination.” This tallies with the findings above, although omits the difficulty most frequently cited by Khmer Krom survey participants: lack of house or land. Two authorities reported the occurrence of cases of discrimination against Khmer Krom in their area, on the basis that they are believed to be Vietnamese or due to their (perceived) political affiliation.

Troublingly, the interviews revealed a lack of awareness of the rights of Khmer Krom on the part of the authorities, although not on the same scale as among the Khmer Krom participants. Two of the four authorities questioned knew that Khmer Krom have the right to Cambodian citizenship and can apply for a Cambodian national identity card. However, two authorities interviewed described the application process as including, or even requiring, that the Khmer Krom change their place of birth. Authorities also reported having heard of Khmer Krom having to change their personal information in order to obtain identity cards. As noted above, this lack of understanding of the rights of Khmer Krom may be a result of the RGC’s omission to accompany its statements that Khmer Krom should be considered Khmer citizens with a concrete legal or administrative procedure by which Khmer Krom can apply for identity documents, and by which local authorities can grant them. In the present situation, the RGC’s statements appear to be contradicted by the strict requirements set out in the Nationality Law.

When questioned about the duration of the application process, responses varied from two months to five months, which corresponds to, and perhaps goes some way towards explaining, the uncertainty among Khmer Krom as to the processing time for identity cards. There was a similar lack of clarity regarding application fees: one response correctly stated that the fee was 10,000 Riel, while one response stated that in order to obtain the identity card quickly it was necessary to have a “relationship” with the issuing authority.

Interestingly, the authorities’ responses revealed an apparent willingness to grant identity cards to Khmer Krom, but a lack of certainty about how and whether they were able to issue them. All the authorities replied that they thought Khmer Krom should be recognized as Khmer citizens – either because of their Khmer identity or because they are recognized as such by Cambodian law – and wanted the Khmer Krom to remain in Cambodia permanently. All authorities questioned professed to be familiar with the citizenship rights for Khmer Krom under the Cambodian constitution and the Nationality Law, in one case referring to the statements by former King Sihanouk.⁷²

However, when asked why Khmer Krom faced difficulties obtaining identity cards, or why authorities had difficulties processing them, in addition to lack of a birth certificate some authorities replied that they were “waiting for an order” or were concerned that they may face legal proceedings if they act incorrectly. Similarly, when asked if they ever discussed citizenship rights for Khmer Krom within their institutions or guidelines for issuing identity cards to Khmer Krom, one authority replied that they used to, but now he “does not dare because he has no order.” Indeed, the authorities interviewed suggested that intervention from high officials, or explanations by central government to local authorities as to the position of Khmer Krom could be useful. This again suggests that absence of a

⁷² See note 12 above.

clear legal procedure for Khmer Krom to apply for identity cards, and the absence of a clear process for local authorities to issue them, are creating a lack of clarity about how and whether Khmer Krom can realize the rights to which the RGC has stated they are entitled.

5. Conclusion and Recommendations

The findings above show that Khmer Krom without identity cards still face considerable difficulties in Cambodia – notably lack of housing and land, discrimination, and lack of legal status – which are not consistent with Cambodia’s obligations to ensure that no individual is prevented from fully enjoying their human rights as a result of their ethnicity.

The findings of this report also confirm the conclusions of previous research, namely that the key issue facing the Khmer Krom remains the need to bridge the gap between the statements of the Cambodian government to the effect that Khmer Krom are citizens, and the reality, in which the citizenship rights of Khmer Krom are not given effect in practice.⁷³ In the absence of a specific legal procedure – or at the very least, clear administrative guidance – clarifying how Khmer Krom can apply for identity cards, and the procedures by which local authorities may issue them with identity cards, both Khmer Krom and local authorities lack understanding of the rights of Khmer Krom, and of how Khmer Krom can realize these citizenship rights in practice.

More active efforts by the Cambodian authorities are needed to promote and facilitate Khmer Krom access to identification documents, including by ensuring that applications are processed efficiently and in accordance with the proper procedures. In particular, authorities at all levels must ensure an end to the unlawful practice of requiring Khmer Krom to change their place of birth or family name in order to obtain an identity card.

This report makes the following recommendations to stakeholders, based on the research presented above:

Recommendations to the Royal Government of Cambodia

- Fully comply with its international obligations to ensure that no person is prevented from enjoying their human rights due to their nationality, ethnicity or race, including through actively promoting the ability of Khmer Krom to access identification documents;
- Ensure that implementation of the National Strategic Plan on Identification 2017 – 2026 takes account of the needs of minorities, including Khmer Krom, and addresses the specific issues they face in accessing identification documents;
- Issue a clear restatement of the RGC’s position that Khmer Krom are Khmer citizens, and enjoy the rights and protections accorded to all citizens under the Constitution and domestic law;
- Issue a legal instrument clarifying that the Law on Nationality applies to Khmer Krom and confirming that if an individual of Khmer Krom origin can show Khmer nationality by way of Khmer Krom ethnicity/parentage, they are eligible for identity documentation;

⁷³ CCHR Report, 'False Promises: Exploring the Citizenship Rights of the Khmer Krom in Cambodia', CCHR, July 2011 <<http://bit.ly/2ihHkwc>>

- Clearly set out in a legal instrument the evidence that will be considered in the assessment of Khmer nationality, that takes into account the specific situation of Khmer Krom, who may not have a place of birth or parents' place of birth in Cambodia;
- Ensure legal procedures for issuing identity cards are properly and consistently implemented by sub-national authorities, and in particular, ensure an end to the unlawful practice of requiring or encouraging Khmer Krom to alter their personal details in order to obtain identity cards;
- Issue a legal instrument establishing a specific procedure to allow Khmer Krom individuals to apply for ID cards and to give effect to their citizenship;
- Develop and publish a national anti-racial discrimination strategy, which will contain concrete actions to address discrimination against all minority, ethnic and indigenous groups;
- Ensure that all sub-national authorities understand the rights of Khmer Krom and the procedures by which they can obtain identity documents, for example, by organizing a national forum or workshop on the rights of Khmer Krom and the ID application process, with participants from provincial and local authorities responsible for issuing identity cards.

Recommendations to Civil Society Organizations

- Raise awareness among Khmer Krom communities of the rights they enjoy under Cambodian law and the Constitution;
- Raise awareness among communities of how Khmer Krom can apply for identity cards and where they can seek information and support in relation to this process.
- Conduct further research on the issues and challenges facing Khmer Krom, building on the findings above, with a view to finding solutions.

Recommendations to local authorities

- Ensure applications for identity cards are processed efficiently, and in conformity with the applicable laws, regulations and procedures;
- Immediately cease the unlawful practice of asking Khmer Krom to alter their personal details in order to obtain Cambodian identity cards;
- Actively inform Khmer Krom communities under their jurisdiction as to how they can apply for identity cards and seek support in this process, and provide assistance to support them through the application process.

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