

# Access to Justice in Cambodia

Joint Submission to the Human Rights Council of the United Nations  
Third Universal Periodic Review of the Kingdom of Cambodia



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Cambodian Center for Human Rights



គោលដៅ  
យុត្តិធម៌  
DESTINATION JUSTICE



សមាគមអាជ្ញាធរ  
ADHOC



តម្លាភាពកម្ពុជា  
TRANSPARENCY  
INTERNATIONAL  
Cambodia



API  
BUILDING CAPACITY  
FOR CHANGE

ifex

Overview - UPR Pre-session, Geneva, Switzerland

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# Access to justice in Cambodia - UPR submissions

- Drafted by:
  - The Cambodian Center for Human Rights (CCHR)
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  - The Cambodian Human Rights and Development Association (ADHOC)
- Supported by:
  - Transparency International Cambodia (TI Cambodia)
  - The Advocacy and Policy Institute (API)
  - IFEX

# Access to justice in Cambodia - Overview

- 2<sup>nd</sup> UPR cycle:
  - **59** recommendations
  - **45** accepted
  - **14** noted
- Key issues:
  - I. Lack of **independence & impartiality** of the judiciary
  - II. Insufficient access to **legal aid**
  - III. Limited **access to legal information & to courts**
  - IV. Violation of **fair trial rights**

# Lack of independence & impartiality of the judiciary

- 2014: the “3 laws on the judiciary” were adopted
  - Gave the executive **excessive control over the judiciary**
- Supreme Court’s President & Appeal Court’s President are **members of the ruling party’s central committee**

## Recommendations

1. Amend the 3 laws on the judiciary to ensure their compliance with international human rights standards

2. Guarantee the effective and impartial application of the Constitution, legislation and court rulings

# Insufficient access to legal aid

- **Legal aid budget insufficient:** 50-70\$ per case (average)
- Not available for all crimes
- **Not available at all stages of proceedings**
- 6 lawyers/100,000 people

## Recommendations

1. Conduct a comprehensive needs assessment to determine the required annual legal aid budget
2. Allocate a sufficient legal aid budget, which allows for the provision of legal aid at all stages of criminal proceedings, including at the investigative and appeal stages

# Limited access to legal information & courts

- Access to legal information **not legally protected**
- Judgments are **not easily accessible** or publicly available
- Only **one Court of Appeal**, in Phnom Penh

## Recommendations

1. Enact and ensure that the Law on Access to Information effectively safeguards the right to obtain legal information
2. Create a free, accessible and up-to-date official legal information database by 2021
3. Establish regional Appeal Courts & ensure their operationalization by the end of 2023

# Violations of fair trial rights

- **Presumption of innocence is routinely ignored**
- 74% of all detainees in pre-trial detention (May 2018)
- No detailed justification is provided for judgments
- **Juveniles rights**, esp. privacy, are **not respected**
- **Insufficient consideration of women's rights**, esp. GBV

## Recommendations

1. Require that all judges strictly respect the presumption of innocence

2. Ensure that the competent judicial authorities interpret the justifications for pre-trial detention strictly & narrowly

3. Adopt legislation protecting the rights of victims of gender-based violence and of juveniles in legal proceedings

# Thank you!

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