

# CAMBODIA 2016 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Cambodia is a constitutional monarchy with an elected parliamentary form of government. In the most recent national election in 2013, the Cambodian People's Party (CPP) won by its narrowest margin since 1993, capturing 68 seats, while the opposition Cambodia National Rescue Party (CNRP) won 55 seats. International and local nongovernmental organization (NGO) observers assessed the election process suffered numerous flaws, including problems with the voter registry, unequal access to media, and the issuance of an unusually large number of temporary official identification cards to voters. Despite such concerns about the process, the two parties ultimately agreed to abide by the official results and take their seats in parliament.

Civilian authorities maintained effective control over the security forces.

The most significant human rights problems included a politicized and ineffective judiciary; increased restrictions on freedoms of speech, assembly, and association; and the use of violence and imprisonment--both actual and threatened--to intimidate the political opposition and civil society as well as to suppress dissenting voices.

Other human rights problems included continued prisoner abuse, restrictions on press freedom and online expression, failure to grant equal access and fair treatment to asylum seekers, pervasive corruption, and trafficking in persons.

Although the government prosecuted some officials who committed abuses, including those involved in cases of corruption, most abuses persisted with impunity.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Arbitrary Deprivation of Life and other Unlawful or Politically Motivated Killings**

There were no credible reports the government or its agents committed arbitrary or unlawful killings during the year. There was no substantial progress in the investigation of alleged unlawful killings that occurred in 2014.

On July 10, a gunman killed Kem Ley, an outspoken and popular social and political analyst, at a convenience store in Phnom Penh. Police arrested a suspect, later identified as Oeuth Ang, who claimed he killed Kem Ley because of a 12 million riel (\$3,000) unpaid debt. Members of both Kem Ley's family and the alleged killer's family said the two men did not know each other. Noting this as well as other anomalies in the case--including the impoverished assailant's possession of an expensive handgun--many observers believed a third party hired Oeuth Ang. As of October authorities had made no visible progress in the investigation, citing Oeuth Ang's refusal to cooperate with police.

The Extraordinary Chambers in the Courts of Cambodia (ECCC), also known as the Khmer Rouge Tribunal, was established to hold accountable senior leaders and those most responsible for crimes of the Khmer Rouge regime. The ECCC is a "hybrid" court. It is part of the country's legal system but includes international as well as local judges, prosecutors, and staff. Although established under national law, a 2003 agreement between the United Nations and the government regulates ECCC proceedings. As part of that agreement, the government agreed to enforce court orders. In 2015 judicial police failed to execute an arrest warrant issued by the international coinvestigating judges, leading to allegations of government interference in the ECCC's operations. The defendant later voluntarily presented himself before the court.

### **b. Disappearance**

In 2014 a local NGO reported Khem Sophat missing after government security forces allegedly shot him during a violent clash outside the Canadia Garment Factory. Witnesses last saw Khem Sophat being loaded into an ambulance. As of September Khem Sophat remained missing.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The constitution prohibits such practices; however, beatings and other forms of physical mistreatment of police detainees and prison inmates continued during the year.

There were credible reports military and police officials used physical and psychological abuse and, on occasion, severely beat criminal detainees, particularly during interrogation. As of July the human rights NGO ADHOC reported authorities committed 15 instances of torture on detainees and prisoners,

compared with 20 instances during all of 2015. A different human rights NGO reported 31 physical assaults, compared with 19 during the first six months of 2015; eight cases resulted in deaths and four in life-threatening injuries. NGOs reported it was common for police to abuse detained suspects until they confessed to a crime. Courts used forced confessions as evidence during trials despite legal prohibitions against the admissibility of such confessions.

As of July ADHOC reported 10 cases of physical assault against civilians by local authorities, government agents, or private bodyguards of government officials, compared with 12 cases reported during all of 2015. In some cases police used force to counter threats or acts of violence by demonstrators. In others police used force against peaceful demonstrators after they interfered with traffic and refused orders to disperse.

The government operated seven drug rehabilitation centers. Most observers agreed the majority of detainees in such facilities were there involuntarily, committed to the facilities by police officers or family members. According to the National Authority for Combating Drugs, no detainee was younger than 18 years. Observers noted employees at the centers frequently controlled detainees with physical restraints or by submitting them to intense exercise and other harsh methods. Government leaders acknowledged the importance of treating drug addiction as a medical problem rather than a criminal matter, but there was little follow through on such statements. Authorities held an estimated 2,000 persons in these facilities.

### **Prison and Detention Center Conditions**

Prison conditions did not meet international standards. Conditions remained harsh and in many cases life threatening.

Physical Conditions: Overcrowding was a problem. According to the Ministry of Interior's General Department of Prisons (GDP), there were approximately 20,000 prisoners and detainees in 27 prisons designed to hold a maximum of 11,000 prisoners.

In most prisons there was no separation of adult and juvenile prisoners, of male and female prisoners, or of persons convicted of serious crimes and persons detained for minor offenses. Authorities routinely held pretrial detainees with convicted prisoners.

According to a local NGO, there were several pregnant women and children living with their incarcerated mothers in prison.

As of August the GDP reported that seven prisoners died while in custody. Police stated they investigated the deaths and found evidence of pre-existing conditions or other illnesses.

Local NGOs maintained that allowances for prisoner food and other necessities were inadequate in many cases. Observers continued to report that authorities sometimes misappropriated allowances for purchasing prisoners' food, exacerbating malnutrition and disease. Prisoners and detainees had access to clean water in only 18 of 27 prisons. Prisons did not have adequate facilities for persons with mental and physical disabilities. NGOs also alleged prison authorities gave preferential treatment, including increased access to visitors, transfer to better cells, and the opportunity to leave cells during the day, to prisoners whose families could pay bribes. According to a local NGO, "prisoner self-management committees," organized groups of inmates created and directed by prison guards, sometimes violently attacked other prisoners.

Administration: There were no legal provisions establishing prison ombudspersons. Authorities routinely allowed prisoners and detainees access to visitors, although rights organizations confirmed families sometimes had to bribe prison officials to visit prisoners or provide food and other necessities. There were credible reports officials demanded bribes before allowing prisoners to attend trials or appeal hearings and before releasing inmates who had served their full term of imprisonment.

Prisoners could submit uncensored complaints about alleged abuse to judicial authorities through lawyers, but a large number of prisoners and detainees could not afford legal representation. The government investigated complaints and monitors prison and detention center conditions through the GDP, which produced biannual reports on prison management. The GDP did not share the reports despite frequent requests by civil society organizations.

Independent Monitoring: The government generally allowed international and domestic human rights groups, including the International Committee of the Red Cross and the Office of the United Nations High Commissioner for Human Rights (OHCHR), to visit prisons and/or provide human rights training to prison guards. Some NGOs reported that cooperation by local authorities occasionally was limited, making it difficult to gain access to pretrial detainees. The Ministry of

Interior required lawyers, human rights monitors, and other visitors to obtain permission prior to visiting prisoners, and in some cases the government required NGOs to sign a formal memorandum of understanding delineating their “roles” during prison visits.

While some local independent monitoring groups operated with sufficient independence from government influence, others noted authorities denied them confidential and private meetings with prisoners. A local human rights NGO that traditionally provided medical care to prisoners reported the government periodically refused its requests to visit convicted prisoners who were members of a political opposition party. According to another NGO, the government accused it of harboring political bias and using its visits to embolden political prisoners. OHCHR representatives reported they were usually able to hold private meetings when interviewing a particular prisoner of interest.

#### **d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest and detention, but at times the government did not respect these prohibitions.

#### **Role of the Police and Security Apparatus**

The General Commissariat of the National Police, under Ministry of Interior supervision, manages all civilian police units. Police forces are divided into those with authority to make arrests, those without such authority, and judicial police, whose authority only extends to enforcing court warrants. The government permitted military police to arrest civilians if the officers met the training and experience requirements to serve as civilian police, if civilians were on military property, or when authorized by local governments. The military police, however, sometimes engaged in civilian law enforcement activities under the authority and direction of provincial or local governments, often in support of civilian police unable to exercise effective crowd control. The Ministry of Interior is the main government body charged with evaluating security force killings.

There were reports police officials committed abuses with impunity, and in most cases the government took little or no action. As of August ADHOC reported 47 instances of impunity. The law requires police, prosecutors, and judges to investigate all complaints, including those of police abuse; however, judges and prosecutors rarely conducted independent investigations. If abuse cases came to trial, presiding judges usually passed down verdicts based only on written reports

from police and witness testimony. In general police received little professional training.

### **Arrest Procedures and Treatment of Detainees**

The law requires police to obtain a warrant from an investigating judge prior to making an arrest, but police may arrest without a warrant anyone caught in the act of committing a crime. The law allows police to take a person into custody and conduct an investigation for 48 hours, excluding weekends and government holidays, before police must file charges, or a suspect must be released. In felony cases of exceptional circumstances prescribed by law, police may detain a suspect for an additional 24 hours with the approval of a prosecutor. Nevertheless, authorities routinely held persons for extended periods before charging them.

There was a functioning bail system, but many prisoners, especially those without legal representation, had no opportunity to seek release on bail. Authorities routinely denied bail cases considered politically motivated. Under the law accused persons may be arrested and detained for a maximum of 24 hours before being afforded access to legal counsel, but authorities routinely held prisoners incommunicado for several days before granting them access to a lawyer or family members. According to government officials, such prolonged detention largely was a result of the limited capacity of the court system. The government did not provide access to a lawyer for indigent detainees.

Arbitrary Arrest: As of August ADHOC reported 17 cases of arrest or detention it considered arbitrary, although it offered no specific examples. Another human rights NGO reported 28 cases involving illegal arrests or detentions, compared with 16 in the same period in 2015. The actual number of arbitrary arrests and detentions was likely higher because some victims in rural areas did not file complaints due to the difficulty of traveling to ADHOC's offices or due to concern for their family's security. Authorities took no legal or disciplinary action against persons responsible for the illegal detentions.

Throughout the year Phnom Penh municipal authorities temporarily arrested dozens of persons, usually those who were homeless, persons with mental disabilities, drug users, or persons engaged in prostitution, during systematic sweeps of city streets, and some of those arrested may have been victims of human trafficking. According to a local NGO, detainees typically lost all money and belongings during sweeps, which authorities stated were part of an effort to "regulate society." Authorities placed the detainees in a rehabilitation facility

operated by the Ministry of Social Affairs, Veterans, and Youth (hereafter the Ministry of Social Affairs) located 15 miles from Phnom Penh or with local NGOs. NGOs often released back to the streets within hours those placed in their custody.

Pretrial Detention: The law allows for pretrial detention of a maximum of six months for misdemeanors and 18 months for felonies. As of September the Ministry of Interior reported 7,032 pretrial detainees were in custody. Court staffers reportedly undertook efforts to speed case processing. Although authorities occasionally held pretrial detainees without legal representation, there were no reports authorities held detainees longer than the legal time limit or lost any case files. NGOs reported, however, that authorities held many of those accused of minor crimes in pretrial detention for long periods.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: Persons arrested or detained are entitled to challenge in court the legal basis or arbitrary nature of their detainment; however, authorities often did not respect this right.

#### **e. Denial of Fair Public Trial**

The constitution provides for an independent judiciary, but the government generally did not respect judicial independence. The courts were subject to influence and interference by the executive branch, which has the authority to promote, dismiss, and discipline judges at will. Judicial officials often simultaneously held positions in the ruling party, and observers alleged only those with ties to the CPP or to the executive received appointments to the judiciary. There was widespread corruption among judges, prosecutors, and court officials.

Observers alleged the Bar Association of the Kingdom of Cambodia heavily favored admission of CPP-aligned members at the expense of nonaligned and opposition attorneys and at times admitted unqualified individuals to the bar solely due to their political affiliation. At times the outcome of trials appeared predetermined. For example, observers at a trial of 11 opposition activists on charges of insurrection reported that shortly after judges retired to deliberate, judicial police surrounded the trial court and prepared to transfer the suspects to prison, indicating a guilty verdict was a foregone conclusion (see Political Prisoners and Detainees below).

High levels of corruption and inefficiency existed in the judicial branch, and the government did not provide for due process.

A shortage of judges and courtrooms delayed many cases, according to NGO reports. NGOs also believed court officials focused on cases that might benefit them financially. Court delays or corrupt practices often allowed accused persons to escape prosecution. Government officials and members of their families who committed crimes often enjoyed impunity. As in past years, NGOs asserted that rich or powerful defendants, including members of the security forces, often paid money to victims and authorities to drop criminal charges. Authorities sometimes urged victims or their families to accept financial restitution in exchange for dropping criminal charges or failing to appear as witnesses.

### **Trial Procedures**

Defendants are entitled by law to the presumption of innocence and the right of appeal, but due to pervasive corruption, they often had to bribe judges to secure a favorable verdict. Trials are often public and sometimes face delays due to court bureaucracy. Defendants have the right to be present at their trials and consult with an attorney, confront and question witnesses against them, and present witnesses and evidence on their own behalf. In felony cases, if a defendant cannot afford an attorney, the law requires the court to provide the defendant with free legal representation; however, the judiciary lacked the resources to provide legal counsel, and most defendants sought assistance from NGOs, sought pro bono representation, or “voluntarily” proceeded without legal representation. In the absence of required defense attorneys in felony cases, trial courts routinely adjourned cases until defendants could secure legal representation, a process that often took months. Trials were typically perfunctory, and extensive cross-examination usually did not take place. The courts offered free interpretation. Defendants and their attorneys have the right to examine government-held evidence relevant to their case, but sometimes it was difficult for them to obtain such access, especially if the case was politically sensitive or involved a high-ranking official or politically well-connected persons. The law extends these rights to all defendants.

There remained a critical shortage of trained lawyers, particularly outside Phnom Penh. The right to a fair public trial for persons without means to secure counsel often was denied de facto. According to the bar association, as of September there were 869 lawyers providing legal services throughout the country, compared with 796 in 2015. Poor defendants could seek free legal services from these lawyers with assistance from some NGOs.

NGOs reported that sworn written statements from witnesses and the accused usually constituted the only evidence presented at trials. Authorities sometimes coerced an accused person's statements through beatings or threats, and police often forced illiterate defendants to sign written confessions without informing them of the contents. The difficulty in transferring prisoners from provincial prisons to the appeals court in Phnom Penh limited their right to be present at appeal hearings. Consequently defendants were unable to be present at more than half of all appeals.

As of June a local human rights NGO had monitored 143 trials, of which 73 lacked the presence of a lawyer. In 70 of the cases, defendants confessed to the crime before the trial began; 13 of these defendants claimed they confessed due to torture, coercion, and/or threats by the police.

### **Political Prisoners and Detainees**

As of June a local human rights NGO estimated authorities held at least 29 political prisoners or detainees.

In July 2015 the Phnom Penh Municipal Court sentenced 11 opposition activists from the CNRP to between seven and 20 years in prison for their alleged role in a 2014 protest that resulted in the injury of six protesters and 39 Daun Penh District security guards. Some observers asserted the court reached verdicts without any evidence linking the activists to the alleged crimes and instead interpreted the convictions as punishment for the activists' criticism of the country's border demarcation with Vietnam, a politically charged issue. The 11 jailed opposition activists appealed the verdict, and on August 23, the Appeals Court agreed to split the appeal case--one case to contest the verdict and a second case to challenge improper legal procedures.

In August 2015 Prime Minister Hun Sen ordered authorities to arrest Senator Hong Sok Hour of the opposition Sam Rainsy Party despite his parliamentary immunity. He was charged with "forgery" and "incitement" for posting a fake 1979 border treaty between the government and Vietnam according to which the two countries purportedly agreed eventually to dissolve their mutual border. On June 23, the Supreme Court upheld the decision of the Appeals Court not to grant Hong Sok Hour bail despite a recommendation from his doctor to do so due to health concerns. On November 7, Judge Ros Piseth of the Phnom Penh Municipal Court found Hong Sok Hour guilty of falsifying public documents, using fake documents, and inciting chaos and sentenced him to seven years in prison. Many

observers interpreted these actions as a means of pressuring the CNRP to refrain from criticizing the government for failing to demarcate the border with Vietnam properly.

In May the Anticorruption Unit (ACU) detained four senior staff of ADHOC and a deputy secretary general from the National Election Committee (NEC), who was a former staff member of ADHOC. The ACU accused the five of bribing an alleged mistress of opposition leader Kem Sokha to lie about a sexual affair--a charge they continued to deny. They remained in custody awaiting trial. Authorities initially accused a citizen working for the OHCHR in Phnom Penh of encouraging the mistress to lie, but authorities reportedly dropped the charge later.

Opposition politicians and civil society organizations reported that authorities often arbitrarily denied access to prisoners whose incarceration they believed to be politically motivated. In the case of four jailed ADHOC officials, authorities limited visits to two times per week.

### **Civil Judicial Procedures and Remedies**

The country has a system in place for hearing civil cases, and citizens are entitled to bring lawsuits seeking damages for human rights violations. Both administrative and judicial remedies generally were available; however, authorities often did not enforce court orders.

### **Property Restitution**

Forced collectivization under the Khmer Rouge and the movement of much of the population left land ownership unclear. The land law states that any person who peacefully possessed private or state land (excluding public lands, such as parks) or inhabited state buildings without contention for five years prior to the 2001 promulgation of the law has the right to apply for a definitive title to that property. Most citizens, however, continued to lack the knowledge and means to obtain adequate formal documentation of land ownership.

Provincial and district land offices continued to follow pre-2001 land registration procedures, which did not include accurate land surveys or opportunities for public comment. The Cadastral Commission, established by the government in 2002 to resolve quickly and to the satisfaction of the relevant parties unregistered land cases (not including cases related to inheritance or contracts), failed to implement the identification and demarcation of state land, leading to conflict and evictions

precipitated by state actions to develop contested land. Land speculation, in the absence of clear title, fueled disputes in every province and increased tensions between poor rural communities and speculators. Urban communities faced forced eviction to make way for commercial development projects. The Ministry of Land Management reported it had distributed 619,140 land titles to villagers since 2012. It granted 9,140 land titles during the year.

Cases of authorities forcing inhabitants to relocate continued, although the number of cases declined in recent years. Some persons also used the threat of legal action or eviction to intimidate poor and vulnerable persons into exchanging their land for compensation at below-market values. As of July ADHOC reported 81 new land-related conflicts between businesspersons and villagers, including accusations of land grabbing, theft of natural resources, economic land concessions, and land evictions. This included more than 20,614 acres of land and affected approximately 7,657 families. The poor often had no legal documents to support their land claims and lacked faith in the judicial system. Some of those evicted successfully contested the actions in court, but the majority of cases remained pending.

#### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The law provides for the privacy of residence and correspondence and prohibits illegal searches, although NGOs reported that police routinely conducted searches and seizures without warrants. An NGO also alleged, without providing evidence, the government installed surveillance equipment at internet service providers to monitor online traffic, and it routinely monitored private telephone communications.

### **Section 2. Respect for Civil Liberties, Including:**

#### **a. Freedom of Speech and Press**

While the constitution provides for freedom of speech and press, the government did not always respect these rights.

Freedom of Speech and Expression: The constitution grants free speech except where it adversely affects public security. The constitution also declares that the king is “inviolable,” and a Ministry of Interior directive conforming to the defamation law reiterates these limits and prohibits publishers and editors from

disseminating stories that insult or defame not just the king, but also government leaders and institutions.

In March 2015 the National Assembly agreed to amendments to the laws governing the NEC and passed a new Law on the Election of Members of the National Assembly. Both the amendments and the new law contain provisions that require civil society organizations to remain “neutral” during political campaign periods and prohibit them from “insulting” political parties through the media. The Law on Associations and Non-Governmental Organizations (LANGO), promulgated in August 2015, further restricts freedom of speech by broadly requiring all associations and NGOs to be politically neutral.

The law prohibits prepublication censorship or imprisonment for expressing opinions; however, the government used the penal code to prosecute citizens on defamation, disinformation, and incitement charges. The penal code does not prescribe imprisonment for defamation but does for incitement or spreading disinformation, which carry a maximum imprisonment of three years. Judges also can order fines, which may lead to jail time if not paid. Courts broadly interpreted the crime of “incitement,” and senior government officials threatened to prosecute opposition figures on incitement charges for acts including calling for a “change in government” by electoral means.

Local human rights NGOs, media, and several independent analysts continued to express concern publicly about government actions targeting their work, including the cases against ADHOC officials. On May 9, a group of human rights activists launched the “Black Monday” campaign to protest the injustice of the judiciary and demand the release of the so-called prisoners of conscience. The campaign called upon members to wear black every Monday in solidarity with the prisoners. In a number of cases, authorities arrested the campaigners and granted release contingent on their signing an agreement promising not to rejoin the protests.

Press and Media Freedoms: All major political parties had reasonable and regular access to the print media. A majority of Khmer-language newspapers received financial support from individuals closely associated with the ruling CPP. According to the Ministry of Information, there were an estimated 13 Khmer-language newspapers, while 30 to 40 small circulation “papers” printed on an irregular schedule.

Although observers considered the five newspapers with the largest circulation pro-CPP, the newspapers occasionally criticized the government in some general

areas, particularly with regard to corruption and land acquisition. As of August no pro-opposition newspapers published regularly; however, opposition voices relied on electronic publications and social media to express a wide range of opinions, including dissent. While the use of social media remained largely uncensored, some activists noted an increase in targeted crackdowns by government authorities, resulting in some social media users being subject to threats, arrest, detention, and unfair convictions.

The government, military forces, and the ruling political party continued to influence broadcast media. There were 16 domestic television stations and more than 175 radio stations. The CPP controlled or strongly influenced most television and radio stations, although a few were independent or aligned with other parties. According to a media monitoring NGO, the government routinely used state television to promote the activities of the government and the CPP and to criticize the opposition, while not granting the opposition parties equal access. In July civil society organizations criticized local media outlets for not covering the events surrounding the killing of Kem Ley. Some individuals attributed this to CPP and government pressure on media.

As part of the 2014 deal ending the political impasse between the ruling and opposition parties, the government granted the CNRP a license to operate a television station; however, the CNRP faced difficulties obtaining local land and building permits. In April, Kandal provincial authorities banned the CNRP from erecting its television antenna, citing concerns by local residents that the station would emit electromagnetic radiation and harm their health. CNRP officials accused the authorities of being biased, noting that the CPP-aligned Apsara TV had broadcasted from a densely populated area in Phnom Penh since 1996 without any problem or protest. The CNRP announced in June it would identify an alternative location for the station.

Violence and Harassment: Threats and violence against journalists and reporters remained common. On April 10, Pailin District police officer Khea Sokhorn pointed a rifle at Ouk Touch, a reporter for the *Kampuchea Aphivat* newspaper, claiming he was infuriated with the journalistic investigation into his violent shooting of villagers. In a separate case, military police in Mondulkiri Province detained Vann Tith, a TV9 broadcaster who reported that their commander took bribes from illegal loggers in the Seima Biodiversity Conservation Area.

Censorship or Content Restrictions: There were reports government agents harassed and intimidated journalists, publishers, and media distributors. Because

the government controls permits and licenses for journalists, most media outlets practiced self-censorship to some degree. Some reporters and editors continued to self-censor their reporting due to fear of government reprisal.

Libel/Slander Laws: The government used libel, slander, defamation, and denunciation laws to restrict public discussion on issues it deemed sensitive or against its interests. The government issued an arrest warrant for opposition leader Sam Rainsy relying on a conviction from a defamation suit brought by then foreign minister Hor Namhong in 2008 (see section 3).

National Security: The government continued to cite national security concerns to justify restricting citizens' rights to criticize government policies and officials. In particular the government routinely threatened to prosecute and arrest anyone who questioned the demarcation of the country's border with Vietnam or suggested the government had ceded national territory to Vietnam.

## **Internet Freedom**

While the government did not restrict or disrupt access to the internet or censor online content, there were credible reports government entities monitored private online communications. According to the Ministry of Posts and Telecommunications, internet access was widely available, particularly in urban centers, and more than 31 percent of the population had internet access. More than 98 percent of users could access the internet through mobile devices as opposed to home connections.

In December 2015 the Law on Telecommunications came into effect, causing backlash from the country's leading civil society and human rights activists, who claimed it provides the government broad authority to monitor secretly online public discussion and communications using private telecommunication devices. According to human rights NGO Licadho, the government has the legal authority to monitor every telephone conversation, text message, e-mail, social media activity, and correspondence between individuals without their knowledge or consent. Any expressed opinions deemed to violate the government's definition of national security could result in a maximum imprisonment of 15 years. As of November there were no arrests based on the new legislation.

A local human rights NGO claimed there were at least 20 cases of persons arrested for content they posted online. In March the Phnom Penh Municipal Court sentenced political science student Kong Raya to 18 months in prison for calling

for a “color revolution” on Facebook. Civil society groups condemned the conviction and characterized it as a measure to restrict further freedom of expression online. Several activists said the government sought to use Raya’s case to threaten, intimidate, and obstruct civil society.

In 2015 the Ministry of Interior announced it would begin enforcing rules mandating all SIM cards be associated with an identifiable individual. This led to the disconnection of nearly one million SIM cards. As of September an estimated 19 million SIM cards were in use, compared with approximately 20 million in use in 2015. Police justified the new rule as a necessary step to curb crime, including trafficking in persons, and terrorism. Despite this new requirement, many mobile operators did not confirm the identities of SIM card owners. Civil society groups continued to express concern the government could use the collection of personal information from SIM card registration to stifle freedom of expression online.

A “Cyber War Team” in the Council of Ministers’ Press and Quick Reaction Unit is responsible for monitoring and countering “incorrect” information from news outlets and social media. A leak of the draft Cybercrime Law in July 2015 raised additional fears the government was developing new legal mechanisms to broaden its powers to arrest and convict those who challenge its position. In response the government stated the goal of the legislation was to “inform the public,” protect the government’s “prestige and honor,” and defend the government from “insults.”

### **Academic Freedom and Cultural Events**

In general there were no government restrictions on academic freedom or cultural events, although scholars tended to be careful when teaching political subjects due to fear of offending politicians. In May the Ministry of Education reminded public and private education institutions the education law strictly prohibits all political activities and discussions. Specifically the law states, “Political activities and/or propaganda for any political party in educational establishments and institutions shall be completely banned.” Many activists asserted the law aims to stifle youth support of the opposition, adding that a majority of school principals supported the CPP. On August 10, the ministry issued a directive banning all political activity at academic institutions. Government officials appeared to exempt several large campus-based organizations affiliated with the ruling party, however, stating these were “extracurricular” groups that promoted “humanitarian causes.”

### **b. Freedom of Peaceful Assembly and Association**

## **Freedom of Assembly**

The constitution provides for freedom of peaceful assembly, but the government did not always respect this right.

The LANGO requires an advance permit for meetings, training, protests, marches, or demonstrations, although authorities sometimes inconsistently enforced this requirement. One provision requires five days' notice for most peaceful demonstrations, while another requires 12 hours' notice for impromptu gatherings on private property or protests at designated venues and limits such gatherings to 200 persons. By law provincial or municipal governments may issue demonstration permits at their discretion. Lower-level government officials, particularly in Phnom Penh, generally denied requests unless the national government specifically authorized the gatherings. All levels of government routinely denied permits to groups critical of the ruling party.

There were credible reports the government occasionally prevented associations and NGOs from organizing public events, arguing the groups had not registered under the newly passed LANGO, although implementation regulations on the law were not yet in place. Authorities cited the need for stability and public security as reasons for denying permits, although the law does not define the terms "stability" or "public security." Government authorities also occasionally cited provisions in the LANGO to prevent associations and NGOs from organizing public events or to break up meetings and training deemed hostile to the government. In some cases police forcibly dispersed groups assembled without a permit, sometimes causing minor injuries to demonstrators. The press reported numerous public protests, most related to land or labor disputes.

A human rights NGO reported the government prevented at least 42 cases of peaceful gatherings or public speeches, double the number in 2015. The Coalition of Cambodian Farmer Community, a community-based organization working with farmers to improve their livelihoods, reported that Prey Veng authorities stopped one of its training sessions and demanded it show its official registration documents, although the Ministry of Interior claimed the LANGO does not obligate such organizations to register.

## **Freedom of Association**

The constitution provides for freedom of association, but the government did not always respect this right, particularly with regard to workers' rights (see section 7.a.).

Vaguely worded provisions in the LANGO prohibit any activity that may “jeopardize peace, stability, and public order” or harm “national security, national unity, traditions, and culture of Cambodian society.” Civil society organizations expressed concern the vaguely worded provisions created a substantial risk of arbitrary restrictions to the right of association. According to critics the LANGO provides for a heavily bureaucratic, multistep registration process that lacks administrative safeguards, rendering the process vulnerable to politicization. The law also imposes burdensome reporting obligations on finances and activities. Additional obligations include the disclosure of all successful funding proposals, financial or grant agreements, and bank accounts held by associations and NGOs. While official statistics continued to be unavailable, many NGOs reported difficulties filing registration paperwork with the government.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

### **d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

Exile: Opposition leader Sam Rainsy remained in France under self-imposed exile. The government issued a warrant for his arrest in November 2015 on charges of defamation while he was outside of the country, and he had not returned at years' end.

### **Protection of Refugees**

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The government failed to grant equal access to that system for all asylum seekers. In particular authorities routinely denied access by Montagnard asylum seekers from Vietnam to the refugee registration process. The national asylum system had

limited capacity, which resulted in long delays for some asylum seekers. In April 2015 the government deployed more than 1,000 soldiers to the Vietnamese border at Ratanakiri-Dak Lak to prevent more than 100 Christian Montagnard asylum seekers from entering the country. In May the Office of the United Nations High Commissioner for Refugees (UNHCR) transferred a group of 13 Montagnards to the Philippines Refugee Processing Center and sought a third country for their resettlement. A group of 16 additional asylum seekers returned voluntarily to their home country in July after failing to secure refugee status in Phnom Penh.

Refoulement: Stating that they were “economic migrants,” the government returned at least 50 Montagnard asylum seekers to Vietnam in 2015 without conducting refugee status determinations. According to UNHCR more than 170 Montagnards remained in Phnom Penh and wished to register as asylum seekers, but the Ministry of Interior’s Refugee Department refused to allow them to do so. In October the ministry announced it had not granted asylum to a majority of the remaining Montagnards following extensive interviews, stating, “Their answers do not comply with the convention on refugees.” Local media initially reported the ministry provided them two weeks’ notice to leave the country or face arrest and immediate deportation to Vietnam; however, the ministry later retracted that timeline.

Employment: According to an NGO, documentation granted by the government was insufficient to allow 85 persons granted refugee status in 2015 to work, open a bank account, or use public services.

Durable Solutions: Pursuant to a 2014 deal with Australia, the government accepted for domestic resettlement five refugees previously held on Nauru. After the arrival of a lone Rohingya refugee, a group of four followed. Local media reported authorities confined the four to a villa provided by the government and were not, contrary to assurances, allowed to seek their own housing or integrate into society. The four refugees subsequently returned to their country of origin, including an Iranian married couple who returned to Iran in March. The Rohingya refugee reportedly remained in the country. No effective pathway to citizenship existed for refugees.

## **Stateless Persons**

The country had habitual residents who were de facto stateless, and the government did not effectively implement laws or policies to provide such persons the opportunity to gain nationality (see section 6, Children).

A 2007 study commissioned by UNHCR estimated that several thousand potentially stateless persons lived in the country. This estimate was based on anecdotal evidence, and local UNHCR representatives did not consider the figure conclusive. The most common reason for statelessness was lack of proper documents from the country of origin.

UNHCR reported that the country's stateless population was primarily ethnic Vietnamese. According to an NGO, individuals without proof of nationality often did not have access to formal employment, education, marriage registration, the courts, or the right to own land.

### **Section 3. Freedom to Participate in the Political Process**

The constitution provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

#### **Elections and Political Participation**

Recent Elections: The most recent national election, held in 2013, was generally peaceful, and all parties participated without interference in a campaign largely free of intimidation, in contrast to previous national elections. While there were only limited disturbances during the election, the voting process was fraught with irregularities, including allegations an unexpectedly high number of voters used temporary voter identification cards. In addition, by the government's own calculations, more than 9 percent of eligible voters could not vote due to problems with voter registration lists. Numerous civil society organizations identified the problem of disenfranchised voters well before the election, but the NEC took no significant corrective action. Observers indicated the scale of electoral irregularities warranted an independent investigation, but a full and transparent investigation did not occur. The CNRP boycotted the National Assembly until July 2014, when it reached an agreement with the ruling CPP to reform the NEC.

As part of that agreement, the CPP and CNRP also agreed to move the national election to February 2018 to coincide with the dry season, with the aim of improving voter turnout. In August 2015, however, the government announced the national election would take place in July 2018 in apparent violation of the understanding. As the country prepared for commune elections in 2017 and national elections in 2018, civil society and human rights activists reportedly

feared the government would employ additional tactics to suppress those who oppose its views. Observers expressed concern over the neutrality of the committee when some of the CNRP-appointed or affiliated staff at the NEC experienced severe legal harassment. The government detained NEC Deputy Secretary General Ny Chakrya, alleging he assisted the four ADHOC human rights defenders accused of bribing Kem Sokha's purported mistress. In addition the Phnom Penh Court of First Instance summoned Rong Chhun, one of CNRP's four appointees, on charges of participation in a 2014 protest.

Political Parties and Political Participation: In October 2015 protesters attacked and beat two opposition members of parliament following a protest outside the National Assembly. Some civil society groups stated that the government organized the protest. Social media users claimed they identified at least one of the attackers as a member of the Prime Minister's Bodyguard Unit. In November 2015, three of the suspected perpetrators, all members of the Prime Minister's Bodyguard Unit, surrendered to police. A government commission formed to investigate the attack stated it would not investigate further suspects absent a court order, despite video evidence of the involvement of other perpetrators. The court sentenced the perpetrators to four years in prison but later reduced their sentence to one year.

In November 2015 the Phnom Penh Municipal Court ordered the arrest of opposition leader Sam Rainsy, relying on a conviction in a defamation suit brought by then foreign minister Hor Namhong in 2008. Opposition supporters argued that a royal pardon Rainsy received in 2013, which allowed him to return from self-imposed exile and participate in the 2013 election, vacated the verdict. The court issued the warrant only 24 hours after Prime Minister Hun Sen publicly warned Rainsy his verbal attacks on the government could result in his prosecution. Subsequently the National Assembly voted to remove Rainsy from parliament, thus revoking his parliamentary immunity. The order for Rainsy's arrest came while he was traveling internationally, which observers said was evidence the government intended to deter the opposition leader from returning to the country.

The government subsequently initiated a series of investigations and legal actions against deputy opposition leader Kem Sokha stemming from an alleged extramarital affair with a 23-year-old hairdresser named Khom Chandaraty. In February a series of alleged telephone conversations between Sokha and Chandaraty were anonymously posted online. In one of those recordings, the man alleged to be Sokha offered the woman a house and some money. Based on this the ACU opened an investigation into Sokha's finances. Other state institutions,

including an antiterror unit within the Ministry of Interior and the Phnom Penh Municipal Court, also reportedly initiated investigations into the affair. On May 2, two CNRP parliamentarians received summonses to appear in court relating to a potential charge of human trafficking, for allegedly facilitating Chandaraty's travel to Thailand to meet with Sokha. On May 17, authorities summoned Sokha for questioning. Citing his parliamentary immunity, Sokha refused to heed this or subsequent summonses related to the case. On September 9, a court sentenced Sokha to five months in prison and an 800,000 riel (\$200) fine for failure to respond to a court summons. On November 4, an appeals court upheld the five-month prison sentence. Authorities never investigated the original leak of the recorded telephone conversations.

Some NGOs and political parties claimed that membership in the dominant CPP provided material advantages such as gifts, access to government aid, and economic land concessions. In June 2015 the government announced its ambassadors serving overseas would also serve as CPP "committee directors" and would be charged with leading membership drives and fundraising efforts on behalf of the CPP in their countries of assignment. In November 2015 Cambodia's ambassador to the Republic of Korea told his fellow citizens living in South Korea they faced arrest and deportation if they participated in pro-opposition rallies organized by visiting opposition leaders.

Buddhist monks historically faced difficulties in registering to vote and were otherwise excluded from full participation in the electoral process. The supreme patriarch of the country's Mohanikaya Buddhist sect called for monks to refrain from participating in the country's elections and urged the government to enact laws codifying such prohibitions. The NEC reported that, despite its support for the voting rights of the clergy, the Ministry of Interior refused to issue voter identification cards to monks.

As of September the Ministry of Interior had not released information on the number of newly registered political parties; however, media reports identified several new parties.

Participation of Women and Minorities: No laws limit the participation of women and members of minorities in the political process; however, cultural traditions limited participation by women in government, although women participated in the 2013 national election.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials, but the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity.

Corruption: The penal code defines various corrupt acts and specifies the applicable penalties for such acts. The anticorruption law provides the statutory basis for the National Council against Corruption and the ACU to receive and investigate corruption complaints. The ACU did not collaborate frequently with civil society and was considered ineffective in combating corruption. In June 2015 the Council of Ministers, an executive branch organ, issued a directive requiring civil servants to seek clearance and permission from supervisors before responding to legislative branch inquiries related to corruption allegations.

Corruption was endemic throughout all segments of society and branches of government. There were reports police, prosecutors, investigating judges, and presiding judges received bribes from owners of illegal businesses. Citizens frequently and publicly complained about corruption. Meager salaries contributed to “survival corruption” among low-level public servants, while a culture of impunity enabled corruption to flourish among senior officials.

According to a corruption-monitoring NGO, in 2015 there were 297 instances of corruption, compared with 217 in 2014. Eleven of the cases involved serious abuse of power by senior leaders in judicial, executive, and legislative branches; 135 cases involved bribes and fraud by high-ranking public officials, 133 involved the misuse of state resources for political purposes, and 18 involved nepotism and cronyism. Another report documented the extensive holdings of family members of Prime Minister Hun Sen.

Financial Disclosure: The law subjects public servants, including elected and appointed officials, to financial and asset disclosure provisions. The ACU is responsible for receiving the disclosures, with penalties for noncompliance ranging from one month to one year in prison. In 2015 the ACU reported that of 5,255 government officials required to disclose their assets, the compliance rate was 99.9 percent. Financial disclosures of senior officials were not publicly available and remained sealed unless allegations of corruption are filed. In March the ACU announced it would unseal the financial disclosure records of Kem Sokha because of allegations he promised property and cash to his purported mistress. Previously, no other disclosure records had ever been unsealed.

Public Access to Information: The law allows unlimited access to informational documents in the public archive. The law, however, grants access to other unspecified government documents only after 20 years, and documents affecting national security and preservation of life may be released only after 40 and 120 years, respectively. Some NGOs reported difficulty accessing information, noting the process was cumbersome and the government regularly failed to respond to their inquiries.

### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views, but there were multiple reports of lack of cooperation and, in some cases, intimidation by government officials, including the cases against ADHOC (see section 1.e.).

Domestic and international human rights organizations faced threats and harassment from local officials and individuals with ties to the government. These took the form of restrictions on and disruptions of gatherings sponsored by NGOs, verbal intimidation, threats of legal action, and bureaucratic obstruction justified by provisions in the LANGO.

Approximately 25 human rights NGOs operated in the country, and a further 100 NGOs focused on human rights as part of their work in other areas, but only a few actively organized training programs or investigated abuses.

The United Nations or Other International Bodies: The government generally cooperated with international bodies and permitted visits by UN representatives. Rhona Smith, the UN special rapporteur on human rights in the country, conducted an official visit in March to examine the situation of disadvantaged and marginalized groups, such as women, indigenous peoples, and victims of racial and ethnic discrimination. Smith paid a follow-up visit to Phnom Penh in October. Officials often cited “administrative reasons” to explain reluctance by government officials to meet with her. The government regularly chastised UN representatives publicly for their remarks on a variety of human rights problems.

Government Human Rights Bodies: The government had three human rights bodies: two separate Committees for the Protection of Human Rights and

Reception of Complaints, one under the Senate and another under the National Assembly; and the Cambodian Human Rights Committee, which reported to the prime minister's cabinet. The committees did not hold regular meetings or conduct transparent operations. The Cambodian Human Rights Committee submitted government reports for participation in international human rights review processes, such as the Universal Periodic Review, and issued responses to reports by international organizations and government bodies, but it did not conduct independent human rights investigations. Credible human rights NGOs considered the government committees to have limited efficacy.

The government hosted the hybrid ECCC to try Khmer Rouge leaders and those most responsible for the abuses of the Khmer Rouge period. Some observers believed public comments by government leaders on matters related to the ECCC's jurisdictional mandate constituted a form of political interference, but there was no evidence these comments inhibited the work of the court. At the end of 2015, the court began hearings related to later crimes of the Khmer Rouge regime, including allegations of genocide of the Cham minority, forced marriages, rapes, internal purges, and charges arising out of crimes committed at certain security centers and worksites.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

### **Women**

Rape and Domestic Violence: The law criminalizes rape and assault. Local and international NGOs reported that violence against women, including domestic violence and rape, was common. Rape is punishable by a prison sentence of five to 30 years. Spousal rape is not specifically mentioned in the penal code, but the underlying conduct can be prosecuted as "rape," "causing injury," or "indecent assault." Charges for spousal rape under the penal code and the domestic violence law were rare. The domestic violence law criminalizes domestic violence but does not set out specific penalties. The penal code can be used to punish domestic violence offenses, with penalties ranging from one to 15 years' imprisonment. According to a report by Amnesty International, there was only one public hospital in each province and several larger hospitals in Phnom Penh that had adequate facilities to examine rape victims and issue certificates that were admissible as evidence in court.

As of October 2015, ADHOC received 183 reports of rape, three resulting in the death of the victim. Of these the courts tried 33 cases, local authorities mediated

one case, and the remainder awaited trial. As of August ADHOC received 114 reports of domestic violence that resulted in serious injury. Reported cases of rape and domestic violence increased compared with the same period in 2014 but were likely underreported due to women's fear of reprisal by perpetrators. In January the Ministry of Planning and the Ministry of Women's Affairs released the National Survey on Women's Health and Life Experiences. It revealed that one in five women in the country experienced sexual and/or domestic violence. Cases of rape, according to the Ministry of Interior, increased by 12 percent in 2015 compared with 2014, despite an overall drop in crime. In a 2013 UN report, nearly 20 percent of 1,863 men interviewed admitted to raping a woman.

In July the Ministry of Women's Affairs met with representatives from the government and civil society to discuss implementation of the Second National Action Plan to Prevent Violence against Women that treats the problem of intimate partner violence and sexual violence. The ministry announced a new reporting system within the government to increase accountability and transparency in cases where the government responds to violence against women. The Ministry of Women's Affairs also coordinated with several NGOs and local media outlets to produce radio and television programming on topics related to women. The government also financially supported NGOs that provided training for poor women vulnerable to spousal abuse, prostitution, and trafficking in persons.

As of August ADHOC investigated 52 cases of domestic violence and 67 cases of rape, while the human rights organization Licadho investigated 62 separate instances of domestic violence and 33 instances of rape. NGOs reported that authorities did not aggressively enforce domestic law and avoided involvement in domestic disputes.

Sexual Harassment: The penal code criminalizes sexual harassment, imposing penalties of six days' to three months' imprisonment and fines of 100,000 to 500,000 riels (\$25 to \$125). A 2013 study by the International Labor Organization (ILO) reported that one in five female garment workers had been sexually harassed. In May authorities demoted a senior official from the Ministry of Education after he sexually assaulted a South Korean interpreter assigned to him during an official visit to South Korea. Officials dropped charges after he paid fines equaling \$12,300. Many activists claimed the punishment was too lenient; however, the ministry stated it based its decision to demote the individual on laws governing civil servants. There was limited information available on cases of sexual harassment.

Reproductive Rights: Couples and individuals have the right to decide the number, spacing, and timing of their children; manage their reproductive health; and have access to the information and means to do so, free from discrimination, coercion, or violence. Women had access to contraception and prenatal care as well as skilled attendance at delivery and postpartum care, but it was often limited due to income and geographic barriers. According to the World Health Organization, the maternal mortality rate in 2015 was 161 deaths per 100,000 live births, compared with 170 deaths per 100,000 live births during 2014. Major factors influencing high maternal mortality rates included a shortage of adequate health facilities, medications, and skilled birth attendants. According to the 2014 Cambodia Demographic and Health Survey, the modern contraceptive prevalence rate among married women between 15 and 49 years was approximately 39 percent, and 12 percent of women between ages 15 to 19 years had given birth or were pregnant with their first child.

Discrimination: The constitution provides for equal rights for women, equal pay for equal work, and equal status in marriage. For the most part, women had equal property rights, the same legal status to initiate divorce proceedings, and equal access to education and some jobs; however, cultural traditions and child rearing responsibilities limited the ability of women to reach senior positions in business or even participate in the workforce. Men comprised a significant majority of the military, police, and civil service.

## **Children**

Birth Registration: By law a child derives citizenship by birth to a mother and father who are not ethnic Khmer if both parents were born and were living legally in the country or if either parent had acquired citizenship through other legal means. Indigenous Khmer are considered citizens. The Ministry of Interior administered a revamped birth registration system, but not all births were registered immediately, primarily due to parental delay. Moreover, children born from the mid-1970s to the mid-1990s often were not registered due to the civil war, Khmer Rouge atrocities, and subsequent Vietnamese occupation. Many of these unregistered persons, who later had families of their own, did not perceive a need for registration. It was common not to register young persons until a need arose.

Failure to register births resulted in discrimination, including the denial of public services. A 2007 study commissioned by UNHCR on statelessness in the country found that the birth registration process often excluded children of ethnic minorities and stateless persons. NGOs providing services to disenfranchised

communities reported authorities often denied books and access to education and health care for children without birth registration. NGOs stated such persons often were unable to access employment, own property, vote, or access the legal system.

Education: Education was free, but not compulsory, through grade nine. Many children left school to help their families in subsistence agriculture, worked in other activities, began school at a late age, or did not attend school at all. The government did not deny girls equal access to education, but families with limited resources often gave priority to boys, especially in rural areas. According to international organization reports, enrollment dropped significantly for girls after primary school in urban areas, while post-primary school enrollment for boys dropped significantly in rural areas. Schools in many areas were remote, and transportation was a problem. This especially affected girls because of safety concerns in traveling between home and school.

Child Abuse: Child abuse was common and legal action against perpetrators was rare, according to observers. A 2014 study by the United Nations Children’s Fund found that 61 percent of female respondents and 58 percent of male respondents between 13 and 17 years faced domestic violence. Child rape continued to be a serious problem. ADHOC received reports of 99 cases of rape and attempted rape committed against persons younger than 18 years. Licadho investigated 116 rape cases, including four cases of gang rape.

Early and Forced Marriage: The legal minimum age of marriage for boys and girls is 18 years; however, children as young as 16 years may legally marry with parental permission. Culturally child marriage was not considered a problem. The government and a local NGO took steps to raise awareness of the legal minimum-age requirement.

Sexual Exploitation of Children: Sexual intercourse with a person younger than 15 years is illegal. The government continued to raid brothels to identify and remove child sex trafficking victims, although the majority of child sex trafficking was clandestine, occurring in “indirect” sex establishments such as beer gardens, massage parlors, salons, karaoke bars, and noncommercial sites. Police continued to investigate cases of child sex trafficking that occurred in brothels or cases where victims brought complaints directly but did not typically pursue more-complicated cases. The government did not issue formal guidance allowing the use of undercover investigation techniques in trafficking investigations, and the lack of explicit authority continued to impede officials’ ability to hold child sex traffickers fully accountable.

The country remained a destination for child sex tourism. An NGO report released in 2015 examined the prevalence of children among persons in commercial sex establishments in three key cities and found that children comprised 2.2 percent of this population, compared with 8.2 percent in 2013. The government used the law to prosecute both sex tourists and citizens for exploiting children in prostitution. The law provides penalties ranging from two to 15 years in prison for commercial sexual exploitation of children. The law also prohibits the production and possession of child pornography.

According to a local human rights organization, perpetrators with ties to the government were not held accountable under the law, and local experts reported concern about the government's failure to impose appropriate punishments on foreign nationals who purchase commercial sex acts with children. Endemic corruption at all levels of the government severely limited the ability of individual officials to make progress in holding child sex traffickers accountable, and the government took no action to investigate or prosecute complicit officials.

Displaced Children: The government offered limited, inadequate services to street children at a rehabilitation center. A local NGO estimated the number of displaced children remained similar to 2014, with 1,200 to 1,500 street children in Phnom Penh with no relationship with their families, and 15,000 to 20,000 children who worked on the streets but returned to families in the evenings. In addition 200 to 400 children lived with their families on the streets in Phnom Penh.

A 2014 government inspection found that 70 percent of 12,000 orphans living in state and private centers had parents or other relatives. The number of orphanages in the country increased from 155 in 2005 to 225 in 2014, of which the government operated 23. NGOs and other observers alleged many private orphanages were mismanaged and populated by sham orphans in order to lure donations from foreigners.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at [travel.state.gov/content/childabduction/en/legal/compliance.html](http://travel.state.gov/content/childabduction/en/legal/compliance.html).

## **Anti-Semitism**

A small Jewish foreign resident community lived in Phnom Penh. There were no reports of anti-Semitic acts.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **Persons with Disabilities**

The law prohibits discrimination, neglect, exploitation, or abandonment of persons with disabilities. It includes persons with mental and intellectual disabilities in the definition of persons with disabilities and requires that public buildings and government services, including education, be accessible to persons with disabilities. The law does not address accessibility with respect to air travel or other transportation. The Ministry of Social Affairs has overall responsibility for protecting the rights of persons with disabilities, although the law assigns specific tasks to other ministries, including the ministries of health, education, public works and transport, and national defense. The government requested all television channels to adopt sign-language interpretation for all programming. As of September only one major television station had sign-language interpretation. The Council of Ministers approved four subdecrees to support the law.

Programs administered by various NGOs resulted in substantial improvements in the treatment and rehabilitation of persons with disabilities, but they faced significant societal discrimination, especially in obtaining skilled employment.

Children with limited physical disabilities attended regular schools. Children with more significant disabilities attended segregated schools sponsored by NGOs in Phnom Penh. According to an NGO, education for students with more significant disabilities was not available outside of Phnom Penh.

There are no legal limitations on the rights of persons with disabilities to vote or participate in civic affairs, but the government did not make any concerted effort to assist their civic engagement.

### **National/Racial/Ethnic Minorities**

The rights of minorities under the nationality law are not explicit; constitutional protections extend only to "Khmer people." Citizens of Chinese and Vietnamese

ethnicity constituted the largest ethnic minorities. Ethnic Chinese citizens were accepted in society, but societal animosity continued toward ethnic Vietnamese, who were widely deemed a threat to the country and culture. Some groups, including opposition political parties, made strong anti-Vietnamese statements and complained of political control of the CPP by the Vietnamese government, border encroachment, and other problems for which they held ethnic Vietnamese at least partially responsible.

### **Indigenous People**

In support of efforts by indigenous communities to protect their ancestral lands and natural resources, the Ministry of Land issued communal land titles to 11 indigenous communities comprising 752 families living on 22,378 acres of land. NGOs criticized the slow implementation of communal titling and continued to call for a moratorium on land sales and land concessions affecting indigenous communities. International and local NGOs were active in educating the indigenous communities about the land registration process and providing legal representation in disputes.

### **Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

There were no laws criminalizing consensual same-sex sexual conduct, nor was there official discrimination against lesbian, gay, bisexual, transgender, and intersex (LGBTI) individuals, although some societal discrimination and stereotyping persisted, particularly in rural areas.

There were no reports of government discrimination based on sexual orientation in employment, statelessness, or access to education or health care. Consensual same-sex relationships, however, were typically treated with fear and suspicion by the general population, and there were few support groups to which cases involving discrimination could be reported. Unofficial discrimination against LGBTI persons persisted. According to a 2015 report on LGBTI discrimination in schools published by the Cambodian Center for Human Rights, 62.7 percent of LGBTI respondents reported being bullied, 93.6 percent of whom claimed it was in response to their sexual orientation or gender identity. Nearly 17 percent of those surveyed reported their teachers had bullied them.

A local LGBTI rights organization reported more than 100 incidents of violence or abuse against LGBTI individuals, including domestic violence by family members. Stigma or intimidation may have inhibited further reporting of incidents.

### **HIV and AIDS Social Stigma**

According to a study by the University of Washington's Institute for Health Metrics and Evaluation, the number of persons in the country with HIV in 2015 was approximately 82,970, a 6.6 percent increase from 2014. A 2010 Demographic and Health Survey noted that 21 percent of women and 18 percent of men reported discriminatory attitudes towards those with HIV/AIDS. Following a 2014 incident in which an unlicensed medical practitioner unwittingly infected approximately 290 villagers with HIV, the victims reported widespread social stigma from fellow community members, some of whom refused to interact with the victims altogether.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides for the right of private-sector workers to form and join trade unions of their own choice without prior authorization, the right to strike, and the right to bargain collectively. The National Assembly adopted a new Law on Trade Unions (TUL) on April 4. Before going into full effect, the TUL requires the publication of nine implementing regulations, crucial in the interpretation of the TUL; four had been issued as of November. The TUL also calls for implementing legislation on the establishment of a labor tribunal.

The TUL imposes new limits on the right to strike, facilitates government intervention in internal union affairs, excludes certain categories of workers from joining unions, and permits third parties to seek the dissolution of trade unions, while imposing only minor penalties on employers for unfair labor practices. The law requires trade unions to file their charters, lists of officials, and banking details with the Ministry of Labor and Vocational Training. The TUL forbids unregistered unions from operating. The ILO offered, and the government accepted, an ILO "direct contacts mission," expected in the first quarter of 2017, to provide guidance on compliance with international standards.

Civil servants, teachers, workers employed by state-owned enterprises, and workers in the banking, health-care, and informal sectors may form only

associations under the LANGO, not trade unions. The ILO continued to request the government to provide for the right of public employees to freedom of association and collective bargaining. Personnel in the air and maritime transportation industries are free to form unions but are not entitled to social security and pension benefits and are exempt from the limitations on work hours prescribed by law.

Regulations on collective bargaining require one single union within an enterprise to demonstrate “most representative status” (MRS), meaning that the union represents the largest number of workers in a bargaining unit and at least 30 percent of all workers in an enterprise. Once a union has obtained MRS, no other union can represent workers in collective disputes. The TUL allows third parties to raise objections to granting a union most representative status, however, and these objections can form the grounds for government refusal of status. The ILO noted that allowing third party objections runs counter to internationally agreed labor rights related to freedom of association and collective bargaining. Once a union achieves MRS, the law then requires employers to negotiate once the union proposes a collective bargaining agreement. The law binds both parties to agree to an orderly bargaining process and to propose reasonable offers and counteroffers. Employers must provide facilities to conduct union activities and all information relevant to the bargaining process at the request of the union.

The law stipulates workers can strike only after several requirements have been met, including: the successful registration of a union, the failure of other methods of dispute resolution (such as negotiation, mediation, or arbitration), a minimum of 60 days following the emergence of the dispute, a secret-ballot vote of the union membership, and seven days’ advance notice to the employer and the labor ministry. The TUL states that the decision by a union to strike requires approval by an absolute majority of union members attending a strike meeting. The meeting must include a quorum of an absolute majority of the total union members. Once a union has successfully carried out a strike vote, the court has the power to issue an injunction against the strike and require the restart of negotiations with employers.

State enforcement of the right of association, including freedom from antiunion discrimination, and of collective bargaining rights was highly inconsistent. The law provides for a maximum fine of 5 million riels (\$1,250) for violations of freedom of association and collective bargaining provisions; nevertheless, acts of antiunion discrimination, intimidation, and retaliation by employers or members of government-aligned unions generally went unpunished. Close relationships among government officials, employers, and union leaders, particularly those operating

progovernment unions, limited the government's willingness to address violations of workers' rights. These relationships deterred union leaders from reporting cases of discrimination and hampered the independent operation of unions, since the majority of the country's unions were affiliated with the ruling party, and only a minority were affiliated with the opposition party or work independently. The government did not devote sufficient resources to enforcement, particularly to the provision of training and resources to provide a functioning labor inspectorate.

In cases of collective labor disputes, the labor ministry's Department of Labor Disputes first attempts to settle the disputes. The department refers unresolved cases to the Arbitration Council, a state body that operates on donated funds and interprets labor regulations in collective disputes--such as when a single entity dismisses multiple employees. In general, prior to a hearing by the Arbitration Council, parties may choose whether to consider the council's decisions as binding or not. If neither party objects to the arbitral award within eight days of its issue, then the dispute is considered resolved.

Many of the cases that the Arbitration Council reviews were in the textile and apparel industry. The majority of council rulings were not binding following the expiration in 2014 of a 2012 Memorandum of Understanding between the Garment Manufacturers in Cambodia (GMAC) industry group and eight union federations, which committed factories and workers to accept the rulings of the council. Since 2014 the signatories to the memorandum met three times to consult with each other regarding labor law issues. Some unions urged the government to expand the role of the council to include individual and collective-interest disputes and to make its decisions uniformly binding.

The labor ministry's official dispute resolution procedure calls for conciliation first, followed by arbitration. In practice, however, the resolution of collective disputes was inconsistent. The creation of a Committee for the Settlement of Strikes and Demonstrations to deal with strike-related disputes has led to jurisdictional uncertainty with the Department of Labor Dispute Resolution. In some cases the ministry declined to engage in legal dispute resolution procedures altogether, instead sending a letter to the court seeking intervention. In other cases the ministry referred cases to the Arbitration Council without required paperwork, thus leaving these disputes unresolved.

Individual labor disputes may be brought before the courts, although the judicial system is neither impartial nor transparent. There is no specialized labor court, but as mandated by the TUL, the labor ministry committed to establish such courts

(called labor tribunals) under its own jurisdiction by 2017. Debate continued over the composition and function of these labor courts, and as of December 13, the ministry had not clarified the nature of their relationship to the Arbitration Council.

Workers reported various obstacles while trying to exercise their right to associate freely. Some employers reportedly refused to sign notification letters to officially recognize unions (a situation for which the government offered no official redress), or to renew short-term contract employees who had joined unions. Moreover, many workers were hired into the garment sector as subcontractors, making unionization difficult.

Organization among public-sector workers continued to face significant obstacles. For example, the Cambodian Independent Teachers Association is registered with the Ministry of Interior as an “association” due to prohibitions on public-sector unions, and the government denied its requests for permission to march and protest. Another public-sector association, the Cambodian Independent Civil Servants Association, claimed fear of harassment, discrimination, or demotion deterred individuals from joining.

There were credible reports of antiunion harassment by employers, including the dismissal of union leaders in garment factories and other enterprises. Better Factories Cambodia (BFC), an ILO and International Monetary Fund program that inspects all factories holding export licenses, noted in its May 2015 to April report that 6.8 percent of factories deducted union dues without the free consent of workers, or prevented workers from forming or joining a union without the threat of termination. BFC also found that 2.9 percent of the factories examined interfered with workers or unions when they draw up their rules, hold elections, and organize their administration, and 2.9 percent of factories made significant efforts to bring unions under company control. BFC’s coverage is limited to the export sector; the actual level of union harassment industry-wide was likely higher, including dismissals, especially of union leaders; abuse of short term contracts; and physical harassment. Human Rights Watch recently reported that garment workers laboring in unregistered factories--most often subcontractors for larger, export-oriented factories--were far more vulnerable to abusive labor practices that violate local and international law. According to Human Rights Watch, “Some of the worst problems we documented took place in these subcontractor factories, and there should be a stronger emphasis on expanding inspections to them.”

No one was held responsible for the violence perpetrated against union protesters in 2014, which left five dead and dozens seriously injured. Many in civil society

did not deem the government committees established to investigate these attacks credible. The ILO urged the government to release its own findings and conclusions to public scrutiny.

Following violent labor protests in 2013, GMAC filed complaints in the Phnom Penh Municipal Court against six independent union federations, alleging the federations had incited workers to protest violently, resulting in damage to factory property and production. The court placed the union leaders under court supervision, barred them from joining or organizing any protests, moved them to a new address without notice, and ordered them to show up at a local government authority office on a monthly basis. As of December this order remained in effect. Criminal charges against the six independent trade union presidents were still pending as well. Worker leaders alleged that the politically influenced court continued to keep the cases pending to intimidate the independent union movement.

There were credible reports of workers dismissed on spurious grounds after organizing or participating in strikes. While the majority of strikes were illegal, participating in an illegal strike was not by itself a legally acceptable reason for dismissal. In some cases employers pressured either unionists or strikers to accept compensation and leave their employment by reasoning that their short-term contracts had ended.

The union movement did not generally believe that remedies for such dismissals were effective. For example, the labor ministry issued a number of reinstatement orders, but these often provoked management efforts to pressure workers into resigning in exchange for a settlement. At times management failed to obey court orders for reinstatement. For example, in July 2015 the management of Capitol Tour Bus Company dismissed five union leaders a few days after they sought approval from the ministry to form a trade union. They were never rehired, despite a July 30 Arbitration Council ordering their reinstatement. By August 2015, 45 union leaders and members at the company had been dismissed because of their trade union activity. In February thugs dressed in black clothing and wearing helmets brutally attacked protesting workers from the bus company.

## **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor.

The government did not effectively enforce the law in all cases. In particular government officials reported difficulties in verifying working conditions and salaries in the fishing, agricultural, construction, and domestic sectors due to the informal nature of their work. Penalties prescribed under law for forced labor were stringent, including imprisonment and fines. There was no evidence, however, of government efforts to highlight the issue of forced labor domestically. Moreover, there was some evidence that local law enforcement authorities were used by employers to keep workers in bonded labor, for example in the brick-making industry. Licadho cited several examples of such state intervention. In one case Licadho intervened on behalf of a young man who left his factory because the owner was taking all of his family's earnings to repay their debt, leaving them entirely without cash. He went to a second factory where he tried to borrow money, but the owner of the first factory had police arrest the man's parents and compel the son to return to work. In a second case, Licadho reported that a woman was working off a debt of 12 million riels (\$3,000)--originally incurred by her son-in-law, but passed on to her when the son-in-law ran away from the factory. She wished to complain to police when her seven-year-old son was injured by factory machinery, but police told her if she filed a complaint, the factory owner would file a counter-complaint for immediate repayment of her son-in-law's debt and she would go to prison.

Forced labor occurred in domestic service and in the informal sector. Children from impoverished families remained at risk because affluent households sometimes used a humanitarian pretense to hire children as domestic workers, only to abuse and exploit them (see section 7.c.). There were also reports of forced labor in the fishing, agricultural, and construction sectors.

BFC reported that six textile and apparel factories had cases of forced labor. Five of these cases related to forced overtime work, in which workers were required to obtain written approval from foreign supervisors before they could leave the factory. Workers complained they feared termination if they refused the overtime.

Also see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The law establishes 15 years as the minimum age for employment and 18 years as the minimum age for hazardous work. The law permits children between the ages of 12 and 15 years to engage in "light work" that is not hazardous to their health

and does not affect school attendance. The law limits work by children between 12 and 15 years to no more than four hours on school days and seven hours on nonschool days, and prohibits work between 8 p.m. and 6 a.m. The government also bans the employment of children in sectors that pose major safety or health risks to minors. Minimum age protections, however, do not apply to domestic workers.

The labor ministry is responsible for child-labor inspections in both the formal and informal sectors of the economy. In practice labor inspectors did not enforce labor standards in the informal sector or in illegal industries, such as unregistered garment factories operating without a license from the labor ministry and the Ministry of Commerce. Within the formal sector, labor inspectors conducted routine inspections of some industries, such as garment manufacturing (where the incidence of child labor was negligible), but in some of the industries with the highest child-labor risk, including agriculture, construction, and hospitality, labor inspections were entirely complaint driven. As of 2014, the latest year for which such data were available, there were 58 inspectors in the labor ministry's Department of Child Labor trained to conduct child labor inspections. Labor ministry interdepartmental inspection teams, consisting of eight inspectors from eight departments, including one from the Department of Child Labor, continued to operate. Only inspectors trained in child labor inspection actively sought out child labor violations.

The Department of Child Labor reported that budget constraints limited their inspections to areas in and around Phnom Penh. The number of inspectors remained insufficient to enforce relevant laws and regulations. The labor law stipulates a fine of 31 to 60 times the prevailing monthly wage for defendants convicted of violating the country's child labor provisions. Such penalties were sufficient to deter violations but were rarely enforced.

Child labor was most widespread in agriculture, including in sugarcane production, brick making, salt production, shrimp processing, fishing, domestic service, rubber production, car repair, textiles, logging, slaughterhouses, and the production of alcoholic beverages. Children also worked as beggars, street vendors, shoe polishers, and scavengers. Instances of child labor also occurred in the garment, footwear, and hospitality sectors.

BFC reported that in the year ended in April, it confirmed 16 cases of child labor at the 381 factories covered in the report, a decline of 30 cases from the same period in 2015. Nonetheless, some children gained employment based on fake identity

documents. These children worked full shifts, often with dangerous machinery. A 2015 media article reported about a 14-year-old girl who punched holes in 300 shoes per day and factory workers ages 16 or 17 who were required to work 15-hour shifts and were fired if they refused to work overtime more than once or twice.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/reports/child-labor/findings/](http://www.dol.gov/ilab/reports/child-labor/findings/).

#### **d. Discrimination with Respect to Employment and Occupation**

The law prohibits employment discrimination based on race, color, sex, disability, religion, political opinion, birth, social origin, or union membership. Two separate laws explicitly prohibit discrimination based on HIV-positive status. The law does not explicitly prohibit employment discrimination based on sexual orientation or gender identity, age, language, or communicable disease. The constitution stipulates that Khmer citizens of either sex shall receive equal pay for equal work.

The government generally did not have the capacity to enforce these laws. Penalties under law for employment discrimination include fines and civil and administrative remedies. Fines for workplace discrimination varied from 2.5 million riels (\$625) to 3.6 million riels (\$900). BFC reported that in the garment and footwear sector, factory management heavily discriminated against men with respect to hiring and benefits, generally without consequence. BFC's May 2015 to April report found a 10 percent rate of employment discrimination by gender. Causes varied from factories being reluctant to hire men due to perceived behavioral problems, as well as discrimination against women due to concerns about pregnancy and/or maternity leave. The ILO noted with concern reports of antiunion discrimination by employers through interference and dismissals of members of independent unions, as well as through the creation of employer-backed unions. The ILO called for revised legislation to provide adequate protection against antiunion discrimination and sufficiently dissuasive penalties.

#### **e. Acceptable Conditions of Work**

The law gives the labor union authority to establish a minimum wage based on recommendations from the Labor Advisory Committee, a tripartite group composed of representatives from the government, unions, and employer organizations. In October the committee announced the 2017 monthly minimum wage for garment workers would increase to 625,500 riels (\$156) from the current

minimum wage of 560,000 riels (\$140) based on a 48-hour workweek. The law does not mandate a minimum wage for any other sector.

The law provides for a standard legal workweek of 48 hours, not to exceed eight hours per day. The law establishes a rate of 130 percent of daytime wages for nightshift work and 150 percent for overtime, which increases to 200 percent if overtime occurs at night, on Sunday, or on a holiday. The law permits employees to work up to a maximum of two hours of overtime each day. The law prohibits excessive overtime, states that all overtime must be voluntary, and provides for paid annual holidays. Workplaces are required to have health and safety standards adequate to provide for workers' well-being. The law specifies penalties, and factories are assessed fines according to a complex formula based on the severity of the infraction. Labor ministry inspectors are empowered to assess these fines on the spot, without the necessary cooperation of police, but there are no specific provisions to protect workers who complain about unsafe or unhealthy conditions.

The government did not effectively enforce hours and overtime regulations. Workers reported that overtime was often excessive and sometimes mandatory. Outside the garment industry, the government rarely enforced working hour regulations. Employers often coerced employees to work. Workers often faced fines, dismissal, or loss of premium pay if they refused to work overtime.

The government enforced existing standards selectively, in part because it lacked trained staff and equipment. Labor ministry officials readily admitted their inability to carry out thorough inspections on working hours. The ministry's Department of Labor Inspection issued 183 warnings about violations in the first six months of the year, down from 197 warnings in the same period in 2015. It also levied fines on 19 entities, down from 29 in 2015. Although the ministry reported it employed 499 labor inspectors, the lack of financial resources, endemic corruption, and insufficient penalties hindered efficiency and the government's enforcement of the law. Citing a lack of financial and human resources, the ministry did not conduct sufficient regular factory inspections. Although the ministry often decided in favor of employees, it rarely used its legal authority to penalize employers who defied its orders. For example, of 183 enterprises that received warnings about labor law violations from the ministry in the past year, only 19 received fines.

Work-related injuries and health problems were common. Most large garment factories producing for markets in developed countries met relatively high health and safety standards as conditions of their contracts with buyers. Working

conditions in some small-scale factories and cottage industries were poor and often failed to meet international standards. The National Social Security Fund (NSSF) reported that during the first six months of the year, 16,080 workers suffered work-related injuries and 84 workers were killed. Of the 84 deaths, the NSSF reported that 66 died in traffic accidents. The NSSF did not make available any of its reports on fines or complaints against enterprises.

In its annual report covering the period from May 2015 to April, BFC reported that many areas related to occupational safety and health continued to be a challenge for garment factories and were often the result of a lack of proper policies, procedures, and division of roles and responsibilities. BFC reported that in 184 factories--50 percent of exporting factories--chemicals and hazardous substances were improperly labelled, stored, and exposed to workers. BFC found 166 factories noncompliant in required preparedness for emergencies such as fire or building collapse. BFC noted that 109 factories did not conduct emergency drills every six months, as required by law.

Mass fainting also remained a problem. The NSSF reported that during the first six months of the year, 285 workers fainted in six factories across the country while performing their jobs, down 47 percent from 538 fainting in the same period in 2015. There were no reports of serious injuries due to fainting. Observers reported that excessive overtime work, poor health, insufficient sleep, poor ventilation, lack of proper nutrition for workers, and toxic fumes from the production process all contributed to the mass fainting. Furthermore, commuting to work was dangerous for factory workers. The NSSF report highlighted that in 2015 there were 6,491 accidents involving 7,357 workers, in which 130 workers died and 1,068 were seriously injured.