



UNIVERSAL PERIODIC REVIEW (UPR) – 46th SESSION

CAMBODIA

Joint submission prepared by
**FIDH (International Federation for Human Rights) and the
Cambodian Human Rights and Development Association (ADHOC)**

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FIDH

The International Federation for Human Rights, known by its French acronym FIDH, is an international human rights NGO representing 184 organizations from 116 countries. Since 1922, FIDH has been defending all civil, political, economic, social, and cultural rights as set out in the Universal Declaration for Human Rights.

ADHOC

Founded on 10 December 1991, the Cambodian Human Rights and Development Association (ADHOC) is the oldest Cambodian human rights organization. ADHOC is an independent, non-partisan, non-profit, and non-governmental human rights organization that has been working to address the absence of basic rights, freedoms, and liberties in Cambodia for the past 31 years by providing people with knowledge and understanding of human rights, rule of law, and democracy, and how to defend their rights and freedoms. ADHOC’s mission includes assisting victims of abuses in their quest for justice, strengthening the capacity of ordinary citizens to claim their rights, and encouraging citizens to lobby and advocate for improvement and enhancement of laws, institutions, and law enforcement.

1. The Cambodian government has failed to implement dozens of accepted recommendations from the third UPR cycle, as the human rights situation in Cambodia has continued to deteriorate. Human, land, and environmental rights defenders, communities affected by land disputes, government critics, and other activists have faced increasing harassment, arbitrary detention, and criminal prosecution. Land grabbing continues to devastate communities across the country. The government has also failed to address the unique challenges faced by women and children, victims of gender-based violence, persons deprived of their liberty, and indigenous people to realize their rights.

Investment and infrastructure projects lead to land grabbing and forced evictions

Land grabbing

2. The government has failed to implement at least four accepted recommendations from the third UPR to protect the rights of those living and working on Cambodian land, and “[e]nsure that all pending land disputes, evictions and relocations are settled in a fair, transparent, negotiated and adequately compensated manner.”¹ Since 2019, at least 22,021 families have been impacted by rampant land grabbing, and tens of thousands of others continue to lack remedy from decade-old disputes. In recent years, the government has reclassified large swaths of state land in order to hand them over to well-connected elites.
3. According to ADHOC’s 2022 human rights report, land grabbing by powerful private and official persons has involved the following abuses during that year: clearing forested and agricultural land that had been used by locals for years; clearing mangrove forests and flooded jungles in designated protected areas; and threatening communities with lawsuits and other actions to obtain their thumbprints for transfers of land titles.
4. ADHOC’s report noted that high-ranking government officials were responsible for 50% of land disputes (42 out of 84 cases) documented in 2022. Land grabbing that year affected an estimated 638,932 hectares of land and 1,326 households with approximately 6,062 residents, 2,921 of whom were women. Only two of the 42 land grabbing cases documented have been resolved and the land has been returned.

Economic Land Concessions (ELCs)

5. It is estimated that by the end of December 2021, approximately 2.19 million hectares of land were transferred to private interests through 306 land concessions (long-term land leases for a specified purpose), of which 253 were for ELCs. The government has in the last 18 months resumed granting long-term leases of large swaths of land —thousands of hectares at a time— for agribusiness purposes. The granting of such concessions had ceased after the 2012 moratorium on ELCs, which was declared following years of countless cases of violent land dispossession. In March 2022, the government transferred 9,788 hectares of land in Stung Treng Province to Horizon Agriculture Development Co., Ltd, and TSMW Co., Ltd, and ordered the Ministry of Agriculture, Forestry and Fisheries to convert the land’s legal status to a 50-year ELC.² The ELC could adversely affect an estimated 400 families across the Borei O Svay Seanchey, Siem Pang, and Sesan Districts. In January 2023, a pair of sub-decrees leased two large-scale leases within the Botum Sakor National Park in Koh Kong Province. One 6,234-hectare lease was granted to Koh Kong Rubber Plantation Co., Ltd., which is co-owned by the son of powerful ruling party senator Ly Yong Phat and a 9,968-hectare concession was granted to Royal Group, owned by well-connected tycoon Kith Meng.

6. The government has repeatedly failed to resolve land disputes from ELCs granted before the 2012 moratorium—some of which were never fully put to their stated use. Five subsidiary companies of China’s Hengfu Group Sugar Industry were granted ELCs in Preah Vihear Province in 2011 and seized villagers’ lands, cleared forests (including registered Community Forests), filled in streams, and engaged in violent clashes with resisting communities to make way for their sugar plantations and sugar mills. The companies began abandoning operations in 2019, yet most of the 900 families who were dispossessed of their land and had their cultural and spiritual rights violated, have never received adequate compensation. Remaining locals have not received land titles and, in some cases, have been forced to pay rent to cultivate their own land.
7. More than 600 families in Dambe District, Tbong Khmum Province, have been denied justice and adequate compensation since 2012 while the Chinese rubber company Harmony Win Investment Co. aggressively exploited their communal forest. After the arrest of two community representatives in October 2019, over 100 community members were blocked by security forces from traveling to Tbong Khmum Provincial Court to support them and observe a civil case filed by Harmony Win to deny villagers access to their land. Both land representatives were later convicted on criminal charges in separate trials and sentenced to one year and seven years in prison, respectively. In August 2020, 21 villagers were arrested by approximately 400 police for allegedly occupying and cultivating land owned by Harmony Win. Twenty of the villagers were released after signing agreements with the police to stop protesting the loss of their land. Also in August 2020, 15 villagers were convicted of obstructing public officials with aggravating circumstances for filming authorities on the disputed land. In December 2020, nine land community representatives were convicted of intentionally causing damage with aggravating circumstances.

Forced evictions, violence, and imprisonment

8. The government has failed to implement the accepted recommendation from the third UPR to “[g]uarantee that the victims of the land grab are fairly heard and, where appropriate, receive fair compensation and non-discriminatory access to justice.”³ Violence perpetrated by armed forces, arbitrary detention, and criminal prosecution have been routinely used to evict and silence communities, which lack adequate compensation or resettlement areas. In 2022, the government forcibly evicted roughly 10,000 families living in and around the UNESCO Living World Heritage Site Angkor Wat in Siem Reap Province. The resettlement site at Run Ta Ek Village—a 40-minute commute from their former homes, schools, and businesses—lacked access to potable water, houses, sanitation, and schools, in violation of international standards on development-based evictions and displacement. At least one closer plot of 75-hectares—located just 500 meters outside of the Angkor-protected area—was unavailable as a resettlement site for the families because the government previously granted a subsidiary of NagaCorp Ltd. (a casino giant) a 50-year lease to develop the land.
9. Resistance from communities affected by land disputes is systematically met with violence by the authorities. In June 2021, a group of 100 armed forces soldiers fired live ammunition at land protesters, injuring one villager, in Angk Snuol District, Kandal Province. The soldiers opened fire as villagers tried to block an excavator from clearing 150 hectares that more than 300 families had farmed for decades. In February 2022, Brigade 70 soldiers beat villagers and fired their weapons into the ground while supervising the clearing of community forest in Aoral Wildlife Sanctuary in Kampong Speu Province.
10. The government has continued to use arbitrary detention and specious prosecutions in attempts to intimidate communities affected by land disputes into silence. As of 1 October 2023, at least 14 land activists were detained or imprisoned for their peaceful work. Land rights

defenders have reported being pressured by government-aligned groups and individuals to sign “confessions” in order to be released from detention. In September 2021, 30 people were arrested for protesting their evictions to make way for construction of a new airport in Kandal Province. Nine of the activists were charged with intentional acts of violence with aggravating circumstances, incitement to commit a felony, and incitement to obstruct a public official, and waited more than a year to be found innocent at trial. In late December 2022, 19 villagers were arrested and imprisoned while their homes were burned in relation to an ongoing ELC land dispute in Oddar Meanchey Province.

11. In June 2023, nine land rights activists in Koh Kong Province were held in police custody, along with the six-year-old child and 18-month-old baby of two activists, and then charged with incitement for attempting to travel to Phnom Penh to submit a petition to the Ministry of Justice to drop criminal charges against 30 other land rights defenders. Seven of the nine were released on bail after two months in pre-trial detention. The other two activists remained in prison following convictions in a separate land-related case.
12. In August 2023, 13 land rights defenders were convicted on various charges in three separate cases in Koh Kong Province. On 2 August, activists Phav Nheung and Seng Lin were found guilty of defamation and incitement for accusing a former community representative of land grabbing. Both women were sentenced to one year in prison and ordered to pay approximately US\$9,600 in compensation to the former representative. On 4 August, the Supreme Court upheld the conviction of land activist Det Huor on charges of malicious denunciation and defamation after land-owning tycoon Heng Huy filed a complaint about a Facebook post. On 15 August, 10 land activists were convicted of malicious denunciation and incitement following a separate complaint by Heng Huy.⁴ The activists were each sentenced to one year in prison and ordered to collectively pay approximately US\$9,600 in compensation to Heng Huy.

Indigenous people affected

13. The government has failed to implement 11 accepted recommendations from the third UPR related to the promotion and protection of the rights of indigenous peoples, including reducing poverty, and the recommendation to “tackle land evictions” and “provide the victims of land grabbing, particularly indigenous people, with fair compensation.”⁵ The land rights of indigenous people have been constantly violated and indigenous land has been frequently granted to private interests for infrastructure or investment projects.⁶ Civil society organizations have expressed concern that the forced displacement of indigenous people from their lands is “extinguishing them as distinct groups.”⁷
14. Rampant illegal logging by, or with the support of, state actors—notably in Prey Lang Forest in Kampong Thom, Preah Vihear, Kratie, and Stung Treng Provinces, and Prey Preah Roka Wildlife Sanctuary in Preah Vihear Province—infringes on indigenous communities’ rights, livelihoods, and cultural and spiritual practices. In July 2022, five members of the Tampuon indigenous people—including land rights activist Chorn Phalla—were convicted of instigating damage to forestland to claim ownership of it in relation to their attendance at a 2017 meeting to raise awareness about illegal logging, and sentenced to between five and six years in prison.
15. Twelve indigenous communities in Ratanakiri Province are still struggling to reclaim traditional lands that were granted to Hoang Anh Gia Lai (HAGL), a Vietnamese agribusiness company, in a 2009 ELC. In 2015, HAGL agreed to return some of the land to the communities, but those land returns are still pending. In December 2020, the indigenous communities reported HAGL’s ongoing destruction of certain resources, including Patu Mountain and Ansang and Rok Creeks, which are important to their livelihoods and cultural and spiritual practices.⁸

16. The government has also failed to implement two accepted recommendations from the third UPR to implement a “simplified process for granting communal land titles.”⁹ The three-step process for the titling of indigenous communal lands has been criticized as “too complex, expensive, slow, and inaccessible to secure protection of indigenous land.”¹⁰ The process takes at least three years, and at least one indigenous community, has been waiting for over 11 years for its land title.¹¹ At the current average yearly rate, it would take approximately 100 years for all indigenous communities to receive a communal land title.¹²
17. Recommendations:
- *Establish an independent accountability mechanism to settle land disputes in an equitable, inclusive, participatory, transparent, and time-bound manner.*
 - *Enforce the 2012 moratorium on granting new ELCs.*
 - *Ensure fair, impartial, timely, and transparent investigations into the use of disproportionate force by authorities and private security forces in connection with land disputes and hold the perpetrators accountable.*
 - *Halt the prosecutions of land activists and release those who have been arbitrarily detained or imprisoned for their human rights activities.*
 - *Immediately enforce legal provisions to protect the land and other rights of indigenous people.*
 - *Guarantee an effective role for indigenous people’s representatives in the decision-making process of any accountability mechanism established to settle land disputes.*
 - *Amend and streamline the process for collective land titling of indigenous communities.*

Judiciary lacks independence from the executive branch

18. The government has failed to implement the accepted recommendation from the third UPR to “[t]ake all steps necessary to strengthen [the rule of law and to guarantee full judicial independence, consistent with international human rights standards.”¹³
19. The continued dominance of the ruling party over the legislature and executive branches of government has enabled the CPP to extend political control over nominally independent bodies, such as the Supreme Council of Magistracy—a nine-member body that is responsible for making recommendations to the King on the appointment and transfer of all judges and prosecutors, as well as decisions on any disciplinary matters.
20. Cambodia’s three laws on the judiciary, all adopted in 2014 and still in effect,¹⁴ essentially codify the ruling party’s ability to place its high-ranking members within the Supreme Court, the Appeal Courts, the Constitutional Council, and the Military Court, in derogation of the government’s obligation to ensure fair trials by independent and impartial tribunals. In the last four years, Cambodia has not improved in independent assessments of the rule of law, and its judiciary has continued to be ranked among the worst in the world for perceived corruption and lack of independence.¹⁵
21. Recommendations:
- *Amend the three laws on the judiciary to prevent government interference with the judiciary.*
 - *Prohibit judges and prosecutors from simultaneously serving in high-ranking positions in political parties.*

Repressive legislative framework

22. The government has made no effort to implement seven accepted recommendations from the third UPR to amend problematic laws and align them with Cambodia's obligations under international law, including: the Law on Associations and Non-governmental Organizations (LANGO); the Law on Political Parties; the Law on Trade Unions; the Law on Telecommunications; and the Criminal Code.¹⁶
23. Meanwhile, the government has continued to arbitrarily detain and prosecute activists, government critics, and opponents under vague and overbroad legal provisions of the Criminal Code, such as incitement (Articles 494–495). In one trial alone in June 2022, 51 former members of the dissolved opposition Cambodia National Rescue Party (CNRP) were convicted on charges of incitement and plotting with “evidence” as scant as their friends and likes on Facebook.
24. The ruling party's monopoly over both the executive and legislative branches has also enabled it to shape and adopt new laws to be discriminatorily applied by the police and the courts. Since 2019, the CPP-dominated legislature has hurriedly passed numerous laws and decrees that grant overly broad and vague powers to the government without meaningful oversight or with excessive penalties and provisions that unreasonably infringe on fundamental rights. These laws and decrees, which were drafted and adopted with little consultation with civil society, include: a Sub-decree on Establishment of National Internet Gateway; the Law on Management of the Nation in a State of Emergency; the Law on Preventive Measures Against the Spread of Covid-19 and Other Severe and Dangerous Contagious Diseases (Covid-19 Law); two related sub-decrees on health and administrative measures; numerous amendments to the Constitution; and last-minute amendments to election laws in the lead-up to the 2023 general election.
25. In addition, several highly concerning draft laws leaked since 2019, including the draft Law on Public Order and the draft Law on Cybersecurity, remain looming threats. The draft Law on Public Order unjustifiably criminalizes aspects of daily life and freedom of expression in what women choose to wear. It also risks interference with the right to freedom of peaceful assembly through abuse of the authority to shut down public gatherings for undefined, highly subjective reasons, such as causing “hostility to competent authorities.” The draft Law on Cybersecurity would permit authorities sweeping access to organizations' digital systems and physical workplaces.
26. Recommendations:
 - *Repeal LANGO, the Sub-decree on Establishment of National Internet Gateway, and the Law on Management of the Nation in a State of Emergency.*
 - *Amend problematic laws, including the Law on Trade Unions, the Law on Political Parties, the Covid-19 Law, and the election laws, to align with relevant international standards.*

Political opposition obliterated amid undemocratic elections

27. The ruling party has also used its control over the legislature and the judiciary to deny pro-democracy and opposition activists the right to vote and exercise their political rights, in violation of at least seven accepted recommendations from the third UPR to make democratic space more inclusive.¹⁷

28. Between March 2021 and April 2023, at least 107 political opponents were convicted in multiple criminal trials. Since November 2020, the government has brought specious criminal charges against at least 189 CNRP leaders and supporters.
29. In five mass trials, CNRP supporters were charged with incitement (Articles 494–495 of the Criminal Code), plotting (Article 453), inciting military personnel to disobedience (Article 471), and an attempt to attack the institutions of Cambodia (Articles 27 and 451). By December 2022, four trials concluded (the last trial of 78 defendants has not been scheduled) with the convictions of 85 former CNRP members, who were sentenced to between 18 months and 25 years in prison. Former CNRP leaders in exile were convicted in multiple cases, and collectively sentenced to over 140 years in prison, in addition to being permanently stripped of their rights to vote or stand as a candidate for election. Dozens of opponents were tried and convicted *in absentia*.
30. In March 2023, former CNRP President Kem Sokha, 70, was found guilty of treason and conspiracy with a foreign power under Articles 443, 439, 450 of the Criminal Code and sentenced to 27 years in prison after a three-year-long trial that was widely criticized for violations of due process and procedural irregularities. He was also permanently stripped of his rights to vote or stand for election under Article 450 of the Criminal Code. Kem Sokha is currently under house arrest while he appeals his case.¹⁸
31. The government has further sidelined rising political opposition through the arrests and prosecution of senior officials within the Candlelight Party (CP) - the leading opposition party. In October 2022, Son Chhay, a CP Vice-President, was convicted and fined on two counts of defamation for criticizing the 2022 commune elections. On 21 September 2023, Thach Setha, another CP Vice-President, was sentenced to 18 months in prison on charges related to writing five bad checks in 2019. He has been detained since January 2023 despite health concerns and also awaits the verdict on a separate incitement charge. Eleven other CP officials have been convicted in other cases or are currently detained and awaiting trial. In September 2023, seven former CP members who discussed regrouping into a new political party were charged with incitement and/or fraud and sent to pre-trial detention.
32. Politically motivated criminal prosecutions were also strategically used to disqualify opponents for election. In August 2021, Rong Chhun, a popular union leader and activist, was convicted of incitement for visiting communities that complained of a land dispute near the Cambodia-Vietnam border in 2020. Chhun was sentenced to 20 months in prison and fined. In February 2023, Chhun joined the CP as a Vice-President and was set to run in the July 2023 general election. Yet, in May 2023, the National Election Committee (NEC) - led by a high-ranking CPP member - disqualified Chhun as a candidate because of his November 2021 criminal conviction, ruling that he was barred from running for office for three to five years after completion of his sentence.¹⁹
33. In March 2023, 13 supporters of the opposition Cambodia National Heart Party were convicted on forgery charges after unsuccessfully attempting to register the new party. They were sentenced to between two years and two years and six months in prison.
34. In addition to the prosecution of political opponents, the NEC issued a decision in May 2023 barring the CP from registering for the July 2023 general election. The decision, upheld by the CPP-majority Constitutional Council, claimed that the party must produce an original, not a copy, of a registration document. CP's position—that the original document was lost during the government's raid on CNRP headquarters in 2017—was rejected.

35. Since 2019, at least 431 cases of threats, harassment, and intimidation were documented and flagged as politically motivated. During the July 2023 general election, civil society recorded 94 violations in 16 provinces on Election Day.
36. Recommendations:
- *Respect, protect, and fulfill the right to vote and to be elected in genuine, inclusive, and participatory elections that guarantee the free expression of the will of the voters.*
 - *Cease the harassment, violence, and persecution against political opponents.*

Repression of freedom of expression, freedom of association, and freedom of peaceful assembly

37. The government has failed to implement two accepted recommendations from the third UPR to end the harassment and arbitrary detention of human rights defenders, unionists, and journalists.²⁰ Between January 2019 and 1 October 2023, at least 317 cases of arbitrary arrests and detentions were reported.
38. The Covid-19 Law, passed at the beginning of 2021, was quickly and arbitrarily applied to disrupt land activists and unionists' rights to freedom of peaceful assembly and association. In August 2021, two representatives of the Samaki Chek Meas community in Svay Rieng Province were fined and later charged with disobeying administrative measures and obstruction of enforcement measures under the Covid-19 Law after hundreds of families gathered to protest inadequate compensation in a land dispute. After the arrest of the two community representatives, more than 100 families agreed to accept that inadequate compensation.
39. In February 2022, the government used the Covid-19 Law to interfere with the peaceful strike activities of current and former employees of NagaWorld Casino, who began striking on 18 December 2021 over unlawful layoffs and inadequate compensation. In February 2022, six NagaWorld employees and members of the Labor Rights Supported Union of Khmer Employees of NagaWorld (LRSU) were arrested and charged with obstruction of enforcement measures under the Covid-19 Law and are still awaiting trial. Authorities also invoked the Covid-19 Law in a discriminatory manner to break up LRSU strikes in Phnom Penh on an almost daily basis, forcing hundreds of workers onto buses and into quarantine centers where they were held overnight or for a period of several days. Between March and June 2022, the government used buses to transport strikers to the Phnom Penh city limits, where they would be left to organize and pay for their own transportation home. Workers reported the unlawful use of force and sexual harassment during the busing incidents.
40. The government has continued to use violence and the arbitrary application of overly broad provisions of harmful laws to suppress citizens' rights to freedom of peaceful assembly and freedom of association. Between 2019 and June 2023, at least 160 cases of obstruction of freedom of expression and assembly were reported. This trend is inconsistent with the government's acceptance of a recommendation from the third UPR to "[t]ake the measures necessary to ensure that the right to freedom of assembly and association is not hindered by arbitrary restrictions and/or excessive use of force."
41. The July 2020 arrest of union leader Rong Chhun triggered a wave of peaceful demonstrations that the government responded with unnecessary and disproportionate force, further arrests, and criminal charges. At least 19 activists were arrested in less than two months. In October 2021, 14 of them—including many members of the Khmer Thavrak youth movement—were convicted of incitement and instigating incitement and each sentenced to 20 months in prison with partial suspended sentences.

42. In March 2020, four environmental activists were beaten by private security for Think Biotech Co. as they investigated illegal logging and harvesting of timber in the Kratie Province area of Prey Lang protected forest. In May 2021, five youth activists from the environmental group Mother Nature were convicted on charges of incitement and sentenced to between 18 to 20 months in prison (portions of three activists' sentences were later suspended on appeal) for planning a peaceful one-woman march to deliver a petition regarding the filling-in of Phnom Penh's Boeung Tamok Lake. Seven Mother Nature members, including three of the youth activists already convicted on incitement, still face charges of plotting and two of the activists are charged with insulting the King, in relation to an online group meeting held in 2021. The trial has yet to be scheduled, and the activists face up to 10 years in prison, if convicted.
43. On 25 May 2023, nine current and former union members from the LRSU, including its President Chhim Sithar, were convicted of incitement in relation to the LRSU's peaceful strike that began in December 2021. Sithar was sentenced to the maximum penalty of two years in prison and is currently serving her sentence. Five other LRSU activists were sentenced to 18 months in prison and are on bail pending their appeal. The three remaining defendants received one-year suspended sentences. Six other NagaWorld employees and LRSU members are awaiting trial on charges of obstruction of enforcement measures under the Covid-19 Law. Another 18 LRSU members face multiple criminal charges in a third pending case.
44. Independent journalists in Cambodia have been harassed, prosecuted, and seen their media outlets shut down. Between January and April 2021, at least seven media outlets had their media licenses revoked for allegedly "spreading fake news about Covid-19 or spreading hate against the majority religion." On 13 February 2023, the media license of *Voice of Democracy (VOD)* was revoked after then-Prime Minister Hun Sen took exception to information published in an article, even though the article quoted the government's own spokesman. On 15 September 2023, the Ministry of Agriculture, Forestry and Fisheries accused independent outlet *CamboJANews* of "serious breaches of journalistic ethics" and "unsubstantiated claims and speculation" after it reported on the beating of a government critic. The Ministry threatened *CamboJANews* with "the same outcome as *VOD*."²¹
45. Recommendations:
- *Cease the harassment, prosecution, and arbitrary detention of all those exercising their rights to freedom of expression, freedom of peaceful assembly, and freedom of association.*
 - *Safeguard media freedom and foster an inclusive environment for journalists to operate.*

Gender-based violence remains unaddressed

46. Since 2019, the government has made no apparent progress on the implementation of at least 11 accepted recommendations from the third UPR related to gender-based violence and/or access to justice, such as one that recommended to "[r]eform national legislation with a view to strengthening the protection of women and children against domestic violence."²² A government survey published in March 2023, reporting information from the 2021-2022 period, found that 21% of ever-partnered women experienced emotional, physical, or sexual violence by an intimate partner, and that 37% of women and 16% of men agreed that a husband was justified in hitting his wife under certain circumstances.²³
47. There has been no progress to amend the 2005 Law on the Prevention of Domestic Violence and Protection of Victims. The law fails to adequately protect against all forms of domestic violence and encourages non-judicial mediation and reconciliation even for some criminal acts of domestic violence. Cambodia's Civil Code also allows for reconciliation. Reconciliation is plagued with gender stereotypes and victim-blaming, rarely succeeds in ending violence, and

can trap women in abusive relationships. In 2020, 80% of surveyed women who had faced domestic violence reported negative experiences with alternative dispute resolution.²⁴

48. The government has proceeded with draft Guidelines on the Limited Use of Mediation as a Response to Violence Against Women and regulations for their implementation. However, it is unlikely the Guidelines will be properly implemented in the current context and they are more likely to entrench harmful out-of-court settlements. A recent evaluation of a five-year Cambodian-Australian project to develop services for survivors of gender-based violence and persons with disabilities found that “mediation is not survivor centered, does not treat violence as a criminal offence and it is inconsistent with international guidance.”²⁵
49. Barriers to justice remain for people who have experienced sexual violence. Cultural stigma deters reporting, and authorities often facilitate and profit from out-of-court settlements (where perpetrators usually pay complainants to drop their complaint and proceedings are dismissed or indefinitely stalled). Access to services such as safe shelters, legal aid, financial aid, and counselling remains inadequate. Protection orders and administrative decisions are underutilized. From 2019 to 2021, protection orders were issued in just 25 domestic violence cases.
50. Recommendation:
 - *Amend the 2005 Law on the Prevention of Domestic Violence and Protection of Victims and the Civil Code to remove provisions for mediation or reconciliation in domestic violence cases.*

Specific groups of vulnerable persons

Sub-standard conditions for persons deprived of their liberty

51. The government has not meaningfully implemented the accepted recommendation from the third UPR to “[t]ake all necessary steps towards a substantive reduction in the time spent by persons in pretrial detention,”²⁶ which infringes on individuals’ right to liberty and the presumption of innocence.
52. Use of pre-trial detention remains excessive. In October 2018, 37% of inmates in 18 out of the 28 Cambodian prisons monitored by civil society were pre-trial detainees (9,527 out of 25,926 inmates). By July 2023, the number of pre-trial detainees was still almost one-third of total inmates²⁷ in 19 out of 29 Cambodian prisons²⁸ (10,293 out of 33,844 inmates). Another 43.6% of inmates were detained although their convictions were not yet final (they had not been served with the final verdict, the time for appeal had not lapsed, or their case was on appeal).
53. The high number of pre-trial detainees contributes to overcrowding and other cruel, inhuman, or degrading treatment in Cambodia’s prisons. In December 2019, 16 out of 18 prisons were over their official capacity. By June 2023, the number of detainees had increased to 33,844 in 19 out of 29 prisons—almost double those prisons’ official capacity of 18,110.
54. Inadequate amounts of food, clean water, and space to sleep have been exacerbated by overcrowding. Corruption is pervasive and inmates must pay for access to their medications, food, clean water, underwear, hygiene materials such as soap, electricity, time outside of the cells, and a space to sit and sleep within the cells. Pregnant women do not receive adequate pre- and post-natal care.

55. Diseases such as tuberculosis and respiratory illnesses are extremely contagious and easily spread among detainees and to prison staff in such overcrowded conditions. Between January 2019 and June 2023, at least 129 inmates died due to illness or disease in 19 out of 29 prisons.
56. Rates of pre-trial detention remained high even throughout the pandemic, when one government official described prison overcrowding as a “ticking time bomb” for outbreaks of Covid-19.²⁹ Cramped living conditions and inadequate availability of water, soap, hand sanitizer, and masks created unacceptable risks to the physical and mental health of prisoners. Prisoners’ well-being and safety were further jeopardized when visits from family members and organizations providing supplemental nutrition, hygiene products, medicine, and vital healthcare services were banned for many months.
57. Civil society prison monitoring revealed no meaningful impact from the Ministry of Justice’s campaign to reduce prison overcrowding, launched in May 2020. By December 2021, 15 out of the 19 Cambodian prisons monitored by civil society were still over capacity, most at more than twice their official capacity. Kandal Prison and Kampot Prison were reported to be at 463% and 504% of their official capacity, respectively.

Children in detention

58. Despite accepting a recommendation from the third UPR to ensure that the Criminal Code and the juvenile justice system are in line with the Convention on the Rights of the Child,³⁰ the high number of children in detention indicate that the government is failing to act in children’s best interests. As of July 2023, 1,666 minors were detained in 19 of the country’s 29 prisons. A further 81 young children were detained with their mothers, and 35 women and girls were pregnant. In Cambodia’s overcrowded prisons, minors are not consistently separated from adults, which violates international standards.
59. Cambodia’s 2016 Law on Juvenile Justice (JJL) dictates that detention should be a measure of last resort and provides alternatives such as diversion and conditional release. The Code of Criminal Procedure also states that pre-trial trial detention should only be applied under exceptional circumstances. However—seven years after its adoption—the JJL and alternatives to detention have still not been meaningfully implemented. In July 2023, 61% of minors in 19 prisons were being held in pre-trial detention and a further 32.7% were awaiting a final verdict. Only approximately 6% of juveniles in detention had a final conviction.
60. In December 2021, a new Youth Rehabilitation Centre (YRC) opened in Bakou Village, Kandal Stueng District, Kandal Province, which by July 2023, housed approximately 130 juvenile males.³¹ The consolidation of juveniles from across the country in just one YRC raises concerns about minors’ wellbeing. Many minors will lose access to family visits and the essential materials they provide due to excessive distances between home communities and the YRC (e.g. the YRC is located approximately 509 km, almost a nine-hour drive, from Ratanakiri Provincial Court).
61. Recommendations:
 - *Increase access to, and use of, bail and other non-custodial measures to reduce prison overcrowding and time spent in pre-trial detention.*
 - *Prioritize bail and other non-custodial measures for vulnerable populations, including the elderly, persons with chronic or serious medical conditions, juveniles, pregnant women, and mothers incarcerated with their children.*
 - *Ensure that all people in detention have access to adequate nutrition, healthcare, space, family visits, education, and vocational training.*

- Allow for periodic, unannounced, and unimpeded external inspections of prisons by independent international organizations.
- Implement the JIL by fully utilizing and prioritizing alternatives to detention over transfers to the YRC.

¹ Human Rights Council, 41st Session, *Report of the Working Group on the Universal Periodic Review - Cambodia*, 5 April 2019; UN Doc. A/HRC/41/17, para. 110 - Recommendation 110.23; see Recommendations 110.148, 110.131, and 110.130.

² LICADHO, *Statement: new economic land concession leads to conflict, raises questions*, 16 January 2021; <https://www.licadho-cambodia.org/pressrelease.php?perm=508>

³ Human Rights Council, 41st Session, *Report of the Working Group on the Universal Periodic Review - Cambodia*, 5 April 2019; UN Doc. A/HRC/41/17, para. 110 - Recommendation 110.131.

⁴ The convicted land activists are: Chhan Chheurn, Det Hour, Erb Vy, Erp Teung, Heng Chey, Inn Thou, Kert Nov, Kong Men, Puo Houn, and Sok Chey.

⁵ Human Rights Council, 41st Session, *Report of the Working Group on the Universal Periodic Review - Cambodia*, 5 April 2019; UN Doc. A/HRC/41/17, para. 110 - Recommendation 110.130; see Recommendations 110.23, 110.57–110.62, 110.64–65, 110.67, and 110.131.

⁶ International Work Group for Indigenous Affairs (IWGIA) & Asia Indigenous Peoples Pact Foundation (AIPP), *Joint Submission to the UN Human Rights Council on the human rights situation of Indigenous Peoples in Cambodia*, 13 September 2020; <https://www.iwgia.org/en/global-governance-cat/3844-hrc45-cambodia.html>

⁷ *Ibid.*

⁸ Equitable Cambodia, *HAGL continues cultural destruction in Ratanakiri*, 23 December 2020; <https://equitablecambodia.org/website/article/3-2412.html>

⁹ Human Rights Council, 41st Session, *Report of the Working Group on the Universal Periodic Review - Cambodia*, 5 April 2019; UN Doc. A/HRC/41/17, para. 110, - Recommendation 110.21; see Recommendation 110.22.

¹⁰ OHCHR, *Collective land titling in Cambodia – a case for reform?*, August 2020; https://cambodia.ohchr.org/iplands/wp-content/uploads/2021/05/CLT-RECOMMENDATION_ENG.pdf

¹¹ Heinrich Boll Stiftung, *Indigenous communal land titling in Cambodia*, 10 August 2022;

<https://kh.boell.org/en/2022/08/10/indigenous-communal-land-titling-still-hundred-years-go>

¹² OHCHR, *Collective land titling in Cambodia – a case for reform?*, August 2020; https://cambodia.ohchr.org/iplands/wp-content/uploads/2021/05/CLT-RECOMMENDATION_ENG.pdf

¹³ Human Rights Council, 41st Session, *Report of the Working Group on the Universal Periodic Review - Cambodia*, 5 April 2019; UN Doc. A/HRC/41/17, para. 110 - Recommendation 110.122.

¹⁴ Law on the Organization and Functioning of the Courts, NS/RKM/0714/015 (2014); Law on the Organization and Functioning of the Supreme Council of the Magistracy, NS/RKM/0714/017 (2014); Law on the Status of Judges and Prosecutors, NS/RKM/0714/016 (2014).

¹⁵ World Justice Project, *Rule of Law Index*, 2022; worldjusticeproject.org/rule-of-law-index/pdfs/2021-Cambodia.pdf (Cambodia ranked 138 out of 139 countries); Freedom House, *Freedom in the World 2023: Cambodia*; <https://freedomhouse.org/country/cambodia/freedom-world/2023> (Cambodia scored 0 out of 4 points regarding judicial independence)

¹⁶ Human Rights Council, 41st Session, *Report of the Working Group on the Universal Periodic Review - Cambodia*, 5 April 2019; UN Doc. A/HRC/41/17, para. 110 - Recommendations 110.12, 110.25–27, 110.29, 110.96, and 110.153.

¹⁷ Human Rights Council, 41st Session, *Report of the Working Group on the Universal Periodic Review - Cambodia*, 5 April 2019; UN Doc. A/HRC/41/17, para. 110 - Recommendations 110.139, 110.112, 110.103, 110.91, 110.88, 110.80, and 110.90.

¹⁸ Human Rights Council, 41st Session, *Report of the Working Group on the Universal Periodic Review - Cambodia*, 5 April 2019; UN Doc. A/HRC/41/17, para. 110 - Recommendations 110.111 and 110.137.

¹⁹ Article 34, Law on the Election of the Members of the National Assembly; Articles 535, 541 Code of Criminal Procedure.

²⁰ Human Rights Council, 41st Session, *Report of the Working Group on the Universal Periodic Review - Cambodia*, 5 April 2019; UN Doc. A/HRC/41/17, para. 110 - Recommendations 110.112 and 110.113.

²¹ Diplomat, *Cambodian Ministry Threatens Independent Media Outlet With Closure*, 19 September 2023; <https://thediplomat.com/2023/09/cambodian-ministry-threatens-independent-media-outlet-with-closure/>

²² Human Rights Council, 41st Session, *Report of the Working Group on the Universal Periodic Review - Cambodia*, 5 April 2019; UN Doc. A/HRC/41/17, para. 110 - Recommendations 110.185, 110.171, 110.175, 110.177–179, 110.180, 110.182–184, and 110.186.

²³ National Institute of Statistics, Ministry of Health and The DHS Program, *Cambodia Demographic and Health Survey 2021–22*, p. 287, 319, March 2023; www.nis.gov.kh/nis/CDHS/2021-22/Cambodia_DHS2021-2022_Final_Report_EN.pdf

²⁴ Women Peace Makers, Cambodia Center for Mediation, et al., *Preserving Harmony, or Preventing Justice*, p. 6, October 2020; https://wpmcambodia.org/wp-content/uploads/2020/12/Preserving-Harmony-or-Preventing-Justice_EN_2020.pdf

²⁵ Alinea International, *Australia–Cambodia Cooperation for Equitable Sustainable Services (ACCESS) End of program evaluation: Final Report*, p. 13, 2023; www.dfat.gov.au/sites/default/files/access-end-of-program-evaluation.pdf

²⁶ Human Rights Council, 41st Session, *Report of the Working Group on the Universal Periodic Review - Cambodia*, 5 April 2019; UN Doc. A/HRC/41/17, para. 110 - Recommendation 110.126.

²⁷ 30.2%: the total number of inmates charged (detained, in the investigation stage of proceedings) (7,186) and accused (indicted, case forwarded for trial by the investigating judge, but not yet sentenced) (3,107) as reported by 19 Cambodian prisons to the General Department of Prisons in July 2023.

²⁸ In 2021, a new provincial prison was opened in Kampong Cham and populated with an overflow of prisoners from Tbong Khmum Provincial Prison, thus bringing the total number of prisons in Cambodia to 29.

²⁹ Amnesty Int'l et al., *Cambodia: Urgently Protect Prisoners from COVID-19*, 9 December 2020; <https://www.amnesty.org/en/documents/asa23/3442/2020/en/>

³⁰ Human Rights Council, 41st Session, *Report of the Working Group on the Universal Periodic Review - Cambodia*, 5 April 2019; UN Doc. A/HRC/41/17, para. 110 - Recommendation 110.194.

³¹ Cambodianess, *Human Rights NGO Calls for Juvenile Release*, 2 June 2023; <https://cambodianess.com/article/human-right-ngo-calls-for-juvenile-release>